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AGENDA FOR

PLANNING CONTROL COMMITTEE

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To: All Members of Planning Control Committee

Councillors : A Cummings (Chair), J Black, S Briggs, S Carter, R Caserta, D Gunther, P Heneghan, D Jones, A Matthews, A Quinn, S Smith, S Southworth and Y Wright

Dear Member/Colleague

Planning Control Committee

You are invited to attend a meeting of the Planning Control Committee which will be held as follows:-

Date:	Tuesday, 24 June 2014
Place:	**Council Chamber, Bury Town Hall**
Time:	7.00 pm
Briefing Facilities:	If Opposition Members and Co-opted Members require briefing on any particular item on the Agenda, the appropriate Director/Senior Officer originating the related report should be contacted. Immediately prior to the Committee, the Development Manager will brief the Committee on any changes made to the planning applications to be considered since the issue of the Agenda. This information will be provided in the supplementary information agenda which will be circulated on the day of the meeting.
Notes:	**A tea will be available from 5.00 pm (Balcony Bar), this will be followed by the usual pre-meeting briefing (Meeting Rooms A & B).** Details of Site Visits and Member Training are provided on a separate sheet, for the information of Members and Officers.

AGENDA

1 APOLOGIES FOR ABSENCE

2 DECLARATIONS OF INTEREST

Members of the Planning Control Committee are asked to consider whether they have an interest in any of the matters on the Agenda and, if so, to formally declare that interest.

3 MINUTES OF THE MEETING HELD ON 13 MAY 2014 *(Pages 1 - 4)*

4 PLANNING APPLICATIONS *(Pages 5 - 142)*

5 DELEGATED DECISIONS *(Pages 143 - 160)*

A report from the Development Manager on recent Delegated planning decisions since the last Planning Control Committee meeting held in May, 2014.

6 PLANNING APPEALS *(Pages 161 - 170)*

A report from the Development Manager on recent Planning Appeal decisions since the last meeting of the Planning Control Committee held in May, 2014.

7 SECTION 106 OBLIGATIONS *(Pages 171 - 194)*

A report from the Development Manager on the contributions made by S106 obligations since 1 October, 2013.

8 VILLAGE GREEN APPLICATION AT CHURCH FIELDS, RAMSBOTTOM *(Pages 195 - 250)*

A report from the Head of Planning Policy & Projects (Resources and Regulation) on the Inquiry Inspector's report in relation to this village green application.

9 ARTICLE 4 DIRECTION PROPOSAL - HOLCOMBE CONSERVATION AREA *(Pages 251 - 262)*

A report from the Chief Planning Officer seeking authorisation for the making of an Article 4 Direction in relation to Planning controls over development in the Holcombe Conservation Area.

10 URGENT BUSINESS

Any other business which by reason of special circumstances the Chair agrees may be considered as a matter of urgency.

Minutes of:	**PLANNING CONTROL COMMITTEE**
Date of Meeting:	13 May, 2014
Present:	Councillor A Cummings (In the Chair) Councillors K Audin, M Bailey, S Carter, R Caserta, M Hankey, D Jones, S Smith, S Southworth, and Y Wright
Public attendance:	25 members of the public were in attendance
Apologies for absence:	Cllrs A K Matthews and D O'Hanlon

P.01 DECLARATIONS OF INTEREST

Councillor M Bailey declared a prejudicial interest in respect of Planning Application 57362 relating to Former Whittaker House, Parsonage Street/Whittaker Street, Radcliffe. Councillor M Bailey had been in consultation with local residents with regard to this application during the consultation period.

P.02 MINUTES

Delegated decision:

That the Minutes of the Meeting held on 22 April, 2014 be approved as a correct record and signed by the Chair, subject to the following amendment:-

Minute P.974 – Councillor K Audin represents Besses Ward, not Unsworth Ward as recorded.

P.03 PLANNING APPLICATIONS

A report by the Development Manager was submitted in relation to various applications for planning permission. Supplementary information was also submitted in respect of application numbers: 57085, 57303 and 57362.

The Committee heard representations from applicants and/or objectors in respect of the applications submitted. This was limited to three minutes for each speaker.

Councillor M Bailey, having declared a prejudicial interest in relation to Planning Application 57362, exercised his right to address the Planning Control Committee as a Ward Councillor in respect of this particular application.

Delegated decisions:

1. That **Approval** be given to the following applications in accordance with the reasons put forward by the Development Manager in the report and supplementary information submitted and subject to the conditions included:-

   57303 Walmersley Golf Club, Garrett's Close, White Carr Lane, Bury – Bury East – Moorside Ward
   New putting green on 6th hole

   57325 Land Adjacent to Radcliffe Delivery Office, 12 Dale Street, Radcliffe, Manchester – Radcliffe East Ward
   Provision of a replacement bus station in Radcliffe Town Centre

2. That the Committee be **Minded to Approve** the following applications in accordance with the reasons put forward by the Development Manager in the report and supplementary information submitted and subject to the conditions included:-

   57085 Holcombe Brook Sports Club, Longsight Road, Holcombe Brook, Bury – Ramsbottom & Tottington - North Manor Ward
   Demolition of existing clubhouse and erection of 50 flats (category II type) for the elderly with associated communal facilities, landscaping and car parking

   57344 Hollingrove Stables, Redisher Lane, Hawkshaw, Bury – Ramsbottom & Tottington – Ramsbottom Ward
   Conversion of stables to dwelling; single storey extensions at side and rear and porch to front elevation (submission)

   57362 Former Whittaker House, Parsonage Street/Whittaker Street, Radcliffe, Manchester – Radcliffe East Ward
   Demolition of existing building and erection of supported living accommodation (14 one-bedroom apartments) and Higher Complex Care accommodation (6 one-bedroom apartments) together with access and landscaping

   (Note: Councillor M Bailey declared a prejudicial interest and withdrew from the meeting after having spoke as a Ward Representative).

P. DELEGATED DECISIONS

A report by the Development Manager was submitted listing all recent Planning application decisions made by Officers using delegated powers.

Delegated decision:

That the report be noted.

P. PLANNING APPEALS

A report from the Development Manager was submitted which presented a list of recent planning and enforcement appeals lodged and determined. Members and Officers discussed the Planning Inspectorate's Appeal Decision in relation to Planning Application 55878.

Delegated decision:

That the report be noted.

P. PLANNING CONTROL COMMITTEE TRAINING PROGRAMME

The Development Manager submitted a report setting out the proposed training programme for Planning Control Committee Members during the 2014/15 Municipal Year.

Delegated decision:

That the report be noted.

P. CHAIR'S STATEMENT

The Chair of the Committee, Councillor Cummings thanked Members for their diligence and even-handed approach to the work of the Committee during the last Municipal Year. Appreciation was also expressed to the Officers for their work in supporting the Committee. Councillor Wright, on behalf of all of the Members, thanked Councillor Cummings for his work and commitment as Chair of the Committee during the year.

COUNCILLOR A CUMMINGS (Chair)
(Note: The meeting started at 7.00 pm and ended at 7.45 pm)

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Title	**Planning Applications**
To:	**Planning Control Committee**
On:	**24 June 2014**
By:	**Development Manager**
Status:	**For Publication**

Executive Summary

The attached reports present members with a description of various planning applications, the results of consultations, relevant policies, site history and issues involved.

My recommendations in each case are given in the attached reports.

This report has the following implications

Township Forum/ Ward: Identified in each case.

Policy: Identified in each case.

Resources: Not generally applicable.

Equality Act 2010: All planning applications are considered in light of the Equality Act 2010 and associated Public Sector Equality Duty, where the Council is required to have due regard for:
The elimination of discrimination, harassment and victimisation;
The advancement of equality of opportunity between persons who share a relevant protected characteristic and person who do not share it;
The fostering of good relations between persons who share a relevant protected characteristic and person who do not share it; which applies to people from the protected equality groups.

Human Rights: All planning applications are considered against the provisions of the Human Rights Act 1998.

Under Article 6 the applicants (and those third parties who have made representations) have the right to a fair hearing and to this end full consideration will be given to their comments.

Article 8 and Protocol 1 of the First Article confer a right to respect private and family life and a right to the protection of property, ie peaceful enjoyment of one's possessions which could include a person's home, and other land and business assets.

In taking account of the Council policy as set out in the Bury Unitary Development Plan 1997 and all material planning considerations, I have concluded on balance that the rights conferred upon the applicant/ objectors/ residents/ other interested party by Article 8 and Article 1 of the First Protocol may be interfered with, since such interference is in accordance with the law and is justified in the public interest. Any restriction of these rights posed by refusal/ approval of the application is legitimate since it is proportionate to the wider benefits of such a decision, is based

upon the merits of the proposal, and falls within the margin of discretion afforded to the Council under the Town & Country Planning Acts.

Development Manager

Background Documents

1. The planning application forms and plans submitted therewith.
2. Certificates relating to the ownership.
3. Letters and Documents from objectors or other interested parties.
4. Responses from Consultees.

FOR FURTHER INFORMATION ON THE CONTENTS OF EACH REPORT PLEASE CONTACT INDIVIDUAL CASE OFFICERS IDENTIFIED IN EACH CASE.

01 **Township Forum - Ward:** Bury East - Redvales **App No.** 57255

Location: Land off Radcliffe Road/Inglewhite Close, Bury, BL9 9JT
Proposal: Erection of 34 no. dwellings (resubmission)
Recommendation: Minded to Approve **Site Visit:** Y

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02 **Township Forum - Ward:** Prestwich - Holyrood **App No.** 57379

Location: Land between Kenyon Lane and Henry Street, Prestwich, Manchester, M25 1HY
Proposal: Erection of 6 no. dwellings
Recommendation: Minded to Approve **Site Visit:** Y

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03 **Township Forum - Ward:** Ramsbottom and Tottington - Ramsbottom **App No.** 57448

Location: 6-8 Market Place, Ramsbottom, Bury, BL0 9HT
Proposal: Change of use from shop (Class A1) to dental surgery (Class D1)
Recommendation: Approve with Conditions **Site Visit:** N

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04 **Township Forum - Ward:** Prestwich - St Mary's **App No.** 57464

Location: Land off Kingswood Road, Prestwich, Manchester, M25 3BP
Proposal: Demolition of existing buildings for residential development of 6 detached and 18 semi-detached houses with associated external works.
Recommendation: Minded to Approve **Site Visit:** N

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05 **Township Forum - Ward:** Whitefield + Unsworth - Unsworth **App No.** 57470

Location: Bury & Whitefield Jewish Primary School, Parr Lane, Bury, BL9 8JT
Proposal: Single storey nursery building
Recommendation: Approve with Conditions **Site Visit:** N

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06 **Township Forum - Ward:** Radcliffe - West **App No.** 57487

Location: Bankside Mill, Chapelfield, Radcliffe, Manchester, M26 1JF
Proposal: Substitution of plots 3 and 10 to approval no. 56201 - Residential development of 14No. dwellings with associated site access, parking and landscape works.
Recommendation: Minded to Approve **Site Visit:** N

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07 **Township Forum - Ward:** Radcliffe - East **App No.** 57508

Location: Spenside, Bury and Bolton Road, Radcliffe, Manchester, M26 4LA
Proposal: Erection of 4 no. detached dwellings
Recommendation: Minded to Approve **Site Visit:** N

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08 **Township Forum - Ward:** Whitefield + Unsworth - Unsworth **App No.** 57516

Location: Parr Lane Service Station, Parr Lane, Bury, BL9 8LZ
Proposal: Prior notification of removal of existing 11.3 metre monopole and installation of 15 metre monopole (resubmission)
Recommendation: Prior Approval Required and Granted **Site Visit:** Y

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09 **Township Forum - Ward:** Whitefield + Unsworth - Pilkington Park **App No.** 57525

Location: Whitefield House, Pinfold Lane, Whitefield, Manchester, M45 7NY
Proposal: Variation of condition no. 20 of planning permission 53353 (60 no. bed care home with ancillary clinic/rehabilitation facilities, car parking and landscaping) to:
The construction of the care home and associated works within the site shall not commence unless and until a scheme showing the phased implementation of the development has been submitted to and approved by the Local Planning Authority. The development shall be implemented in accordance with the approved details only. The new access shall be formed onto Pinfold Lane and the redundant access reinstated as indicated on approved plan reference 2004-094/850 before first occupation of the building. All the public highway works shall then be implemented to a standard that makes them available for public use before the development is first brought into use.
Recommendation: Approve with Conditions **Site Visit:** N

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10 **Township Forum - Ward:** Whitefield + Unsworth - Pilkington Park **App No.** 57535

Location: Dudley House, Clarkes Hill, Whitefield, Manchester, M45 7TG
Proposal: Erection of additional domestic kennelling facility (resubmission of 57210).
Recommendation: Approve with Conditions **Site Visit:** N

Ward: Bury East - Redvales Item 01

Applicant: Morris Homes Ltd

Location: Land off Radcliffe Road/Inglewhite Close, Bury, BL9 9JT

Proposal: Erection of 34 no. dwellings (resubmission)

Application Ref: 57255/Full **Target Date:** 30/05/2014

Recommendation: Minded to Approve

It is recommended that this application is Minded to Approve subject to the signing and completion of a Section 106 agreement for recreation provision in accordance with Policy RT2/2 of the adopted Unitary Development Plan and SPD1 and Affordable Housing provision in accordance with H4/1 - Affordable Housing of the adopted Unitary Development Plan and SPD 5. Should the agreement not be signed and completed within a reasonable period, it is requested that the application be determined by the Development Manager.

Description
The site relates to a piece of land which formerly accommodated an elderly persons care home, demolished in 2008 and council office buildings which have been vacant since 2010. It is set within a predominantly residential area and accessed via Inglewhite Close. The site is bounded to the north and west by residential properties, the Derby High School to the north east, a church to the east and along the southern boundary is Radcliffe Road, with semi-detached houses opposite.

The site is subject to TPO Order (no 225) of 31 trees and over time the site has also become overgrown with self seeded trees.

The proposal is for the demolition of the council buildings and the redevelopment of the site for the residential purposes comprising 34 houses. This would involve a mix of properties of 7 x 2 bed mews style, 4 x 3 bed mews/semi, 10 x 3 bed detached and 13 x 4 bed detached, in an open plan estate arrangement, with the main access off Inglewhite Close. There would also be an access created directly off Radcliffe Road which would serve several houses to the south of the site. 21 of the properties would either have integral or detached garages, with in curtilage parking provided throughout the remainder of the development.

The dwellings would comprise a mix of brick built elevations with tiled roofs and reflect the design and appearance not dissimilar to the houses on Inglewhite Close. Corner and entrance plots would have dual aspects.

The development would necessitate the removal of 12 TPO trees, and 23 non TPO trees. A landscaping plan has been submitted with a proposed replacement planting scheme.

Relevant Planning History
56693 - Erection of 34 houses - Withdrawn

Publicity
71 letters sent on 4/3/2014 to properties at Ribchester Drive; Radcliffe Road; Altham Close; Inglewhite Close and Coronation Road.
Site notice posted 11/3/2014.
Press advert in the Bury Times 13/3/2014.

One letter of objection received from No 1 Inglewhite Close which raises the following

issues:

- There are already access issues into Inglewhite Close which would be exacerbated by the proposed scheme.

The objector has been informed of the Planning Control Committee meeting.

Consultations
Traffic Section - No objection subject to conditions.
Drainage Section - No objection subject to condition.
Environmental Health Contaminated Land - No objection subject to conditions.
Waste Management - No objection The hardstanding areas indicated for the wheeled bins would need to accommodate 2 bins per property on collection day.
Environment Agency - No objection subject to conditions.
Greater Manchester Police - designforsecurity - A Crime Impact Statement has been submitted with recommendations made. These would be included as an informative for the applicant to consider.
United Utilities (Water and Waste) - No response received.
The Coal Authority - No objection
Fire Protection Dept Bury Fire Station (Part B) - Informative included detailing the requirements for Fire Service access

Unitary Development Plan and Policies

NPPF	National Planning Policy Framework
H1/2	Further Housing Development
H2/1	The Form of New Residential Development
H2/2	The Layout of New Residential Development
EN1/2	Townscape and Built Design
EN1/5	Crime Prevention
EN6/3	Features of Ecological Value
EN9	Landscape
H4/1	Affordable Housing
RT2/2	Recreation Provision in New Housing Development
EN7/3	Water Pollution
SPD1	DC Policy Guidance Note 1:Recreation Provision
SPD5	DC Policy Guidance Note 5: Affordable Housing
SPD6	Supplementary Planning Document 6: Alterations & Extensions
HT2/4	Car Parking and New Development
HT6/2	Pedestrian/Vehicular Conflict
HT4	New Development
EN8/2	Woodland and Tree Planting
HT5/1	Access For Those with Special Needs
EN5/1	New Development and Flood Risk
SPD16	Design and Layout of New Development in Bury
SPD11	Parking Standards in Bury
NPPG	National Planning Policy Guide

Issues and Analysis
The following report includes analysis of the merits of the application against the relevant polices of both the National Planning Policy Framework (NPPF) and the adopted Bury Unitary Development Plan (UDP) together with other relevant material planning considerations. The policies of the UDP that have been used to assess this application are considered to be in accordance with the NPPF. For simplicity, just the UDP Policy will be referred to in the report, unless there is a particular matter to highlight arising from the NPPF where it would otherwise be specifically mentioned.

Principle - Following revocation of the North West Regional Spatial Strategy on 20 May 2013, there is no statutory housing target for Bury. Work is in progress on Bury's Local Plan - "The Core Strategy", which will bring forward a new statutory housing target. It is currently proposed that the new housing target in the Local Plan should be set at 400 dwellings per

annum, which is currently timetabled to be adopted in 2014.

In the meantime, the National Planning Policy Framework should be treated as a material planning consideration and it emphasises the need for local planning authorities to boost the supply of housing to meet local housing targets in both the short and long term. There is a particular emphasis, as in previous national planning guidance, to identify a rolling five year supply of deliverable housing land.

UDP Policy H1/2 states that the Council will have regard to various factors when assessing a proposal for residential development, including whether the proposal is within the urban area, the availability of infrastructure and the suitability of the site, with regard to amenity, the nature of the local environment and the surrounding land uses.

UDP Policies H2/1 - The Form of New Residential Development and H2/2 - The Layout of New Residential Development takes into consideration factors relating to the height and roof type of adjacent buildings, the impact of developments on residential amenity, the density and character of the surrounding area and the position and proximity of neighbouring properties. Regard is also given to parking provision and access, landscaping and protection of trees/hedgerows and external areas.

Supplementary Planning Document 6 - Alterations and Extensions to Residential Properties provides useful guidance in terms of acceptable aspect standards between dwellings.

The application relates to a brownfield site which previously accommodated an elderly persons care home which was demolished in 2008. There are a number of council buildings which were last used as offices in 2010 and since then the site has remained unused. The site is in a sustainable location in a residential urban area and served by existing infrastructure. The layout demonstrates that the site could satisfactorily accommodate the proposed development in relation to neighbouring properties and the surrounding area.

As such, the principle is in general accordance with local planning policy H1/2 - Further Housing Development and complies with national planning policy.

Layout - The scheme would be laid out in a relatively standard estate form, with 2 routes into the site, one off Inglewhite Close serving 21 houses and a new access created off Radcliffe Road to serve 13 houses. The 2 properties fronting Radcliffe Road, plots 1 and 12a, would have a dual aspect to acknowledge the street scene and avoid a blank gable fronting the main road. Similarly, plots 14 and 32 which are located on the corners of the development would be similarly orientated with dual aspects.

There would be at least 2 parking spaces per dwelling, provided by either integral or detached garages or in curtilage spaces adjacent or infront of the houses. The properties would benefit from suitably sized rear gardens enclosed by timber fencing and areas for bin storage. There would be 2 hardstanding areas within the site for the storage of bins on waste collection days for those properties which are only accessible via private driveways. The plan shows the area would be large enough to accommodate 2 bins per property on collection days as requested by the waste management team.

The layout of the development has been designed to reflect the character of the adjacent residential estate and would utilise the amount of land available to maximise the potential of the site for delivering houses to the area. It is considered the layout would generate significant benefits to the area without undue detriment to the residents of nearby properties.

As such, the proposed layout is considered to be acceptable and would comply with UDP policies H2/1 - The Form of New Residential Development and H2/2 - The Layout of New Residential Development.

Design and appearance - The proposed development would comprise 2 storey properties

with a mix of mews, semi and detached styles and would reflect the general scale, massing and character of the residential properties in the surrounding area. The scheme would be a modern approach to a new small scale housing development and incorporate features such as bay windows, canopies, brick eaves, stone cills and headers.

The houses would be constructed from red facing brick and grey tiled roofs incorporating distinctive brickwork detailing. Samples of materials would be requested for further approval. Shared driveways would be delineated in contrasting material or kerb edging's and boundary treatment comprise 1.8m high timber fencing in between gardens and to rear boundaries. A 1.8m high wall section would link plot 12a to the detached garage to provide privacy and security to this plot from Radcliffe Road. Low garden railings and walls to the front of dwellings would define private amenity areas from the public domain and contribute to the character of the layout scheme.

Hard and soft landscaping would be provided throughout the site and a landscape plan has been submitted which includes locally native plants and trees to replace vegetation removed and create a sense of place, character and setting for the new homes.

As such, the development is considered to be acceptable in terms of appearance, form and design, would relate well to the surrounding area and as such would be in accordance with UDP Policies EN1/2 and H2/1.

Impact upon residential amenity - The houses on the periphery of the site comprise traditional 2 storey semi detached properties on Ribchester Drive and the newer built houses on Inglewhite Close, which are also 2 storey and of varying design types. The proposed dwellings would all be 2 storey and would sit comfortably within the site boundaries, allowing for respectful aspect standards and separation distances. The new dwellings to the northern boundary on plots 29 and 34 would be side on to No 2 Inglewhite Close and therefore not impact on privacy or overlooking.

There would be a separation distance of more than 20m from the proposed houses on the western boundary to the existing houses on Ribchester Drive, and separated by a 1.8m timber fence as well as planting along the rear boundaries.

Aspect standards within the development site itself would be achieved to comply with SPD 6.

The scheme would therefore comply with UDP Policies H2/1 - The Form of New Residential Development and H2/2 - The Layout of New Residential Development and SPD6.

Parking and access - The properties to the north of the site would be served by the existing route off Inglewhite Close and a new access would be created off Radcliffe Road into a cul de sac layout serving houses to the south of the site and leading to communal driveways for plots 9-12a and 2-5. Visibility splays have been incorporated on advice from the Traffic section and the road layout and pedestrian footpaths designed to a satisfactory standard.

The objector has raised concerns about the impact on access and the increase in traffic to the area. The access off Inglewhite Close into the development would serve 21 new properties. The site previously accommodated a care home and council offices which would have generated a certain amount of vehicular movement in the area, possibly more so at peak times in the morning and evening, whereas a residential development is more likely to be spread out over a period time during the day. In addition, the new access into the site directly off Radcliffe Road to serve 13 of the properties would alleviate some of the traffic pressure in the Ribchester Road/Inglewhite Close area.
SPD 11 - Parking Standards in Bury states that the maximum parking standards for residential dwellings within a high access area are 1.5 per 2 bed, 2 per 3 bed and 3 per 4 bed and these standards would be complied with, either through the provision of a detached or integral garage or in curtilage parking.

The development is considered not to generate significantly more traffic which would be detrimental to the amenities of local residents. The Traffic section have not raised any objections to the scheme subject to conditions and as such the proposed development would be in accordance with UDP Policies H2/1 - The Form of New Residential Development and H2/2 - The Layout of New Residential Development.

Lighting - The layout does not show include any details of lighting provision within the site. Given the development would be in open plan estate form, it is considered reasonable to request a lighting scheme be submitted, and this would be achieved by an appropriate condition.

Lifetime Homes - The proposal would afford the opportunity to incorporate provision of lifetime homes standards within the development and something the Council would seek to advocate in such housing schemes. Details of such provisions would be sought from the applicant by a suitably worded condition.

Trees - The development would result in the removal of 12 TPO trees and 23 non TPO trees and all have been assessed as being either Category B (good to moderate) or C (moderate to poor). The majority of the trees are positioned within the site, and not visible from main public views nor do they provide any particular amenity value to the street scene. There would be 19 TPO trees retained on the site, which would be subject to protection measures during construction works and included as a condition. As such their removal is not considered to be harmful to the visual amenity of the site or the surroundings.

The trees categorised as A (significant amenity value and retention desirable) are located along the front of the site, form part of the tree lined street and contribute to a pleasant visually amenable street scene. These trees would be retained and again subject to protection measures.

A proposed landscape plan indicates a total of 30 no. replacement trees in a variety of species would be incorporated within the development and would contribute to the visual enhancement of the residential layout.

As such, the proposals are considered to be acceptable and would comply with EN1/2 - Townscape and Built Design, H2/2 - The Layout of New Residential Development and EN8/2 - Woodland and Tree Planting.

Flooding - The site is located within Flood Zone 2 and at risk of flooding 1 in 1000 years. To mitigate this, the FRA proposes that the finished floor levels of all dwellings be set at a minimum of 72.65mAOD which would be acceptable in principle to the Environment Agency. To ensure the proposed development meets the policy requirement of the NPPF and to ensure that the development is safe and does not increase flood risk elsewhere, the EA proposes conditions which would be included as part of an approval.

In terms of the surrounding area, the proposed site levels would not change significantly along the frontage to Radcliffe Road. When compared to the existing adjacent dwellings to the west, the site would be marginally higher, circa 400mm and as such a consistent relationship to these properties would be maintained.

As such the proposal is considered to comply with Chapter 10 of the National Planning Policy Framework - Meeting the Challenge of Climate Change, Flooding and Coastal Change.

Ecology -
Buildings - The bat survey concluded that the buildings had relatively low potential to support roosting bats within the main areas of potential. A single nocturnal emergence survey was also undertaken with no evidence of bats. As such, it is considered that an informative advising works stop should bats be found would be sufficient.

Site - No potential roost habitat was identified within the treed area and the survey recommends that no further action is required with regards to bats. In relation to nesting birds, the development has the potential to cause disturbance to breeding birds within the surrounding trees and as such it is recommended that if work is carried out during the breeding season, a further survey be carried out prior to the commencement of the works, which would be included as a condition.

A number of features of local ecological value have been identified in the Habitat Survey report including nesting birds, nectar sources for invertebrates, semi-mature trees and species rich grasslands on former developed sites. In order to ensure there is no loss of biodiversity, the GMEU recommend a condition that an appropriate landscaping scheme be submitted in order to fulfill section 109 of the NPPF and this has been included as condition 22.

There was evidence of Himalayan balsam on site and a method statement should be carried out prior to the commencement of works. This would be a condition of an approval.

Planning Obligations - UDP Policy H4/1 seeks the provision of 25% of units on large housing sites to be affordable, in line with SPD 5. The proposal seeks to provide 8 of the units to be affordable, which equates to 24% of the units. This is broadly in line with the policy requirements and is acceptable in this instance due to some viability issues with the site (as discussed below).

The scale of proposals requires a recreation contribution of £110,559 towards off-site recreation provision pursuant to SPD1. However, the applicant has provided a detailed viability assessment that sets out a number of abnormal development costs associated with the site. These costs relate to a range of issues including flood risk measures that have to be undertaken and abnormal foundation requirements because of the ground conditions. As a result, it has been demonstrated that the viability of the scheme would be marginal should the full recreational provision be provided. The applicant has offered 50% of the provision equating to £55,280. On balance, based on the viability evidence that has been submitted and given that the affordable housing requirements have broadly been met, this offer is deemed to be reasonable.

Both the affordable housing and recreation provision will be secured through a S106 agreement.

Response to objector - The issues raised with regard to traffic have been covered in the above report.

Statement in accordance with Article 31 Town and Country Planning (Development Management Procedure) (England) (Amendment) Order 2012
The Local Planning Authority worked positively and proactively with the applicant to identify various solutions during the application process to ensure that the proposal comprised sustainable development and would improve the economic, social and environmental conditions of the area and would accord with the development plan. These were incorporated into the scheme and/or have been secured by planning condition. The Local Planning Authority has therefore implemented the requirement in Paragraphs 186-187 of the National Planning Policy Framework.

Recommendation: Minded to Approve

Conditions/ Reasons

1. The development must be begun not later than three years beginning with the date of this permission.
   Reason. Required to be imposed by Section 91 Town & Country Planning Act 1990.

2. This decision relates to drawings numbered - N912/P/LP01 Rev A; N912/P-/HTAPP/02; N912/P-/HTAPP/01; N912/P-/HTBER/02; N912/P-/HTBER01; N912/P-/HTBU/02; N912/P-/HTBU/01; N912/P-/HTDID/S/02; N912/P-/HTDID/S/01; N912/P-/HTDID/02; N912/P-/HTDID/01; N912/P-/HTDUN/02; N912/P-/HTDUN/01; N912/P-/HTEDG/02; N912/P-/HTEDG/01; N912/P-/HTELY/02; N912/P-/HTELY/01; SCP/13254/F01; N912/P/TP01; N912/P/PL01 Rev B; 1817 01; M2273.01; F1-1; F2-3 Rev A; F3-1; GR1; GR2-1 Rev A; Design and Access Statement September 2013; Tree Survey Report August 2013; Crime Impact Statement Version A:21st August 2013; Extended Phase 1 Habitat Survey Report August 2013; Bat Survey Report September 2013; Flood Risk assessment August 2013 30011/SRG; Phase I and Phase IISite investigation August 2013 45157p1r0 and p1r1 and 45168p1r1 October 2013; Supplementary Mining Investigation letter dated 17th October 2013 Ref 01c45157 and the development shall not be carried out except in accordance with the drawings hereby approved.
Reason. For the avoidance of doubt and to ensure a satisfactory standard of design pursuant to the policies of the Bury Unitary Development Plan listed.

3. No development shall commence unless and until:-
   - A contaminated land Preliminary Risk Assessment report to assess the actual/potential contamination and/or ground gas/landfill gas risks at the site shall be submitted to, and approved in writing by, the Local Planning Authority;
   - Where actual/potential contamination and/or ground gas/landfill gas risks have been identified, detailed site investigation and suitable risk assessment shall be submitted to, and approved in writing by the Local Planning Authority;
   - Where remediation/protection measures is/are required, a detailed Remediation Strategy shall be submitted to, and approved in writing by, the Local Planning Authority.

   Reason. To secure the satisfactory development of the site in terms of human health, controlled waters, ground gas and the wider environment and pursuant to National Planning Policy Framework Section 11 - Conserving and enhancing the natural environment.

4. Following the provisions of Condition 3 of this planning permission, where remediation is required, the approved Remediation Strategy must be carried out to the satisfaction of the Local Planning Authority within agreed timescales; and
A Site Verification Report detailing the actions taken and conclusions at each stage of the remediation works, including substantiating evidence, shall be submitted to and approved in writing by the Local Planning Authority prior to the development being brought into use.
Reason. To secure the satisfactory development of the site in terms of human health, controlled waters and the wider environment and pursuant to National Planning Policy Framework Section 11 - Conserving and enhancing the natural environment.

5. Any soil or soil forming materials brought to site for use in garden areas, soft landscaping, filling and level raising shall be tested for contamination and suitability for use on site. Proposals for contamination testing including testing schedules, sampling frequencies and allowable contaminant concentrations (as determined by appropriate risk assessment) and source material information shall be submitted to and approved in writing by the Local Planning Authority prior to any soil or soil forming materials being brought onto site, and;
The approved contamination testing shall then be carried out and validatory evidence (soil descriptions, laboratory certificates, photographs etc) submitted to and approved in writing by the Local Planning Authority prior to the development being brought into use.
Reason. To secure the satisfactory development of the site in terms of human health, controlled waters and the wider environment and pursuant to National

Planning Policy Framework Section 11 - Conserving and enhancing the natural environment.

6. All instances of contamination encountered during the development works which do not form part of an approved Remediation Strategy shall be reported to the Local Planning Authority (LPA) immediately and the following shall be carried out where appropriate:

- Any further investigation, risk assessment, remedial and / or protective works shall be carried out to agreed timescales and be approved by the LPA in writing;

- A Site Verification Report detailing the conclusions and actions taken at each stage of the works including validation works shall be submitted to, and approved in writing by, the LPA prior to the development being brought into use.

Reason. To secure the satisfactory development of the site in terms of human health and the wider environment and pursuant to National Planning Policy Framework Section 11 - Conserving and enhancing the natural environment.

7. Following the provisions of Condition 3 of this planning permission, where ground gas remediation / protection measures are required, the approved Remediation Strategy must be carried out to the written satisfaction of the Local Planning Authority within approved timescales; and
A Site Verification Report detailing the actions taken and conclusions at each stage of the remediation works, including substantiating evidence, shall be submitted to and approved in writing by the Local Planning Authority prior to the development being brought into use.
Reason. To alleviate any possible risk associated with the production of landfill gas and ground gas in accordance with the recommendations of the Environment Agency and pursuant to National Planning Policy Framework Section 11 - Conserving and enhancing the natural environment.

8. The development hereby approved shall not be first occupied unless and until the access alterations on Radcliffe Road and Inglewhite Close, incorporating all necessary footway remedial works, reinstatement of the redundant site access, relocation/replacement of affected street lighting and cycle lane signage, indicated on approved plan reference N912/P/PL01 Revision A, have been implemented in full to the written satisfaction of the Local Planning Authority.
Reason. To ensure good highway design in the interests of road safety and to maintain the integrity of the adopted highway pursuant to Bury Unitary Development Plan Policies H2/2 - The Layout of New Residential Development and HT 6/2 - Pedestrian/Vehicular Conflict.

9. The visibility splays indicated on approved plan reference SCP/13254/F01 shall be implemented to the written satisfaction of the Local Planning Authority before the site accesses and relevant driveways are brought into use and subsequently maintained free of obstruction above the height of 0.6m.
Reason. To ensure the intervisibility of the users of the site and the adjacent highways in the interests of road safety pursuant to Bury Unitary Development Plan Policy HT6/2 - Pedestrian/Vehicular Conflict

10. A minimum hardstanding of 5.5m measured between the highway and any proposed garage doors shall be provided and thereafter maintained.
Reason. To enable a vehicle to stand clear of the highway whilst the garage doors are opened and to allow adequate space to maintain a vehicle clear of the highway in the interests of road safety pursuant to Policy H2/2 - The Layout of New Residential Development of the Bury Unitary Development Plan.

11. The turning facilities indicated on approved plan reference N912/P/PL01 Revision A (or similar alternative provision that enables construction traffic to enter and leave the site in a forward gear agreed in writing with the Local Planning Authority) shall be provided before construction of the dwellings is commenced and shall subsequently be maintained free of obstruction at all times.
Reason. To minimise the standing and turning movements of vehicles on the highway in the interests of road safety during construction of the development and thereafter pursuant to Bury Unitary Development Plan Policy HT4 - New Development.

12. The bin collection hardstanding areas serving Plots 9-12a & 24-29 indicated on approved plan reference N912/P/PL01 Revision A shall be provided before the plots to which they relate are first occupied and shall subsequently be maintained thereafter for this use.
Reason. To ensure adequate off-highway refuse collection facilities are provided, in the interests of pedestrian safety pursuant to Bury Unitary Development Plan Policy H2/2 - The Layout of New Residential Development.

13. The Developer, within one week of the commencement of development, shall ensure that there is provision to be made for the parking on site of operatives and construction vehicles together with storage on site of construction materials. The provision shall be retained and used for the intended purpose for the duration of the construction period and that area shall not be used for any other purposes other than the parking of vehicles and storage of construction materials respectively.
Reason. To ensure adequate off street car parking provision for the duration of the construction period in the interests of road safety pursuant to Bury Unitary Development Plan Policy HT4 - New Development.

14. Before the development is commenced, details shall be submitted to and approved by the Local Planning Authority to cover measures to ensure that all mud and other loose materials are not carried on the wheels and chassis of any vehicles leaving the site and measures to minimise dust nuisance caused by the operations. The approved details shall be implemented and maintained thereafter during the period of construction.
Reason. To ensure that the adopted highways are kept free of deposited material from the ground works operations pursuant to Bury Unitary Development Plan Policy HT 4 - New Development.

15. No trees or shrubs should be removed between 1st March and 31st August inclusive in any year, unless a detailed bird nest survey by a suitable experienced ecologist has been carried out immediately prior to clearance. Written confirmation should be provided to the Local Planning Authority that no bird nests are present to be agreed and approved by the Local Planning Authority.
Reason. In order to ensure that no harm is caused to a Protected Species pursuant to policies EN6 – Conservation of the Natural Environment and EN6/3 – Features of Ecological Value of the Bury Unitary Development Plan and National Planning Policy Framework Section 11 - Conserving and enhancing the natural environment.

16. No development shall commence unless and until a lighting scheme has been submitted for approval by the Local Planning Authority. The approved scheme only shall be implemented prior to the first occupation of the dwellings hereby approved and thereafter maintained.
Reason. In the interests of residential amenity and security of the future occupiers of the dwellings pursuant to Bury Unitary Development Plan Policy H2/2 - The Layout of New Residential Development and EN1/5 - Crime prevention.

17. Provision for lifetime homes shall be incorporated into the development in

accordance with a scheme to be submitted to and approved in writing by the Local Planning Authority prior to the development hereby approved commencing. The development shall then be carried out incorporating the measures in accordance with the approved scheme.
Reason. To ensure that the development is fully accessible to disabled persons pursuant to Policies HT5/1 – Access for Those with Special Needs of the Bury Unitary Development Plan.

18. The development hereby permitted shall not be commenced until such time as a scheme to ensure finished floor levels of proposed buildings are set no lower than 72.65m above Ordnance Datum (AOD), has been submitted to and approved in writing by the Local Planning Authority. The approved scheme only shall be implemented.
Reason. To reduce the risk of flooding to the proposed development and future occupants pursuant to chapter 10 - Meeting the challenge of climate change, flooding and coastal change of the NPPF.

19. The development hereby permitted shall not be commenced until such time as details of an emergency evacuation plan, including the registration with Floodline to receive Flood Warnings have been submitted to, and approved in writing by, the Local Planning Authority. The approved details only shall be made available to all future occupiers of the development hereby approved prior to occupation.
Reason. To ensure safe access and egress from and to the site pursuant to chapter 10 - Meeting the challenge of climate change, flooding and coastal change of the NPPF.

20. The development hereby permitted shall not be commenced until such time as a scheme to regulate the surface water run-off generated by the proposed development to 6.6l/s and a scheme to manage the risk of flooding from overland flow of surface water has been submitted to and approved in writing by the local planning authority. The scheme shall also confirm the existing and proposed receptors for the discharge of surface water from the site. The approved scheme only shall be implemented prior to first occupation.
Reason. To reduce the risk of flooding by ensuring the satisfactory storage of/disposal of surface water from the site pursuant to chapter 10 - Meeting the challenge of climate change, flooding and coastal change of the NPPF.

21. Prior to any commencement of works on site, a method statement detailing avoidance and or control and or eradication measures for Himalayan balsam should be supplied to and agreed by the Local Planning Authority. The measures shall be carried out strictly in accordance with the approved scheme.
Reason. To ensure that the site is free from Himalayan Balsam in the interest of UDP Policy EN9 - Landscape.

22. No development shall commence unless and until a landscape and ecological enhancement plan including measures to mitigate for loss of trees, shrubs, bird nesting habitat and nectar sources has been submitted to and agreed by the Local Planning Authority. The approved plan shall be implemented in accordance with the approved details.
Reason. In order to ensure no loss of biodiversity pursuant to UDP Policy EN6 - Conservation of the Natural Environment and chapter 11 - Conserving and enhancing the natural environment of the NPPF.

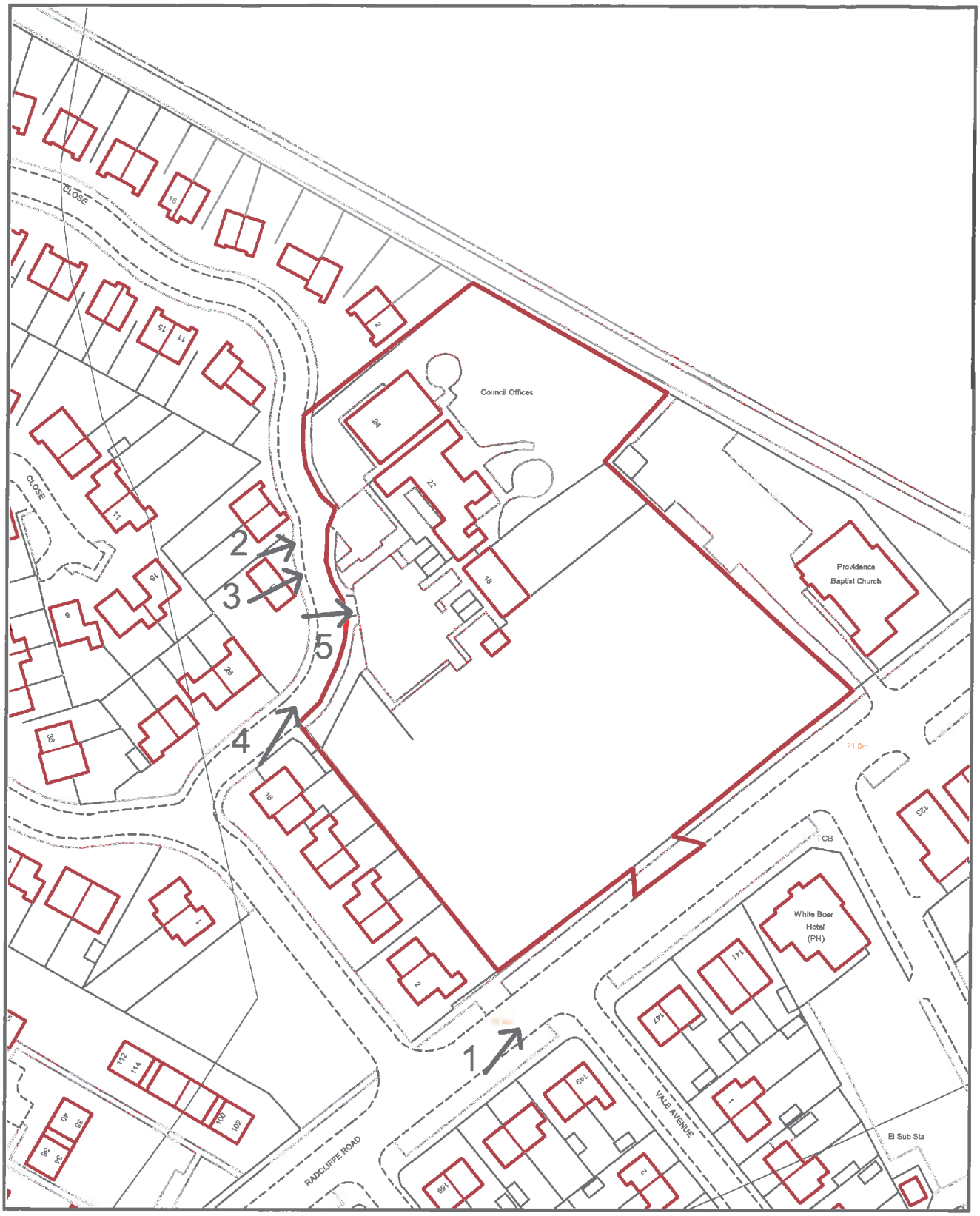
23. The development hereby approved shall not commence unless and until a scheme of protection for all trees and all TPO trees to be retained on site in accordance with BS 5837:2005 "Trees in Relation to Construction" as amended has been submitted to and agreed in writing by the Local Planning Authority. The development shall not commence unless and until the measures required by that scheme have been implemented, to the written satisfaction of the Local Planning

Authority and all measures required by the scheme shall continue until the development has been completed.
Reason. To avoid the loss of trees which are of amenity value to the area pursuant to Policy EN1/2 - Townscape and Built Design and EN8/2 – Woodland and Tree Planting of the Bury Unitary Development Plan.

24. Notwithstanding the terms of the Town and Country Planning (General Permitted Development) Order 1995, as subsequently amended, no development shall be carried out within the terms of Classes A, B, C and E of Part 1 of Schedule 2 of the Order, without the prior written consent of the Local Planning Authority.
Reason. To ensure that future inappropriate alterations or extensions do not occur pursuant to policies of the Unitary Development Plan listed.

For further information on the application please contact **Jennie Townsend** on **0161 253-5320**

Viewpoints



PLANNING APPLICATION LOCATION PLAN

APP. NO 57255

ADDRESS: Land off Radcliffe Road/Inglewhite Close Bury

N W E S

Bury COUNCIL

Planning, Environmental and Regulatory Services 1:1250

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Photo 1



Photo 2



Photo 3

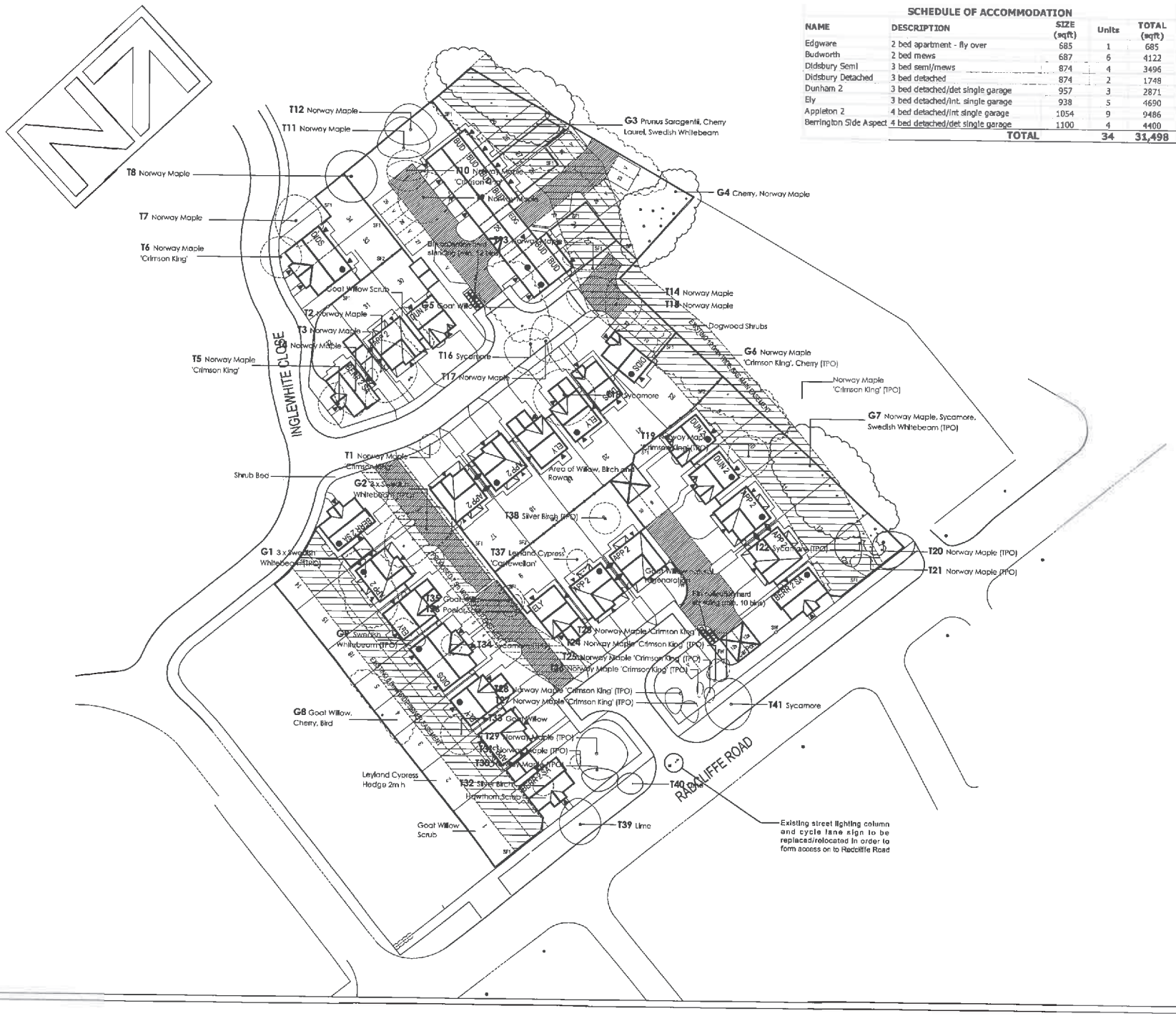


Photo 4



Photo 5





SCHEDULE OF ACCOMMODATION

NAME	DESCRIPTION	SIZE (sqft)	Units	TOTAL (sqft)
Edgware	2 bed apartment - fly over	685	1	685
Budworth	2 bed mews	687	6	4122
Didsbury Semi	3 bed semi/mews	874	4	3496
Didsbury Detached	3 bed detached	874	2	1748
Dunham 2	3 bed detached/det single garage	957	3	2871
Ely	3 bed detached/int. single garage	938	5	4690
Appleton 2	4 bed detached/int single garage	1054	9	9486
Berrington Side Aspect	4 bed detached/det single garage	1100	4	4400
	TOTAL		34	31,498

LEGEND

- Proposed dwelling
- Proposed dwelling to be built opposite hand
- Proposed brick built garage
- Propsed garage space
- Common areas of shared drives in contrasting material or kerb edgings to delineate shared drive area
- SF1 — Proposed 1.8m high feather edge boarded timber screen fence
- SF2 — Proposed 1.8m high feather edge boarded timber screen fence with P.C.C. posts & gravel boards
- SW — Proposed 1.8m high screen wall
- WR — Proposed Low Wall with Railing Infill
- RL — Proposed 1.2m high railings
- VR — Proposed 0.45m high timber 'V'-rail fence
- Existing hedge to be retained
- Existing hedge to be removed
- Existing tree to be retained
- Existing tree to be removed

MATERIALS SCHEDULE

	Brick Type	Roof Tile	Door Colour
WR			
YG			

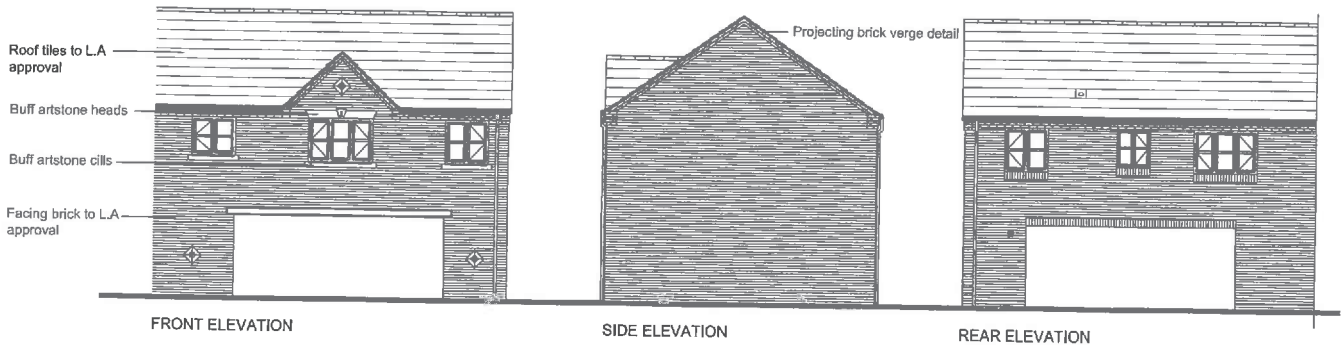
REV	DESCRIPTION	DATE	INIT
B	Bin collection areas increased to accommodate 2 wheeled bins per property. LA Highways Officers comments (dated 25 October 2011) incorporated.	24/04/14	SJM
A		02/11/13	SJM

Morris Homes (Group) Limited
Morland House
Altrincham Road
Wilmslow
Cheshire SK9 5NW
Tel: (01625) 544 444
Fax: (0845) 833 1845

Job. Title: RADCLIFFE ROAD, BURY.

Dwg. Title: PLANNING LAYOUT

date	drawn	checked	scale	dwg.no	rev
20/08/13	SJM		1:500 @ A2	N912/P/PL01	B



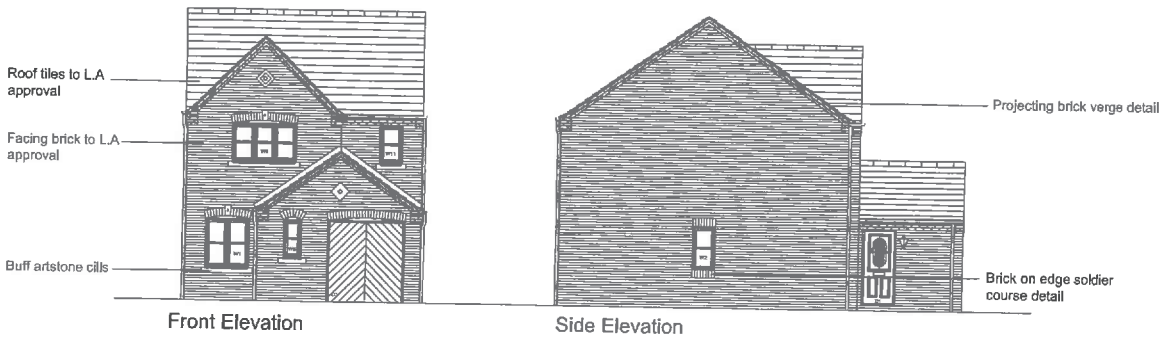
MORRIS HOMES

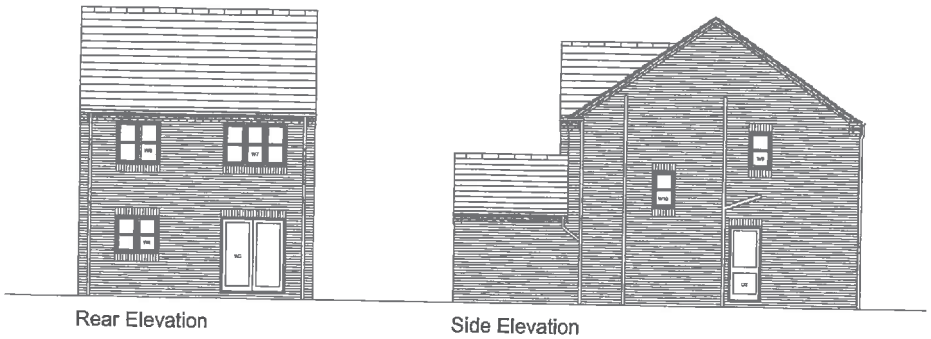
Morris Homes (Group) Limited
Morland House
Altrincham Road
Wilmslow
Cheshire SK9 5NW
Tel: (01625) 544 444
Fax: (0845) 833 1845

RADCLIFFE ROAD, BURY

EDGWARE HOUSE TYPE ELEVATIONS

Date	Drawn	Checked	Scale	Drg.no	Rev
18/12/12	SJM		1:100 @ A3	N812/P/HTEDG/01	-





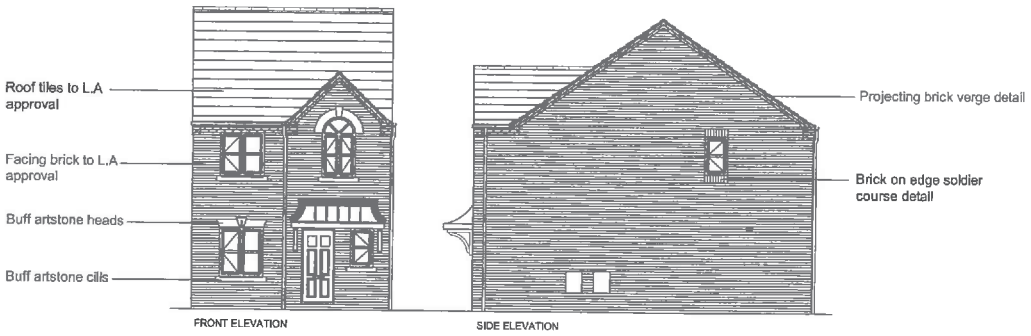
MORRIS HOMES

Morris Homes (Group) Limited
Morland House
Altrincham Road
Wilmslow
Cheshire SK9 5NW
Tel: (01625) 544 444
Fax: (0845) 833 1845

RADCLIFFE ROAD, BURY

ELY HOUSE TYPE ELEVATIONS

Date	Drawn	Checked	Scale	Drg.no	Rev
10/12/12	SJM		1:100 @ A3	N812/P/HTELY/01	-





REV	DESCRIPTION	DATE	INIT

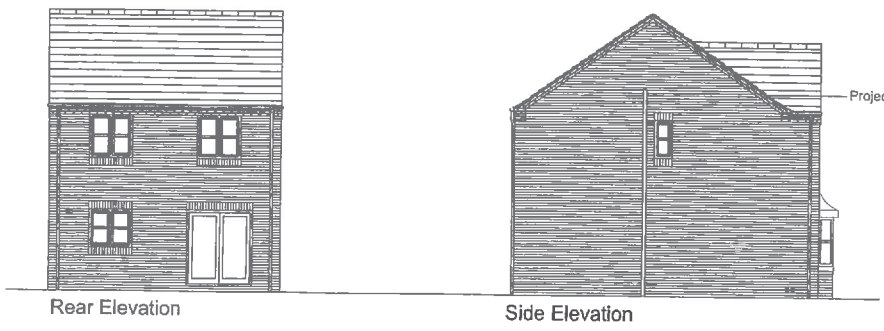
MORRIS HOMES
Morris Homes (Group) Limited
Morland House
Altrincham Road
Wilmslow
Cheshire SK9 5NW
Tel: (01625) 544 444
Fax: (0845) 833 1845

Job. Title: RADCLIFFE ROAD, BURY

Dwg. Title: DIDSBURY HOUSE TYPE ELEVATIONS

Date	Drawn	Checked	Scale	Dwg.no	Rev
10/12/12	CJM		1:100 @ A3	M912/P/HTDID/01	-





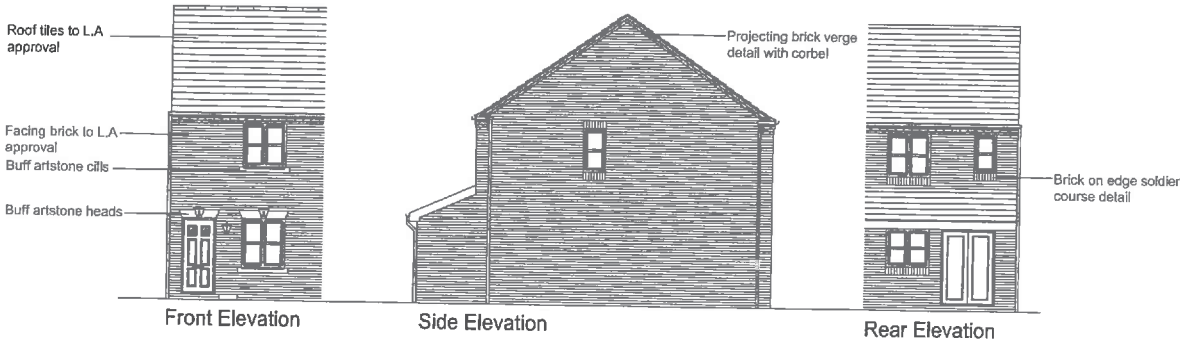
REV	DESCRIPTION	DATE	INIT

MORRIS HOMES
Morris Homes (Group) Limited
Morland House
Altrincham Road
Wilmslow
Cheshire SK9 5NW
Tel: (01625) 544 444
Fax: (0845) 833 1845

Job. Title: RADCLIFFE ROAD, BURY

Dwg. Title: DUNHAM 2 HOUSE TYPE ELEVATIONS

Date	Drawn	Checked	Scale	Dwg.no	Rev
10/12/12	SJM		1:100 @ A3	M912/P/HTDUN/01	-



REV	DESCRIPTION	DATE	INIT

Morris Homes (Group) Limited
Morland House
Altrincham Road
Wilmslow
Cheshire SK9 5NW
Tel: (01625) 544 444
Fax: (0845) 833 1845

Job. Title: RADCLIFFE ROAD, BURY

Dwg. Title: BUDWORTH HOUSE TYPE ELEVATIONS

Rev	Plot	Checked	Scale	Dwg.no	Rev
19/12/12	SJM		1:100 @ A3	N912/P/HTBUD/01	-



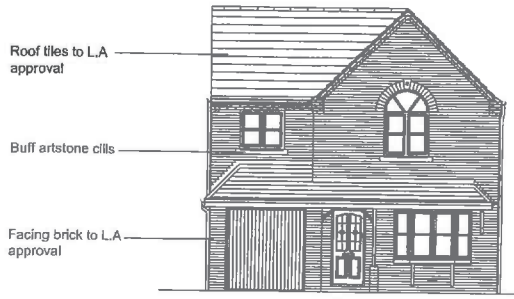
REV	DESCRIPTION	DATE	INIT

Morris Homes (Group) Limited
Morland House
Altrincham Road
Wilmslow
Cheshire SK9 5NW
Tel: (01625) 544 444
Fax: (0845) 833 1845

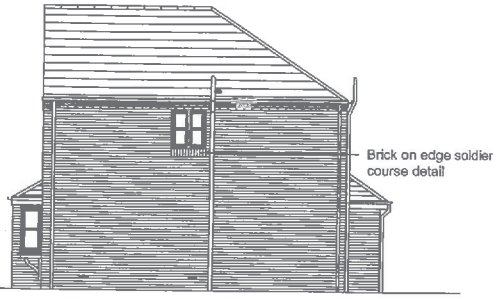
Job. Title: RADCLIFFE ROAD, BURY

Dwg. Title: DIDSBURY SEMI HOUSE TYPE ELEVATIONS

Rev	Plot	Checked	Scale	Dwg.no	Rev
19/12/12	SJM		1:100 @ A3	N912/P/HTDID/S/01	-



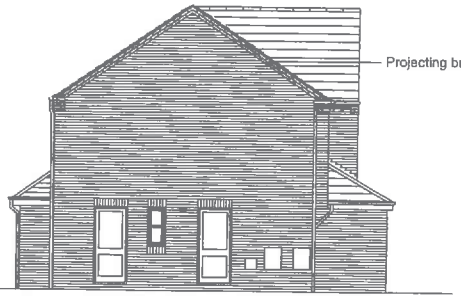
Front Elevation



Side elevation



Rear elevation



Side elevation

REV DESCRIPTION DATE INT

MORRIS HOMES

Morris Homes (Group) Limited
Morland House
Altrincham Road
Wilmslow
Cheshire SK9 5NW
Tel: (01625) 544 444
Fax: (0845) 833 1845

Job. Title
RADCLIFFE ROAD, BURY

Dwg. Title
APPLETON 2 HOUSE TYPE ELEVATIONS

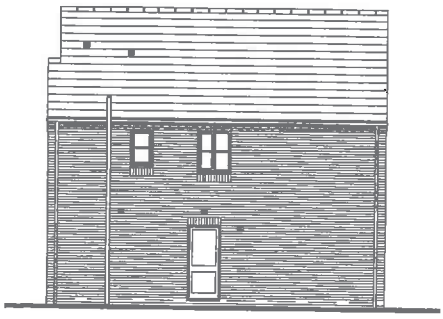
Date	Drawn	Checked	Scale	Dwg. no	Rev
10/12/12	SJM		1:100 @ A3	MB12/P/HTA/PP/01	-



Front Elevation



Side Elevation



Rear Elevation



Side Elevation

REV DESCRIPTION DATE INT

MORRIS HOMES

Morris Homes (Group) Limited
Morland House
Altrincham Road
Wilmslow
Cheshire SK9 5NW
Tel: (01625) 544 444
Fax: (0845) 833 1845

Job. Title
RADCLIFFE ROAD, BURY

Dwg. Title
BERRINGTON 2 SA HOUSE TYPE ELEVATIONS

Date	Drawn	Checked	Scale	Dwg. no	Rev
10/12/12	SJM		1:100 @ A3	MB12/P/HTBER/01	-

Ward: Prestwich - Holyrood

Item 02

Applicant: Watson Construction Ltd

Location: Land between Kenyon Lane and Henry Street, Prestwich, Manchester, M25 1HY

Proposal: Erection of 6 no. dwellings

Application Ref: 57379/Full **Target Date:** 24/06/2014

Recommendation: Minded to Approve

It is recommended that this application is Minded to Approve subject to the signing and completion of a Section 106 agreement for recreation provision in accordance with Policy RT2/2 of the adopted Unitary Development Plan and SPD1. Should the agreement not be signed and completed within a reasonable period, it is requested that the application be determined by the Development Manager.

Description
The site is a piece of land currently accommodating a vacant single storey commercial building. The site is bounded on all sides by residential properties. The houses on Bailey Street to the west are separated by their rear boundary walls and an intervening alley access which is gated at the Kenyon Lane end. To the east are properties on Kings Close with a rear boundary timber waneylap fence adjacent to the site. To the south is Kenyon Lane, an access alleyway which serves the rear of the terrace houses on Robert Street. Directly opposite are houses on Henry Street and Hampden Road. There is an electricity sub station directly adjacent to the boundary of the north west corner of the site.

The site has become overgrown with vegetation and left derelict, with the commercial building falling into a state of repair.

The proposal is to demolish the building and redevelop the site for a row of 4 two bedroomed terrace houses and a pair of three bedroomed semi detached houses. They would be modest in design, brick built with tiled roofs and incorporate canopied front entrances and rear patio doors.

The terrace properties would be positioned towards the southern part of the site, facing north and inwards towards the centre of the site with the private garden areas at the rear and a gated pedestrian access from each property leading out onto Kenyon Lane. There would be 5 in-curtilage parking spaces at the front.

The semi detached properties would be positioned in the northern area of the site and front onto Henry Street. There would be a small lawned area at the front with gardens and parking for 4 cars at the rear.

Access would be provided off Henry Street to the east of the site and would lead into the centre of the site separating the 2 housing elements. A 1.8m high timber fence is proposed along the west and southern boundaries with the fencing retained to the east.

Relevant Planning History
None relevant

Publicity
44 letters sent on 1/5/2014 to residents at 2-6 (evens) Hampden Road; 42-66 (Bailey Street); 16-24 (evens) Henry Street; 2-18 (evens) Robert Street; 25-36 Kings Road.
8 letters received from Nos 38 Hastings Road,12,14 Robert Street, 27, 36 Kings Close, 54, 62 Bailey Street, 22, 24 Henry Street which raises the following issues, comments and items which need addressing:

- What improvements will be made to the already worn out carriageway from the proposed new development along Hastings Road to Orange Hill Road? As this will deteriorate further during the development and increased residential traffic which the development will create.
- Who will maintain the proposed new fence at the rear of 48 to 66 Bailey Street, and will the alleyway be left in a clean and tidy condition, as it also deteriorated during the removal of the trees and Japanese Knotweed from the proposed development.
- What action is being taken to remove the roots etc of the Japanese Knotweed which has plagued the electricity sub station site, site itself including the rear of 48 to 66 Bailey Street for many years so that it does not become a problem in the future.
- Finally another question which has been raised is can the proposed development company give assurances that they will be able to complete this project and have adequate funding etc in place, due to other project problems encountered and reported in the press;
- Concerned the development may block and restrict sunlight to existing properties;
- Concerned about the close proximity of the housing resulting in a view being an unattractive brick wall, which will also deprive garden of sunlight. May negatively affect the value of our homes;
- Concerned access will be impeded whilst the development is underway;
- Concerned the development company is a reincarnation of a company no longer trading;
- Consider the boundary fencing as not suitable;
- There may be a valid challenge to questions 14,15 and 24 of the planning application regarding contamination, trees on site and whether the site can be seen from a public road;
- Seek reassurance regarding privacy and being overlooked from upper/rear windows, and that the development would not prejudice the success of any future applications for the existing dwellings on Robert Street;
- Overall if done well, it should be an improvement.
- Contacted Electricity North West concerning the Japanese Knot Weed on their Henry Street Substation and the Japanese knotweed was cut down and disposed and treated.

Letter received from Councillor Pickstone raising 2 issues:

- The site adjoins very closely to two existing residential areas, a gated back alley along the back of Bailey Street, and onto the back gardens of properties which are on Kings Close. Ask officers to seek assurance that the there are measures in the plans in place to ensure good fencing between new site and the existing residential properties to both maintain security and privacy;
- Understand there are issues with Japanese knotweed, as I understand extending to not only the site, but some neighbouring properties and also the Electricity Sub-Station. I know this has been an ongoing issue and would ask that the developers are asked to work with the appropriate neighbours and agencies to address this during the construction phase.

Residents were notified by letter on 28/5/2014 of revised plans concerning the parking layout and on 10/6/2014 of the Japanese knotweed survey submitted by the applicant on 10/6/2014.

A letter in response to this has been received from No 38 Hastings Road with the following issues:

- In section 3.3 of the report, it should be stated that Knotweed is emerging at No 60 Bailey Street and NOT the rear access ginnel to a terrace house on Kenyon Lane;
- Correct paper work is required that Japanese knotweed has been cut down as reported to the Council in 2013;
- The off site location JK2 is being dealt with by the electricity company;
- There is a problem with knotweed spreading from the site into the alley at the rear of No 56-62 Bailey Street and is already at the rear garden of No 60 Bailey Street which needs to be dealt with;

- Section 5 - Limitations and Threats to the Site Management Objectives must be fully adhered to;
- There is a need for a full survey and detailed plan of how the matter is to be resolved.

Respondents have been informed of the Planning Control Committee meeting.

Consultations
Traffic Section - No objection subject to conditions.
Drainage Section - No response received. Conditions regarding drainage have been recommended by UU.
Environmental Health Contaminated Land - No objection subject to conditions.
Environmental Health Pollution Control - No response received.
Greater Manchester Police - designforsecurity - Recommend secure by design build.
United Utilities (Water and Waste) - No objection subject to conditions.
GMEU - No objection subject to a condition to restrict the time of the removal of vegetation and submission of an ecological mitigation plan, and a condition to agree details of the remediation of Japanese knotweed.
Electricity North West - No response received to date.

Unitary Development Plan and Policies

NPPF	National Planning Policy Framework
H1/2	Further Housing Development
H2/1	The Form of New Residential Development
H2/2	The Layout of New Residential Development
HT2/4	Car Parking and New Development
EN1/2	Townscape and Built Design
EN6	Conservation of the Natural Environment
SPD1	Open Space, Sport and Recreation Provision
RT2/2	Recreation Provision in New Housing Development
EN8/2	Woodland and Tree Planting
EN7/5	Waste Water Management
EN1/5	Crime Prevention
SPD6	Supplementary Planning Document 6: Alterations & Extensions
SPD11	Parking Standards in Bury

Issues and Analysis
The following report includes analysis of the merits of the application against the relevant polices of both the National Planning Policy Framework (NPPF) and the adopted Bury Unitary Development Plan (UDP) together with other relevant material planning considerations. The policies of the UDP that have been used to assess this application are considered to be in accordance with the NPPF and as such are material planning considerations. For simplicity, just the UDP Policy will be referred to in the report, unless there is a particular matter to highlight arising from the NPPF where it would otherwise be specifically mentioned.

Principle - Following revocation of the North West Regional Spatial Strategy on 20 May 2013, there is no statutory housing target for Bury. Work is in progress on Bury's Local Plan - "The Core Strategy", which will bring forward a new statutory housing target. It is currently proposed that the new housing target in the Local Plan should be set at 400 dwellings per annum, which is currently timetabled to be adopted in 2014.

In the meantime, the National Planning Policy Framework should be treated as a material planning consideration and it emphasises the need for local planning authorities to boost the supply of housing to meet local housing targets in both the short and long term. There is a particular emphasis, as in previous national planning guidance, to identify a rolling five year supply of deliverable housing land.

UDP Policy H1/2 states that the Council will have regard to various factors when assessing

a proposal for residential development, including whether the proposal is within the urban area, the availability of infrastructure and the suitability of the site, with regard to amenity, the nature of the local environment and the surrounding land uses.

UDP Policies H2/1 - The Form of New Residential Development and H2/2 - The Layout of New Residential Development takes into consideration factors relating to the height and roof type of adjacent buildings, the impact of developments on residential amenity, the density and character of the surrounding area and the position and proximity of neighbouring properties. Regard is also given to parking provision and access, landscaping and protection of trees/hedgerows and external areas.

Supplementary Planning Document 6 - Alterations and Extensions to Residential Properties provides useful guidance in terms of acceptable aspect standards between dwellings and design criteria.

The proposed development would utilise a derelict site and would be located within an established residential urban area. There is existing infrastructure in place to support the scale of the development with access to be taken directly from a public highway, and as such the principle is in general accordance with national and regional planing policy and will help to contribute to meeting local housing targets. The site was assessed in conjunction with the Employment Land Review which concluded it to be unsuitable, in land use terms for continued employment use. The proposal would redevelop a disused and vacant site and its redevelopment would bring benefits to the area. Consequently, there is no issue with the principle of residential development on this site.

As such, the proposal complies with the NPPF and UDP Policies H1/2 - Further Housing Development

Layout - The site is rectangular in shape and the relationship and proximity of the surrounding properties and constraints of access has dictated the layout of the development.

Accordingly, the 4 proposed terrace properties would run in an east to west direction with private gardens and bin store areas at the rear enclosed by a 1.8m boundary fence to Kenyon Lane. There would be in curtilage parking at the front for 5 cars split between the 4 properties. Whilst it is more usual to encourage new development to form a frontage to a street, Kenyon Lane is a narrow unmade alley which essentially only serves as an access and bin storage for refuse collection purposes to the houses on Robert Street. The southern part of the site is well enclosed by the surrounding properties and not visible from public views and as such, the orientation of the 4 dwellings would sit appropriately within the site.

The pair of semis would be located at the 'top' of the site and would face onto Henry Street. There would be a small front garden to define their curtilage with private garden and parking for 4 cars at the rear with bin storage down each side elevation.

Access into the site would be from Henry Street between the gable of plot 2 and the eastern boundary with the houses on Kings Close. This would lead to the parking and a turning area for the houses.

The layout of the scheme has been designed to work within the physical constraints of the site and maximised the available use of land to provide suitably sized accommodation and amenity areas which would also be in keeping with the character of the surrounding area.

As such, the proposed layout is considered to be acceptable and would comply with UDP policies H2/1 - The Form of Residential Development and H2/2 - The Layout of New Residential Development.

Design and appearance - The dwellings surrounding the site generally comprise brick built

traditional terrace properties, with the more modern additions houses on Kings Close to the east also of a terrace/mews appearance. The proposed houses would be relatively modest in design and reflect the local residential character in terms of appearance and style, and being constructed of facing brick and tiled roofs, would maintain the integral character of the area. A condition to submit samples for approval would be included as part of any approval.

As such, the design and appearance are considered to be appropriate to the area and this small scale development and would comply with EN1/2 - Townscape and Built Design and H2/1 - The Form of New Residential Development.

Impact upon residential amenity - SPD 6 advises that a distance of 20m be maintained between habitable room windows and 13m between a ground floor habitable room window and a 2 storey blank gable.

The site is surrounded by residential properties and regard should be had to the relationship of the proposed development on these properties.

The orientation of the properties is such that a separation distance of 13m would be required to houses on Kings Close and Bailey Street, and this is generally achieved. There are a couple of pinch points where this would drop to 12.5m from Nos 27 and 28 Kings Close. The new properties would be no closer to these houses than the existing building and there is also an intervening existing fence which would screen ground floor windows. As such, these separation distances are considered to be acceptable.

There would be a separation distance of more than 20m between the proposed dwellings and the rear elevations of the houses on Robert Street.

The site does not include the access which runs between the development and the houses on Bailey Street and a new 1.8m high fence would be erected along this boundary. The electricity sub station would also not be affected by the development and access to this would remain as existing.

As such, it is considered that the proposals would not have an adverse impact on the amenity of nearby residents and would comply with UDP Policies H2/1, H2/2 and SPD6.

Parking and access - The development proposes 9 spaces in total, 5 for the terraces and 4 for the pair of semis, all allocated within the curtilage of the site. This falls just one short of the requirements of SPD11. As the development would provide almost 100% provision, that all parking would be in curtilage within the site, together with unrestricted parking on the surrounding streets, it is considered there is ample parking for the proposed scheme.

Access would be taken off Henry Street into the centre of the site and would provide adequate turning area which would dispel any manoeuvring on the street.

There has been no objection from the Traffic section subject to conditions, and as such the access and parking provisions are considered to be acceptable.

Bin storage - Bins for the 4 terraces would be stored at the rear and taken out via a gate onto a widened pavement on Kenyon Lane on bin collection days, similar to those houses on Robert Street. For the semis, the arrangements would be for collection at the front on Henry Street.
The waste management team are satisfied with this proposal and as such would comply with H2/2 - The Layout of New Residential Properties.

Ecology - A bat survey has been submitted which has assessed the existing building as low risk and therefore no further information on bats is required.

There are some trees which would be lost as a result of the development, none of which are

TPO's, and appear to be self seeded offering little visual amenity to the area. GMEU have recommended a condition that an ecological mitigation plan be submitted to include elements to mitigate for the loss of trees and bird nesting habitat, as well as restricting the time when the vegetation can be removed from the site.

Japanese Knotweed - A number of local residents have raised concern about the presence of Japanese knotweed on the site. A Japanese knotweed survey and remediation report was since been undertaken and submitted. The survey identifies 3 areas within the application site which are affected by Japanese knotweed. The report recommends that the knotweed is instantly eradicated and offers several alternative methods of control. The options are dig and sift, cell burial, dig and relocation, root barrier control, and herbicide treatment programme.

GMEU have been consulted on the survey and report and are satisfied with the suggested options to remediate the site. A condition is recommended that details of the option to be employed for the management and/or removal of the knotweed, is submitted to the LPA for approval, prior to the commencement of the development.

Planning Obligations - For the purposes of this application, SPD1 adopted in February 2012 is relevant. The scale of proposals requires a recreation contribution of £17,965.70 towards recreation provision, which the applicant has agreed to and will be secured through a S106 agreement.

Response to objectors -

- In terms of the surrounding roads and approach, there are a number of directions the site could be accessed and it is considered the density of the development would not generate significantly more traffic than existing.
- The new fence on the western boundary of the site would be the responsibility of the landowner/developer and the proposed waney lap timber fence is considered to be appropriate for a residential development which would offer adequate privacy to adjacent occupiers.
- The issues of residential amenity, proximity and separation distances and responsibility of the adjacent alleyway has been covered in the above report.
- Whilst the construction should not interfere with access to nearby properties, this would be a matter for Environmental Health of the Highways Authority to enforce.
- The issue of Japanese knotweed has been covered in the above report and would be dealt with by condition.
- With regards to questions 14, 15 and 24 of the planning form, contamination issues and replacement tree planting would be dealt with by condition. The site is visible from the public highways and the issues of its access and relationship to the surroundings has been dealt with in the above report.
- The integrity of the development company is not a material planning issue.

Statement in accordance with Article 31 Town and Country Planning (Development Management Procedure) (England) (Amendment) Order 2012
The Local Planning Authority worked positively and proactively with the applicant to identify various solutions during the application process to ensure that the proposal comprised sustainable development and would improve the economic, social and environmental conditions of the area and would accord with the development plan. These were incorporated into the scheme and/or have been secured by planning condition. The Local Planning Authority has therefore implemented the requirement in Paragraphs 186-187 of the National Planning Policy Framework.

Recommendation: Minded to Approve

Conditions/ Reasons

1. The development must be begun not later than three years beginning with the date of this permission.

Reason. Required to be imposed by Section 91 Town & Country Planning Act 1990.

2. This decision relates to drawings numbered Existing and proposed site plans KL/1 Rev J; Floor plans and elevations KL/S/2 Rev H; Geoenvironmental Site Investigation Report Phase 1 Preliminary Risk Assessment December 2013; Bat survey by Tyrer partnership issued 14th April 2014; Japanese knotweed survey and remediation report project JKLE14683 dated 09.06.2014 and the development shall not be carried out except in accordance with the drawings hereby approved.
Reason. For the avoidance of doubt and to ensure a satisfactory standard of design pursuant to the policies of the Bury Unitary Development Plan listed.

3. No development shall commence unless and until:-
   - A contaminated land Preliminary Risk Assessment report to assess the actual/potential contamination and/or ground gas/landfill gas risks at the site shall be submitted to, and approved in writing by, the Local Planning Authority;
   - Where actual/potential contamination and/or ground gas/landfill gas risks have been identified, detailed site investigation and suitable risk assessment shall be submitted to, and approved in writing by the Local Planning Authority;
   - Where remediation/protection measures is/are required, a detailed Remediation Strategy shall be submitted to, and approved in writing by, the Local Planning Authority.

   Reason. To secure the satisfactory development of the site in terms of human health, controlled waters, ground gas and the wider environment and pursuant to National Planning Policy Framework Section 11 - Conserving and enhancing the natural environment.

4. Following the provisions of Condition 3 of this planning permission, where remediation is required, the approved Remediation Strategy must be carried out to the satisfaction of the Local Planning Authority within agreed timescales; and
A Site Verification Report detailing the actions taken and conclusions at each stage of the remediation works, including substantiating evidence, shall be submitted to and approved in writing by the Local Planning Authority prior to the development being brought into use.
Reason. To secure the satisfactory development of the site in terms of human health, controlled waters and the wider environment and pursuant to National Planning Policy Framework Section 11 - Conserving and enhancing the natural environment.

5. Any soil or soil forming materials brought to site for use in garden areas, soft landscaping, filling and level raising shall be tested for contamination and suitability for use on site. Proposals for contamination testing including testing schedules, sampling frequencies and allowable contaminant concentrations (as determined by appropriate risk assessment) and source material information shall be submitted to and approved in writing by the Local Planning Authority prior to any soil or soil forming materials being brought onto site, and;
The approved contamination testing shall then be carried out and validatory evidence (soil descriptions, laboratory certificates, photographs etc) submitted to and approved in writing by the Local Planning Authority prior to the development being brought into use.
Reason. To secure the satisfactory development of the site in terms of human health, controlled waters and the wider environment and pursuant to National Planning Policy Framework Section 11 - Conserving and enhancing the natural environment.

6. All instances of contamination encountered during the development works which do not form part of an approved Remediation Strategy shall be reported to the Local Planning Authority (LPA) immediately and the following shall be carried out where appropriate:

- Any further investigation, risk assessment, remedial and / or protective works shall be carried out to agreed timescales and be approved by the LPA in writing;

- A Site Verification Report detailing the conclusions and actions taken at each stage of the works including validation works shall be submitted to, and approved in writing by, the LPA prior to the development being brought into use.

Reason. To secure the satisfactory development of the site in terms of human health and the wider environment and pursuant to National Planning Policy Framework Section 11 - Conserving and enhancing the natural environment.

7. The development hereby approved shall not be first occupied unless and until the access alterations on Henry Street and Kenyon Lane, as indicated on approved plan reference KL/1 Revision J incorporating:
   - the creation of a new shared footway crossing on Henry Street constructed to an approved specification;
   - reinstatement of the redundant site access on Henry Street to adjacent footway levels and all associated remedial works along the northerly site boundary;
   - widening of the footway on Kenyon Lane to accommodate bins on refuse collection day and all associated remedial works along the southern site boundary,

   have been implemented in full and made available for use.
   Reason. To ensure good highway design and to maintain the integrity of the adopted highway pursuant to Bury Unitary Development Plan Policies HT4 - New Development and HT6/2 - Pedestrian/Vehicular Conflict.

8. The visibility splays indicated on approved plan reference KL/1 Revision J shall be implemented to the written satisfaction of the Local Planning Authority before the site access is brought into use or dwellings hereby approved are first occupied and subsequently maintained free of obstruction above the height of 0.6m.
   Reason. To ensure the intervisibiliy of the users of the site and the adjacent highways in the interests of road safety pursuant to Bury Unitary Development Plan Policies HT4 - New Development and HT6/2 - Pedestrian/Vehicular Conflict.

9. The turning facilities indicated on the approved plans shall be provided before the dwellings hereby approved are first occupied shall subsequently be maintained free of obstruction at all times.
   Reason. To minimise the standing and turning movements of vehicles on the highway in the interests of road safety during construction of the development and thereafter pursuant to Bury Unitary Development Plan Policies HT4 - New Development and HT6/2 - Pedestrian/Vehicular Conflict.

10. The car parking indicated on the approved plans shall be surfaced, demarcated and made available for use before any occupation of the dwellings hereby approved and thereafter maintained.
    Reason. To ensure adequate off street car parking provision in the interests of road safety pursuant to policy HT2/4 - Car Parking and New Development of the Bury Unitary Development Plan.

11. Details/Samples of the (materials/bricks/roof tiles) to be used in the external elevations, together with details of their manufacturer, type/colour and size, shall be submitted to and approved in writing by the Local Planning Authority before the development is commenced. Only the approved materials/bricks/tiles shall be used for the construction of the development.
    Reason. In the interests of visual amenity and to ensure a satisfactory

development pursuant to Policy EN1/2 - Townscape and Built Design of Bury Unitary Development Plan.

12. No development shall commence unless and until details of the foul drainage system has been submitted to and approved in writing by the Local Planning Authority. The approved scheme only shall be implemented prior to the first occupation of the development hereby approved and thereafter maintained and managed in accordance with the approved details.
Reason. To reduce the risk of flooding and ensure the satisfactory treatment of surface water drainage pursuant to Chapter 10 of the National Planning Policy Framework - Meeting the Challenge of Climate Change, Flooding and Coastal Change and Unitary Development Plan Policy EN5/1 - New Development and Flood Risk.

13. No development shall commence unless and until a surface water drainage scheme and means of disposal, based on sustainable drainage principles with evidence of an assessment of the site conditions (inclusive of how the scheme shall be managed after completion) shall be submitted to and approved in writing by the Local panning Authority. The surface water scheme must be restricted to existing runoff rates and no surface water shall discharge to the public sewerage system either directly or indirectly. The approved scheme only shall be implemented prior to the first occupation of the development hereby approved and thereafter maintained and managed in accordance with the approved details.
Reason. To reduce the risk of flooding and ensure the satisfactory treatment of surface water drainage pursuant to Chapter 10 of the National Planning Policy Framework - Meeting the Challenge of Climate Change, Flooding and Coastal Change and Unitary Development Plan Policy EN5/1 - New Development and Flood Risk.

14. No development shall commence unless and until an ecological mitigation plan has been submitted to and approved by the Local Planning Authority. The content of the plan should include elements to mitigate for loss of tree shrubs and bird nesting habitat. The approved plan only shall be implemented in accordance with the approved details.
Reason. In order to preserve the natural environment pursuant to policies EN6 – Conservation of the Natural Environment and EN6/3 – Features of Ecological Value of the Bury Unitary Development Plan and National Planning Policy Framework Section 11 - Conserving and enhancing the natural environment.

15. No trees or shrubs shall be removed between 1st March and 31st August inclusive in any year unless a detailed bird nest survey by a suitably experienced ecologist has been carried out immediately prior to clearance and written confirmation provided that no bird nests are present which has been approved by the Local planning Authority.
Reason. In order to ensure that no harm is caused to a Protected Species pursuant to policies EN6 – Conservation of the Natural Environment and EN6/3 – Features of Ecological Value of the Bury Unitary Development Plan and National Planning Policy Framework Section 11 - Conserving and enhancing the natural environment.

16. No development shall commence unless and until details of the methods to be employed to eradicate the Japanese knotweed on site as recommended in the Japanese knotweed survey and Remediation Strategy Report JKLE14683 dated 09.06.2014 have been agreed and approved by the Local Planning Authority. The approved details only shall be implemented.
Reason. To ensure that the site is free from Himalayan Balsam in the interest of UDP Policy EN9 - Landscape.

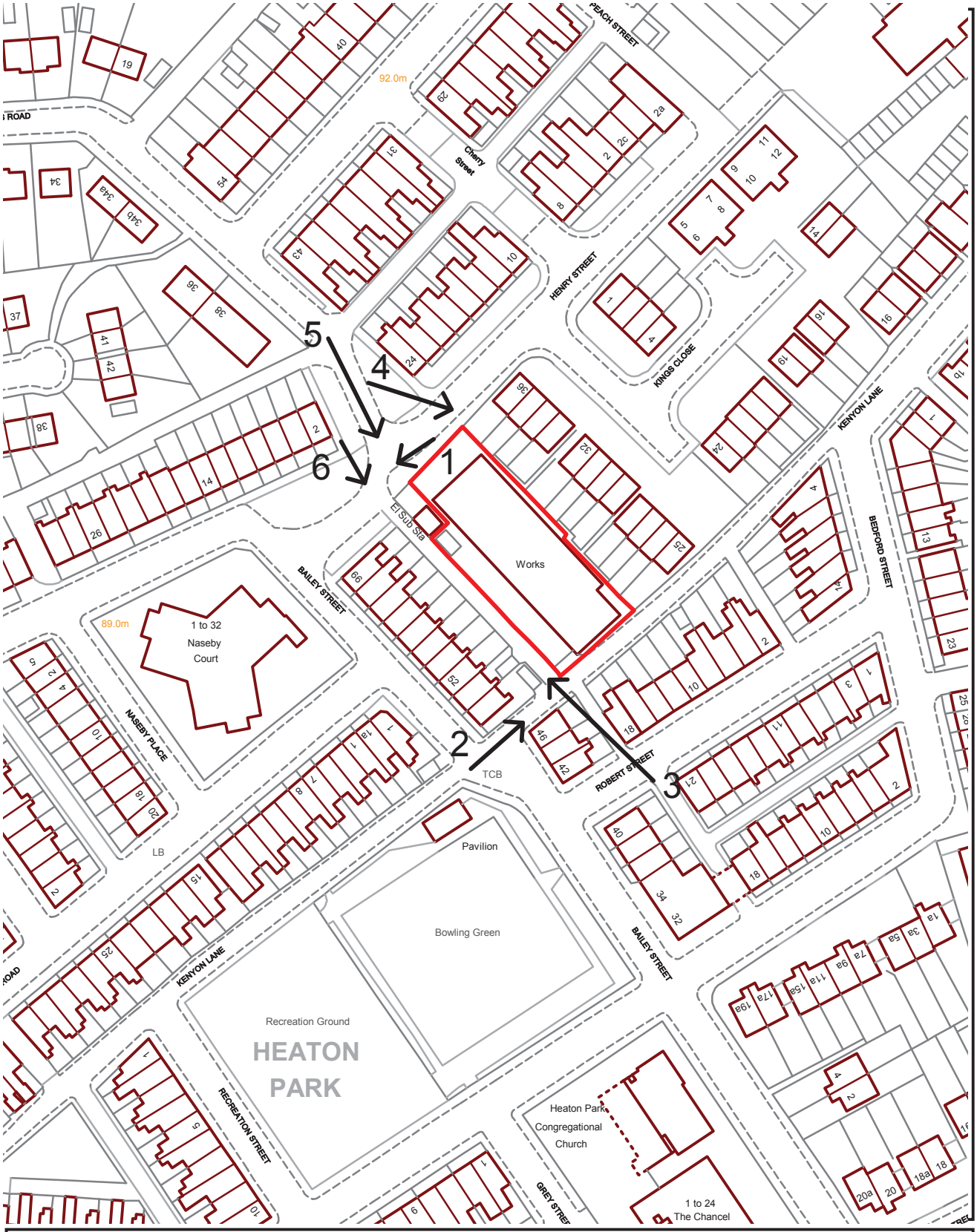
17. Notwithstanding the terms of the Town and Country Planning (General Permitted Development) Order 1995, as subsequently amended, no development shall be

carried out within the terms of Classes A, B, C and E of Part 1 of Schedule 2 of the Order, without the prior written consent of the Local Planning Authority.
Reason. To ensure that future inappropriate alterations or extensions do not occur pursuant to policies of the Unitary Development Plan listed.

18. The 1.8m high boundary fencing to the south western boundary of the site shall be erected prior to the first occupation of the dwellings hereby approved.
Reason. In the interests of residential amenity and security pursuant to Bury Unitary Development Plan Policy H2/2 - The layout of New Residential Development.

For further information on the application please contact **Jennie Townsend** on **0161 253-5320**

Viewpoints



PLANNING APPLICATION LOCATION PLAN

APP. NO 57379

ADDRESS: Land between Kenyon Lane and Henry Street Prestwich

Planning, Environmental and Regulatory Services **1:1250**

(C) Crown Copyright and database right (2013). Ordnance Survey 100023063.

Photo 1



Photo 2



Photo 3



Photo 4



Photo 5



Photo 6

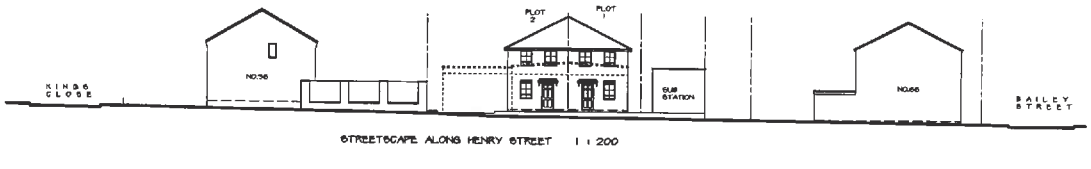




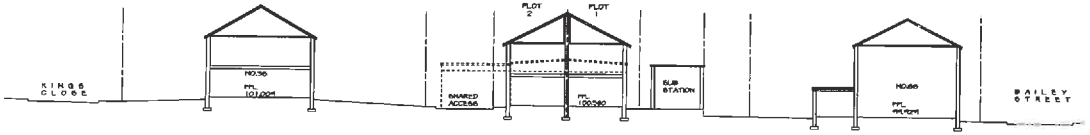
EXISTING SITE PLAN 1:200



PROPOSED SITE PLAN 1:200



STREETSCAPE ALONG HENRY STREET 1:200



SECTION A - A 1:200



LOCATION PLAN 1:1250

NOTES

EXTERNAL SURFACING

TARMACADAM SURFACING TO SHARED ACCESS, TURNING AND PARKING SPACES. PRECAST CONCRETE PAVING TO PATIOS AND PATHS DRAINING TO SOFT LANDSCAPED AREAS.

BOUNDARY FENCES AND RAILINGS

900MM, 1200MM AND 1800MM HIGH CONCRETE POST AND BOTTOM PANEL FENCES WITH TREATED TIMBER WANEY LAP INFILL PANELS. 950MM HIGH METAL HOOPED RAILINGS PAINTED BLACK.

HIGHWAYS

HENRY STREET AND KENYON LANE FOOTWAY ALTERATIONS AND DROP KERB CROSSING TO BE CARRIED OUT TO ADOPTION STANDARDS. NO WALLS, FENCES, GATES, PLANTING ETC WITHIN VISIBILITY SPLAYS TO BE MORE THAN 600MM HIGH.

DRAINAGE

CONNECTION TO EXISTING MAINS DRAINAGE WITHIN THE SITE.

Telephone 0161 643 2422

Northside Plans Ltd

Planning and Building Design

116 Simister Lane Prestwich Manchester M25 2SB

Project

RESIDENTIAL DEVELOPMENT

KENYON LANE/HENRY STREET PRESTWICH

Title

EXISTING AND PROPOSED SITE PLANS

Scale 1:100 1:200 (A1) Date 03/2014

Drawn by NIGEL TAMS Dwg.no. KL/1 REV J



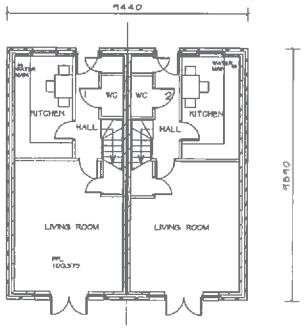
PLOTS 1 AND 2 - PROPOSED ELEVATIONS 1 : 100

NOTES

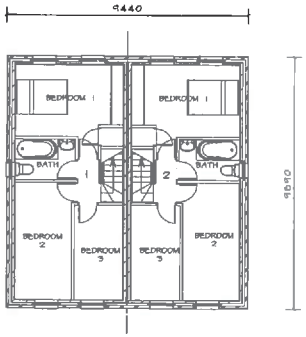
MATERIALS

ROOFS - MARLEY MODERN SMOOTH GREY CONCRETE ROOF TILES

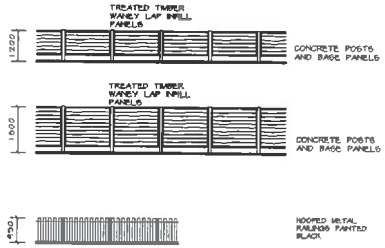
EXTERNAL WALLS - WEINERBERGER OLD ECCLESTONE BLEND ABOVE DPC. CHESHIRE SMOOTH RED BELOW DPC AND/OR SOLDIER COURSES.



PLOTS 1 AND 2 - PROPOSED GROUND FLOOR PLAN 1 : 100



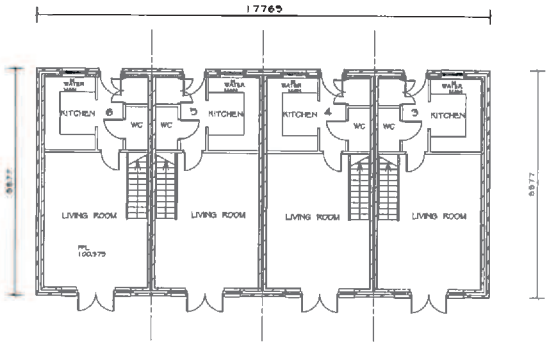
PLOTS 1 AND 2 - PROPOSED FIRST FLOOR PLANS 1 : 100



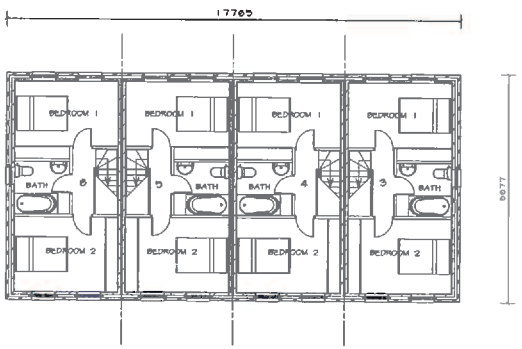
BOUNDARY FENCES - PROPOSED ELEVATIONS 1 : 100



PLOTS 3 TO 6 - PROPOSED ELEVATIONS 1 : 100



PLOTS 3 TO 6 - PROPOSED GROUND FLOOR PLANS 1 : 100



PLOTS 3 TO 6 - PROPOSED FIRST FLOOR PLANS 1 : 100



LOCATION PLAN 1 : 1250

Telephone 0161 643 2422

Northside Plans Ltd

Planning and Building Design

116 Simister Lane Prestwich Manchester M25 2SB

Project

RESIDENTIAL DEVELOPMENT

KENYON LANE/HENRY STREET PRESTWICH

Title

FLOOR PLANS AND ELEVATIONS

Scale 1:100 (A1) Date 05/2014

Drawn by NIGEL TAMS Dwg.no.KL/6/2 REV H

Ward: Ramsbottom and Tottington - Ramsbottom

Item 03

Applicant: Mr Saleem

Location: 6-8 Market Place, Ramsbottom, Bury, BL0 9HT

Proposal: Change of use from shop (Class A1) to dental surgery (Class D1)

Application Ref: 57448/Full **Target Date:** 04/07/2014

Recommendation: Approve with Conditions

Description
The property is a Grade II listed building, which is located within the main shopping area of Ramsbottom town centre and also a Conservation Area. The building is constructed in stone and slate and is the end terrace on the corner of Bridge Street, Carr Street and Market Place. There are three floors to the front and three and a half to the rear and it is built from stone and slate. Access at the rear is via Back Bridge Street and Killer Street.

There are commercial properties to all boundaries and an unmade car park at the rear.

The proposed development involves the change of use of a shop (Class A1) to a dentist (Class D1). There would be no external changes to the property and the existing entrance would be used. The reception, dental surgeries, waiting area and toilets would be on the ground floor and there would be a staff room, office and decontamination rooms on the lower ground floor.

Relevant Planning History
None relevant.

Publicity
16 neighbouring properties (2 - 4, 4, Killer Street; 49 - 59 (odds) Bridge Street ; 2, 4, 10A, 10 - 18 (evens) Market Place) were notified by means of a letter on 9 May and a press notice was published in the Bury Times on 22 May. Site notices were posted on 13 May 2014.

3 letters have been received from the occupiers of Ramsbottom Dental Surgery (72 Bridge Street), Crossmoor, Bolton Road North and Tottington Dental Surgery (5 Back Chapel Street), which have raised the following issues:

- The door is not level with the pavement or wide enough for wheelchair users.
- The decontamination rooms are in the basement, which would discriminate against staff, who are disabled.
- The nearest car park is some distance away, up a steep cobbled hill. There is no disabled parking bays nearby.
- Other premises have installed a separate disabled access.
- There is an over saturation of dental practices within the area.
- The size of the waiting area would not be adequate for 2 surgeries.
- The decontamination rooms would not have proper ventilation.
- How would contaminated waste be stored and collected as there are double yellow lines to the front.
- There is no provision for staff parking or cycle parking.

The objectors have been notified of the Planning Control Committee.

Consultations
Traffic Section - No objections.
Ancient Monuments Society - Comments awaited.
Council for British Archaeology - Comments awaited.

The Georgian Group - No objections.
Society for the Protection of Ancient Buildings - Comments awaited.
The 20th Century Society - Comments awaited.
The Victorian Society - Comments awaited.

Unitary Development Plan and Policies

EC4/1	Small Businesses
EN1/2	Townscape and Built Design
EN1/7	Throughroutes and Gateways
EN2/1	Character of Conservation Areas
EN2/2	Conservation Area Control
EN2/3	Listed Buildings
EN7	Pollution Control
EN7/2	Noise Pollution
S1/2	Shopping in Other Town Centres
S2/2	Prime Shopping Areas and Frontages
HT2/4	Car Parking and New Development
HT4	New Development
HT5/1	Access For Those with Special Needs
CF1/1	Location of New Community Facilities
CF4	Healthcare Facilities
Area	Bolton Street/Bridge Street
RM3	
SPD6	Supplementary Planning Document 6: Alterations & Extensions
SPD11	Parking Standards in Bury
NPPF	National Planning Policy Framework

Issues and Analysis
The following report includes analysis of the merits of the application against the relevant polices of both the National Planning Policy Framework (NPPF) and the adopted Bury Unitary Development Plan (UDP) together with other relevant material planning considerations. The policies of the UDP that have been used to assess this application are considered to be in accordance with the NPPF and as such are material planning considerations. For simplicity, just the UDP Policy will be referred to in the report, unless there is a particular matter to highlight arising from the NPPF where it would otherwise be specifically mentioned.

Principle - Policy CF1/1 states that proposals for new and improved community facilities will be considered with regard to the following factors:
- impact upon residential amenity and the local environment
- traffic generation and car parking provision
- the scale and size of the development
- where applicable, access to shops and other services
- if the use is intended to serve a local community, the suitability of the location in relation to that community
- accessibility by public and private transport;
- the needs and requirements of the disabled.

Policy CF4 states that improvements to existing and proposals for new healthcare facilities will generally be looked on favourably by the Council.

The proposed development involves the change of use from a shop to a dentist (D1) and as such, would result in the loss of a shop. However, the proposed use would be open between 09.00 and 17.30 and would bring people into the town centre. The proposed dental surgery would serve the people of Ramsbottom and would be located within the town centre it is to serve. The issues of impact upon residential amenity, car parking provision, accessibility by public and private transport and the needs and requirements of the disabled will be considered later in the report. Therefore, the proposed development would not have a significantly adverse impact upon the viability and vitality of the town centre and would be

in accordance with Policies CF1/1 and CF4 of the Bury Unitary Development Plan.

Design and layout - The building is Grade II listed and is located within a conservation area. The proposed development would utilise the existing entrance and as such, there would be no external works to the Grade II listed building. Therefore, the proposed development would preserve the character of the listed building and the conservation area and would be in accordance with Policies EN2/1, EN2/2 and EN2/3 of the Bury Unitary Development Plan.

The DDA makes allowances for buildings of historic importance in that they may not be able to comply with DDA in full. However, the onus is on the occupant to make provision for access for disabled people wherever possible.

All of the facilities which would be used by the general public (reception, waiting area, dental surgery, toilets and disabled toilet) would be located on the ground floor and would utilise the existing entrance. The existing entrance has a small step, but would be unchanged and as such, the ground floor would be fully accessible. The staff room, office, store and decontamination rooms would be located on the lower ground floor and it is envisaged that only staff would access this area. Therefore, the proposed development would be no worse than existing, which given the size of the step is accessible to the public and would be in accordance with Policy HT5/1 of the Bury Unitary Development Plan.

Noise- The proposed development is located within the town centre where there is a degree of activity at all times. The opening hours of the proposed development would be 09.00 to 17.30 from Monday to Friday. As such, the proposed development would not add significantly to the existing noise levels in the area and would not have a significant adverse impact upon amenity of the neighbouring properties. Therefore, the proposed development would be in accordance with Policy EN7/2 of the Bury Unitary Development Plan.

Highways issues - The existing retail unit uses public car parks within the town centre and is serviced from the rear on Back Bridge Street. The delivery requirements associated with the proposed development are likely to be less than retail demands and would be serviced from Back Bridge Street.

The proposed development would be no different. The Traffic Section has no objections to the proposal in terms of servicing or parking. Therefore, the proposed development would be acceptable and would not be detrimental to highway safety and would be in accordance with Policy HT2/4 of the Bury Unitary Development Plan.

Response to objectors
The issues relating to parking provision, servicing and disabled access have been addressed within the report above. The issue of an over-concentration of dental practices within Ramsbottom is not a material planning consideration and cannot be taken into account.

Statement in accordance with Article 31 Town and Country Planning (Development Management Procedure) (England) (Amendment) Order 2012
The Local Planning Authority worked positively and proactively with the applicant to identify various solutions during the application process to ensure that the proposal comprised sustainable development and would improve the economic, social and environmental conditions of the area and would accord with the development plan. These were incorporated into the scheme and/or have been secured by planning condition. The Local Planning Authority has therefore implemented the requirement in Paragraphs 186-187 of the National Planning Policy Framework.

Recommendation: Approve with Conditions

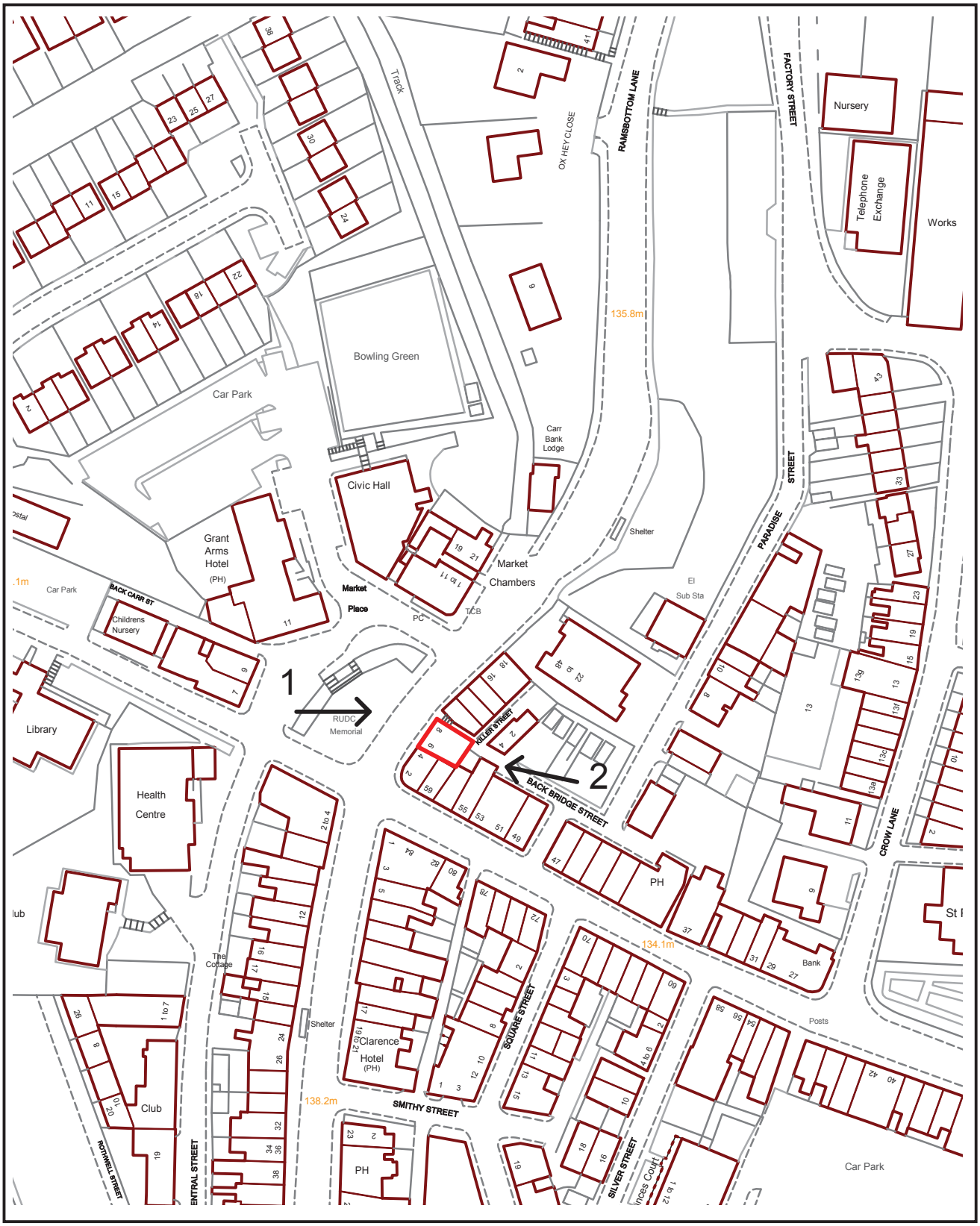
Conditions/ Reasons

1. The development must be begun not later than three years beginning with the date of this permission.
   Reason. Required to be imposed by Section 91 Town & Country Planning Act 1990.

2. This decision relates to drawings numbered 555-01, 555-02 a, 555-03 and the development shall not be carried out except in accordance with the drawings hereby approved.
   Reason. For the avoidance of doubt and to ensure a satisfactory standard of design pursuant to the policies of the Bury Unitary Development Plan listed.

For further information on the application please contact **Helen Longworth** on **0161 253 5322**

Viewpoints



PLANNING APPLICATION LOCATION PLAN

APP. NO 57448

ADDRESS: 6-8 Market Place
Ramsbottom

N
W E
S

Bury COUNCIL

Planning, Environmental and Regulatory Services **1:1250**

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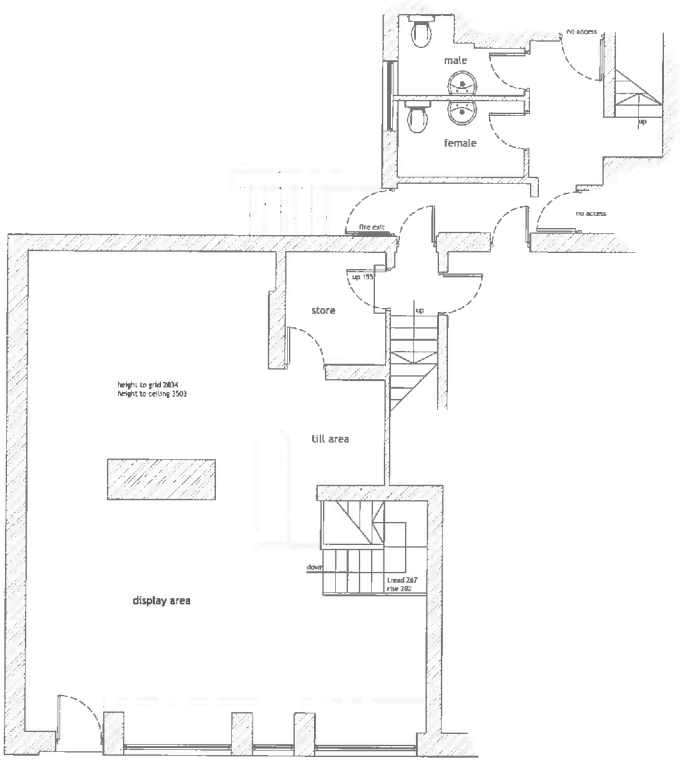
Photo 1



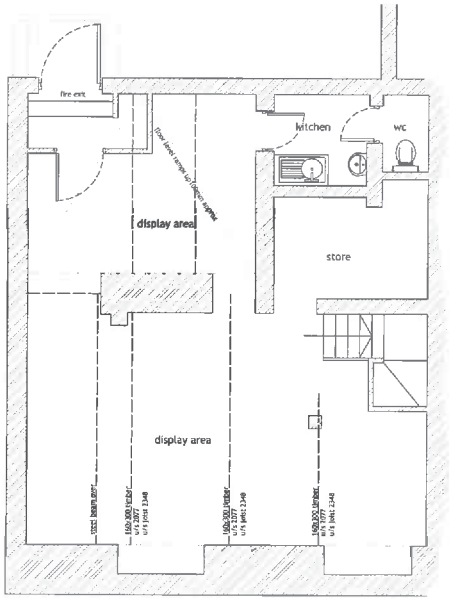
Photo 2



GROUND



CELLAR



MATTHEW CUST DESIGN
10 Churchbank Stalybridge, Cheshire. SK15 2QJ Tel. 07983 347252 email: m.cust@sky.com

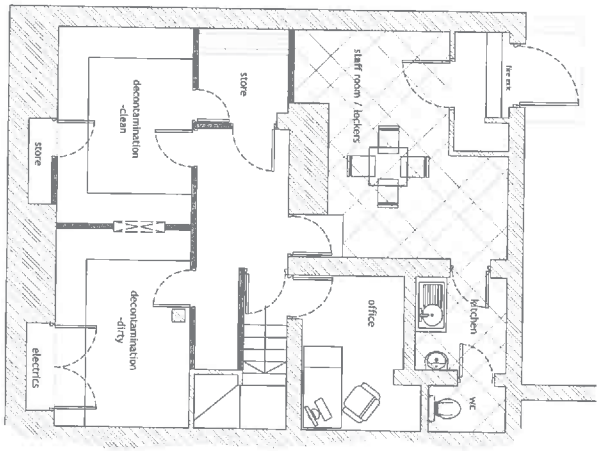
All levels and dimensions must be checked on site by contractor prior to commencement of works. Any variations must be reported to Matthew Cust Design.

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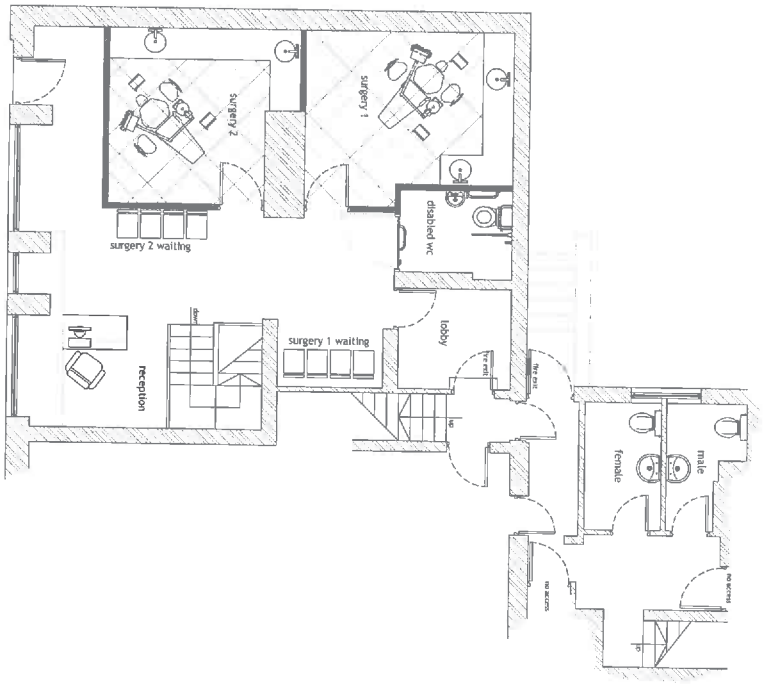
Client	Asif Saleem
Project	6-8 Market Place Ramsbottom
Title	EXISTING SURVEY (PART)
Scale @ A1	1:50
Drawing number	555-01
Issue	.

PLANNING

CELLAR



GROUND



Drawing number	a
Drawing number	555-02
Scale @ size	1:50 A1
Title	PROPOSED LAYOUT (PART)
Project	6-8 Market Place Ramsbottom
Client	Asif Saleem
	PLANNING

All levels and dimensions must be checked on site by contractor prior to commencement of works. Any variations must be reported to Matthew Cust Design.

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MATTHEW CUST DESIGN
10 Churchbank Stalybridge, Cheshire. SK15 2QJ Tel 07983 347252 email: m.cust@sky.com

Ward: Prestwich - St Mary's

Item 04

Applicant: Brookmoor Refurbishments

Location: Land off Kingswood Road, Prestwich, Manchester, M25 3BP

Proposal: Demolition of existing buildings for residential development of 6 detached and 18 semi-detached houses with associated external works.

Application Ref: 57464/Full **Target Date:** 09/07/2014

Recommendation: Minded to Approve

It is recommended that this application is Minded to Approve subject to the signing and completion of a Section 106 agreement for recreation provision in accordance with Policy RT2/2 of the adopted Unitary Development Plan and SPD1. Should the agreement not be signed and completed within a reasonable period, it is requested that the application be determined by the Development Manager.

Description
The application relates to an existing employment site which currently comprises single storey office buildings and associated parking and servicing area. It is set between a the boundary with Tesco superstore to the north, the post office to the east, open land directly to the west, and to the south are 2 and 3 storey terrace residential properties. Access is to the west off Kingswood Road. The site is bounded by a palisade fence with hooped railings along the frontage. There is a row of TPO trees (Order no 58) which are outside the site, on the north and western boundaries.

Kingswood Road has restricted parking along the majority of the northern side, save for 2 designated short stay parking areas for post office customers, with on street parking for residents directly outside the houses.

The proposal is for the demolition of the office building and the re-development of the site for 24 houses. There would be 6 detached, five of which would be 5 bedroomed and one 4 bedroomed, and 18 semi detached, all 4 bedroomed.

A row of semi detached houses would face onto Kingswood Road with small front gardens and within the site, the arrangement would be in the form of cul de sac rows. All parking would be within the site, with each detached property offering in - curtilage parking for 2 cars, with the detached houses including a driveway space and single garage. Access would be relocated to the east adjacent to the Post office site.

The development would comprise a mix of contemporary 2.5 and 3 storey, brick built dwellings, some incorporating balconies, dormers and glazed infill panelling features.

The site would be bounded by a 2.1m high timber fence to the north and west with the brick wall maintained to the east along which tree planting is proposed. All the TPO trees, which are outside the site would be retained. 6 trees, none of which are under a TPO, would be removed from within and along the frontage periphery of the site.

The short stay designated parking space would be displaced by the access into the site and moved further along Kingswood Road infront of the proposed new dwellings.

Relevant Planning History
None relevant

Publicity
Seventy letters sent on 15/4/2014 to properties at Nos 1-37 Kingswood Road; 26-34

Dashwood Road; 1 West Road; 506-520 Bury New Road; Flats 1-27 Oak Bank Bury New Road; 492, 517, 519 Bury New Road; Prestwich Delivery Office 2 Kingswood Road; Tesco Stores Ltd Valley Park Road.
Site notice posted 24/4/2014.
Press advert in The Bury Times 24/4/2014.

Two objections received from Nos 27, 37 Kingswood Road which raise the following issues:
- The parking is horrendous with employees, delivery vans and people visiting the Post Office which is adjacent to the proposed development;
- On many occasions have not been able to park outside their own property;
- The development will result in less parking near the Post office and will make the situation worse in the area and outside residential properties;
- There will be more traffic generated by the proposed development making the congestion situation worse;
- Insufficient parking spaces on the proposed site. The plans state 30 parking spaces for 24 houses of at least 4 bedrooms is insufficient;
- The current site is self contained and does not add to the parking problems in the area;
- Glad to see that existing trees around the site are to be retained.

Objection received from D O'Hanlon which raises the following issues:
- The change of use is in a poor location and selection. This is a town centre, prime site, and could easily be converted into mixed use as a minimum;
- The location of the former dwelling to the rear of the Post Office could be converted into parking for use in connection with the post office or this development, and as there exists a Love Prestwich Strategy, which contributed to the core strategy for the Council, we should seek to adopt commercial or retail development in line with this;
- Recognise the existing building is well past its prime, but conversion into housing will see the diminishing employment generating land within Prestwich fade further;
- The facts are - Tesco is keen to redevelop; the post office has insufficient parking; the surrounding dwellings have insufficient parking; the Love Prestwich Strategy to develop commercial viability of the town centre; closure of parking bays on Kingswood will further diminish the parking facilities and lead to closure of the post office; the Council are planning to close half the road through the village so where will anyone park and how will they get there?

Comment received from No 17 Kingswood Road with the following :
- Concerned about the disruption and noise the development may cause to residents on the street and access;
- Seek clarification regarding timescales, likely start date and how to appeal should there be issues with this.

Respondents have been informed of the Planning Control Committee meeting.

Consultations
Traffic Section - No objection subject to condiitons.
Drainage Section - No response received. Conditions recommended by United Utilities relating to drainage.
Environmental Health Contaminated Land - No objection subject to conditions.
Waste Management - No issues. Properties will have to accommodate 4 x 240 wheeled bins to comply with the Councils current waste management strategy.
Greater Manchester Police - designforsecurity - No objection. Recommend build to Secured by Design standards
Electricity North West Ltd - The applicant is advised to contact ENW to verify details of the development.
Greater Manchester Ecology Unit - No objection subject to a condition to carry out the recommendations of the revised bat survey.
United Utilities - No objection subject to conditions. A public sewer runs through the site and development over will not be permitted.

Unitary Development Plan and Policies

NPPF	National Planning Policy Framework
H1/2	Further Housing Development
H2/1	The Form of New Residential Development
H2/2	The Layout of New Residential Development
EN1/2	Townscape and Built Design
EN1/5	Crime Prevention
EN6/3	Features of Ecological Value
EN9	Landscape
RT2/2	Recreation Provision in New Housing Development
SPD1	DC Policy Guidance Note 1:Recreation Provision
SPD6	Supplementary Planning Document 6: Alterations & Extensions
HT2/4	Car Parking and New Development
HT6/2	Pedestrian/Vehicular Conflict
HT4	New Development
EN8/2	Woodland and Tree Planting
SPD16	Design and Layout of New Development in Bury
SPD11	Parking Standards in Bury
EC2/2	Employment Land and Premises
SPD14	Employment Land and Premises

Issues and Analysis

The following report includes analysis of the merits of the application against the relevant polices of both the National Planning Policy Framework (NPPF) and the adopted Bury Unitary Development Plan (UDP) together with other relevant material planning considerations. The policies of the UDP that have been used to assess this application are considered to be in accordance with the NPPF. For simplicity, just the UDP Policy will be referred to in the report, unless there is a particular matter to highlight arising from the NPPF where it would otherwise be specifically mentioned.

Principle (Housing) - Following revocation of the North West Regional Spatial Strategy on 20 May 2013, there is no statutory housing target for Bury. Work is in progress on Bury's Local Plan - "The Core Strategy", which will bring forward a new statutory housing target. It is currently proposed that the new housing target in the Local Plan should be set at 400 dwellings per annum, which is currently timetabled to be adopted in 2014.

In the meantime, the National Planning Policy Framework should be treated as a material planning consideration and it emphasises the need for local planning authorities to boost the supply of housing to meet local housing targets in both the short and long term. There is a particular emphasis, as in previous national planning guidance, to identify a rolling five year supply of deliverable housing land.

UDP Policy H1/2 states that the Council will have regard to various factors when assessing a proposal for residential development, including whether the proposal is within the urban area, the availability of infrastructure and the suitability of the site, with regard to amenity, the nature of the local environment and the surrounding land uses.

UDP Policies H2/1 - The Form of New Residential Development and H2/2 - The Layout of New Residential Development takes into consideration factors relating to the height and roof type of adjacent buildings, the impact of developments on residential amenity, the density and character of the surrounding area and the position and proximity of neighbouring properties. Regard is also given to parking provision and access, landscaping and protection of trees/hedgerows and external areas.

Supplementary Planning Document 6 - Alterations and Extensions to Residential Properties provides useful guidance in terms of acceptable aspect standards between dwellings and design criteria.

Principle (Employment) - The site is currently in employment use and the proposal would be subject to UDP Policy EC2/2.

Under Policy EC2/2, the Council will seek the retention of existing employment land and premises outside Employment Generating Areas unless it can be demonstrated that the land and premises are no longer suited, in land use terms, to continued employment use. In such circumstances, consideration will be given to alternative development providing it does not conflict with the character of the surrounding area and other policies of the plan.

However, paragraph 22 of the NPPF states that planning policies should avoid the long term protection of sites allocated for employment use where there is no reasonable prospect of the site coming forward for that purpose. Whilst this site is not a site allocation, it is considered that the principle is applicable to existing employment sites.

In support of UDP Policy EC2/2, the Council has developed SPD 14 which also seeks to retain sites that are suitable in land use terms. However, it does allow for a greater degree of flexibility than EC2/2 insofar as it gives consideration to commercial viability and market issues as well as assessing the suitability of the site from a purely land use perspective. The consideration of these viability and market issues is considered to be an appropriate method of determining whether a site has any reasonable prospect of being used for employment purposes in the context of para 22 of the NPPF.

Para 3.9 of SPD 14 states that there may be instances where an applicant is seeking to demonstrate that the retention of a site in employment use is not economically viable. In this case, the applicant has presented a development appraisal for the redevelopment of the site for office use. Whilst this is limited in terms of the range of employment uses, it is accepted that the characteristics of the site would probably best lend itself to office use. The appraisal shows the redevelopment of the site for office use would be unviable.

In terms of marketing the site, para 3.10 of SPD 14 states that applicants will be expected to clearly demonstrate that the site has been actively and robustly marketed at a realistic price that reflects the employment use. Such marketing would normally be undertaken for a minimum of 12 months. Marketing of the application site has taken place although this is considered to have been limited in scope both in terms of the fact that it was only undertaken over a 9 month period and was targeted at other data centre operators only. However, the report which accompanies the application and this provides a market overview which indicates that there is unlikely to be a demand for office uses on the site.

Given the evidence which has been presented by the applicant, it is accepted that there is unlikely to be a reasonable prospect of the site being used for employment. This, together with the context of para 22 of the NPPF and that consideration should be given to alternative uses, the loss of employment use of this site is considered not to be in serious conflict with either the UDP or the NPPF.

Principle (Housing) - The application relates to a brownfield site which is currently occupied by a redundant single storey office building. The site is in a sustainable location close to a residential urban area which is served by existing infrastructure with good access to transport and services and within walking distance to nearby Prestwich town centre. The development would maximise the size of the site to provide family sized homes without compromise to neighbouring properties and the surrounding area.

As such, the principle of the development is in general accordance with UDP Policy H1/2 - Further Housing Development and in compliance with national planning policy.

Layout - The scheme would be laid out in a cul de sac arrangement, with a row of semi detached properties fronting Kingswood Road, behind which there would be two further rows of housing in a linear form, each separated by an access road. This arrangement would emulate the character of the housing in the surrounding area and would offer an honest approach in terms of scale and density and relationship to the street scene and

Kingswood Road in particular.
There would be 2 parking spaces per dwelling, provided by integral garages or driveways for the detached houses, and in curtilage parking to the rear or frontages of the semi detached properties. The properties would have adequately sized private garden areas, with bin storage provision along the side elevations which would negate the need to locate them to the frontage.

The main access into the site would be moved to the east, adjacent to the post office. This would result in the loss of one of the short stay parking bays which are often utilised by customers visiting the post office. It is proposed to relocate this further down Kingswood Road and as such there would be no loss of this facility for visitors cars.

As such, the proposed layout is considered to be acceptable and would not only offer a well designed and workable residential scheme but would be an efficient use of available land land in which to deliver family sized housing.

As such, the proposed layout is considered to be acceptable and would comply with UDP policies H2/1 - The Form of New Residential Development and H2/2 - The Layout of New Residential Development.

Design and appearance - The proposed development would comprise 2.5 and 3 storey houses, the majority of which would be semi detached, with 6 detached houses positioned internally towards the north of the site. Five different house types are proposed in total and this would provide some interest within the site, with a consistent approach to design maintained across the frontage of Kingswood Road.

Whilst the scheme would introduce modern and contemporary elements in terms of the design of the houses through the incorporation of glazed panelling, projecting balconies and symmetrical and clean fenestration lines, the proposed house types would also reflect the scale and character of the residencies in the surrounding area, and particularly the style of the row of terraces along the Kingswood Road frontage in terms of height, massing and materials.

The houses would comprise brick elevations and tiled roofing, with contrasting dark grey window frames to add to the contemporary look. Samples of the materials would be conditioned for further approval. A low brick wall and 1.5m high railings would delineate the frontage of the development and each garden would be separated by timber fencing with gated access to the rear gardens.

Landscaping has been included as part of the scheme which would include semi mature trees and shrubberies, as well as hard landscaping in contrasting materials
to the access road, cul de sac road and pavements. This would contribute to the overall aesthetics of the scheme and add to the character and visual amenity of the site.

As such, the design and appearance of the proposed houses and the visual setting of the site are considered to be acceptable and would be in accordance with UDP Policies EN1/2 and H2/1.

Impact upon residential amenity - The new houses which would front onto Kingswood Road and face the properties opposite, would be 2.5 to 3 storey in height, the 2nd floor incorporated within a dormer and roof space. There would be a separation distance of 19m. This would fall short of the requirements of SPD 6 which states there should be 20m maintained between habitable room windows, and a greater separation for any additional storeys.
The additional floor in the newer properties would essentially be in the roofspace and similar to some of the properties directly opposite which also incorporate a room in the roof. The development would be separated from these houses by Kingswood Road, a fairly wide road capable of accommodating 2 passing cars and a row of parked vehicles. There are pedestrian pavements to both sides and front gardens to the existing dwellings which are

bounded by dwarf brick walls, railings and hedges. The new houses would also be set back from the edge of the pavement with front garden boundaries. Although the development would fall short of the required aspect standards by 1m, the layout of the street together with the intervening features creates a sense of space and separation between the new development and the properties opposite. Given the benefits which would be associated with providing housing on the site, together with the layout, design and appearance of the houses, the relationship to the houses opposite on Kingswood Road is considered to be acceptable and in accordance with H2/1 - The Form of New Residential Development and H2/2 - The Layout of New Residential Development.

Parking and access - The development would be accessed by a new opening created off Kingswood Road leading into two cul de sac arrangements, with turning and manoeuvring facilities for refuse and delivery vehicles provided within the site. Visibility splays have been incorporated and the road layout and pedestrian footpaths delineated and designed to the satisfaction of the Traffic section.

The scheme proposes 2 parking spaces per property, which would be short of SPD 11 requirements which states 3 parking spaces per 4 and 5 bedroomed houses, but which is a maximum standard. The site is in a high access area, not only with excellent links to public transport, but also within walking distance to Prestwich town centre, public services and facilities. All the parking would be within the site and in-curtilage, thereby not adding to parking pressures on Kingswood Road. As such, it is considered there would be sufficient parking for the development and the Traffic section have raised no objections.

As a housing development of this scale, less traffic would be generated than for a site which could be utilised for business and commercial purposes. As such, the highways team is satisfied that the proposal would not result in the intensification of use of the site and it would comply with H2/2 - The Layout of New Residential Development.

Lifetime Homes - The proposal would afford the opportunity to incorporate provision of lifetime homes standards within the development and something the Council would seek to advocate in such housing schemes. Details of such provisions would be sought from the applicant by a suitably worded condition.

Trees - The trees to the west and northern boundary of the site are all under a TPO order and are outside the development site. None of these trees would be affected by the development and would be retained, however their proximity is such that some of the roots and canopies encroach onto the site. Tree protection measures would be put in place prior to the commencement of, and during all construction works, and this would be included as a condition of the application.

It is proposed to remove 6 trees, none of which are the subject of TPO. Whilst 4 of the trees are located to the front of the site along Kingswood Road, they have been categorised as B2, C1 and C2, providing moderate to low quality value. Two trees however would be retained at this frontage. A landscaping scheme has been submitted to show there would be replacement planting within the site and as such it is considered their removal would not be harmful to the visual amenity of the area.

Ecology - Emergence bat surveys have been carried out at the request of GMEU and the buildings assessed as low risk for bats. The report recommends that precautionary measures be taken when dismantling the building and this would be included as a condition of the application.

Planning Obligations - The scale of the proposals requires a recreation contribution of £78,312.94 towards off-site recreation provision pursuant to SPD1 which the applicant has agreed to and would be secured through a S106 Agreement.

Response to objectors -

- Issues relating to the disruption and access during construction works are not a material planning consideration and are covered under separate legislation.

- To comply with a planning approval, works would need to commence within the conditioned timescales. Completion of this development is not a material planning consideration.
- The issue of the suitability of the site for continued employment use has been covered in the above report.

Statement in accordance with Article 31 Town and Country Planning (Development Management Procedure) (England) (Amendment) Order 2012
The Local Planning Authority worked positively and proactively with the applicant to identify various solutions during the application process to ensure that the proposal comprised sustainable development and would improve the economic, social and environmental conditions of the area and would accord with the development plan. These were incorporated into the scheme and/or have been secured by planning condition. The Local Planning Authority has therefore implemented the requirement in Paragraphs 186-187 of the National Planning Policy Framework.

Recommendation: Minded to Approve

Conditions/ Reasons

1. The development must be begun not later than three years beginning with the date of this permission.
   Reason. Required to be imposed by Section 91 Town & Country Planning Act 1990.

2. This decision relates to drawings and documents - 13009, (0-) 08A; 09A; 10J; 23B; 24B; 25A; 26A; 27A; 28A; 29A; 30A; 31A; 32A; 33A; 34A; 35A; 36A; 37A; 38A; 39A; 40A; 41A; 42A; 43A; 44A; (9-) 01C; 02B; Design and Access Statement Strategy Rev A 27 Feb 2014; Planning statement March 2014; Arboricultural report dated amended dated 28/5/2014 and Tree survey schedule; Tree Constraints Plan TCP-01 Rev 1; Preliminary Risk Assessment Phase 1 March 2014 LKC 141009; External Lighting Strategy 28 February 2014 - 13009,3.01; Crime Impact Statement Version A: 18th March 2013; Environmental Strategy 14.02.28 - 13009,301; Ecoteric Code for Sustainable Homes Pre Assessment; Bat survey by Tyrer Partnership issued 20.202014 2014 and updated 6.6.2014 and the development shall not be carried out except in accordance with the drawings hereby approved.
   Reason. For the avoidance of doubt and to ensure a satisfactory standard of design pursuant to the policies of the Bury Unitary Development Plan listed.

3. No development shall commence unless and until:-
   - A contaminated land Preliminary Risk Assessment report to assess the actual/potential contamination and/or ground gas/landfill gas risks at the site shall be submitted to, and approved in writing by, the Local Planning Authority;
   - Where actual/potential contamination and/or ground gas/landfill gas risks have been identified, detailed site investigation and suitable risk assessment shall be submitted to, and approved in writing by the Local Planning Authority;
   - Where remediation/protection measures is/are required, a detailed Remediation Strategy shall be submitted to, and approved in writing by, the Local Planning Authority.

   Reason. To secure the satisfactory development of the site in terms of human health, controlled waters, ground gas and the wider environment and pursuant to National Planning Policy Framework Section 11 - Conserving and enhancing the natural environment.

4. Following the provisions of Condition 3 of this planning permission, where remediation is required, the approved Remediation Strategy must be carried out to the satisfaction of the Local Planning Authority within agreed timescales; and
   A Site Verification Report detailing the actions taken and conclusions at each

stage of the remediation works, including substantiating evidence, shall be submitted to and approved in writing by the Local Planning Authority prior to the development being brought into use.
Reason. To secure the satisfactory development of the site in terms of human health, controlled waters and the wider environment and pursuant to National Planning Policy Framework Section 11 - Conserving and enhancing the natural environment.

5. Any soil or soil forming materials brought to site for use in garden areas, soft landscaping, filling and level raising shall be tested for contamination and suitability for use on site. Proposals for contamination testing including testing schedules, sampling frequencies and allowable contaminant concentrations (as determined by appropriate risk assessment) and source material information shall be submitted to and approved in writing by the Local Planning Authority prior to any soil or soil forming materials being brought onto site, and;
The approved contamination testing shall then be carried out and validatory evidence (soil descriptions, laboratory certificates, photographs etc) submitted to and approved in writing by the Local Planning Authority prior to the development being brought into use.
Reason. To secure the satisfactory development of the site in terms of human health, controlled waters and the wider environment and pursuant to National Planning Policy Framework Section 11 - Conserving and enhancing the natural environment.

6. All instances of contamination encountered during the development works which do not form part of an approved Remediation Strategy shall be reported to the Local Planning Authority (LPA) immediately and the following shall be carried out where appropriate:

- Any further investigation, risk assessment, remedial and / or protective works shall be carried out to agreed timescales and be approved by the LPA in writing;

- A Site Verification Report detailing the conclusions and actions taken at each stage of the works including validation works shall be submitted to, and approved in writing by, the LPA prior to the development being brought into use.

Reason. To secure the satisfactory development of the site in terms of human health and the wider environment and pursuant to National Planning Policy Framework Section 11 - Conserving and enhancing the natural environment.

7. The development hereby approved shall not commence unless and until a scheme of protection for all trees and all TPO trees to be retained on site in accordance with BS 5837:2005 "Trees in Relation to Construction" as amended has been submitted to and agreed in writing by the Local Planning Authority. The development shall not commence unless and until the measures required by that scheme have been implemented, to the written satisfaction of the Local Planning Authority and all measures required by the scheme shall continue until the development has been completed.
Reason. To avoid the loss of trees which are of amenity value to the area pursuant to Policy EN1/2 - Townscape and Built Design and EN8/2 – Woodland and Tree Planting of the Bury Unitary Development Plan.

8. No development shall commence unless and until details of foul and surface water drainage aspects have been submitted to and approved by the Local Planning Authority. This must include assessment of potential SUDS options for surface water drainage. The approved scheme only shall be implemented prior to the first occupation of the dwellings hereby approved and thereafter maintained.
Reason. To reduce the risk of flooding and ensure the satisfactory treatment of

surface water drainage pursuant to Chapter 10 of the National Planning Policy Framework - Meeting the Challenge of Climate Change, Flooding and Coastal Change and Unitary Development Plan Policy EN5/1 - New Development and Flood Risk.

9. The development hereby approved shall be carried out in accordance with the recommendation and conclusions of the updated bat survey by the Tyrer Partnership on 6.6.2014.
Reason. In order to ensure that no harm is caused to a Protected Species pursuant to policy EN6 – Conservation of the Natural Environment and National Planning Policy Framework Section 11 - Conserving and enhancing the natural environment.

10. Notwithstanding the terms of the Town and Country Planning (General Permitted Development) Order 1995, as subsequently amended, no development shall be carried out within the terms of Classes A, B, C and E of Part 1 of Schedule 2 of the Order, without the prior written consent of the Local Planning Authority.
Reason. To ensure that future inappropriate alterations or extensions do not occur pursuant to policies of the Unitary Development Plan listed.

11. Provision for lifetime homes shall be incorporated into the development in accordance with a scheme to be submitted to and approved in writing by the Local Planning Authority prior to the development hereby approved commencing. The development shall then be carried out incorporating the measures in accordance with the approved scheme.
Reason. To ensure that the development is fully accessible to disabled persons pursuant to Policies HT5/1 – Access for Those with Special Needs of the Bury Unitary Development Plan.

12. Notwithstanding the details indicated on the approved plans, the development hereby approved shall not be commenced unless and until full details of the following have been submitted to and approved by the Local Planning Authority:

- access alterations on Kingswood Road incorporating the reinstatement of the redundant site access opposite Dashwood Road to adjacent footway levels, demarcation of the limits of the adopted highway and all necessary alterations to existing highway drainage, street lighting and associated remedial works;
- relocation of the existing limited waiting bay and all associated highway works, alterations to signage and road markings and amendments to existing traffic regulation orders;
- proposed estate road design incorporating material suitable for adoption;
- street lighting scheme for the residential development;
- swept path analysis of the proposed estate roads to ensure a refuse collection vehicle can pass a private car.

The details hereby approved shall be implemented to the written satisfaction of, and to a programme and specification to be approved by the Local Planning Authority.
Reason. To ensure good highway design in the interests of road safety and to maintain the integrity of the adopted highway pursuant to Bury Unitary Development Plan Policies H2/2 - The Layout of New Residential Development, HT4 - New Development and HT6/2 - Pedestrian/Vehicular Conflict.

13. No development shall commence unless and until full details of a 20mph traffic calming scheme on the proposed estate roads, incorporating appropriate entry signage and speed reducing measures, have been submitted to and approved by the Local Planning Authority. The details subsequently approved shall be implemented to an approved programme by the Local Planning Authority.
Reason. To ensure good highway design in the interests of road safety pursuant

to Bury Unitary Development Plan Policies H2/2 - The Layout of New Residential Development, HT4 - New Development and HT6/2 - Pedestrian/Vehicular Conflict.

14. The footway visibility splays indicated on the approved plans shall be implemented to the approval of the Local Planning Authoritybefore the development is brought into use and subsequently maintained free of obstruction above the height of 0.6m
Reason. To ensure the intervisibility of the users of the site and the adjacent highways in the interests of road safety pursuant to Bury Unitary Development Plan Policies H2/2 - The Layout of New Residential Development and HT6/2 - Pedestrian/Vehicular Conflict.

15. Minimum hardstanding lengths of 5.5m measured between the highway boundary and any proposed garage doors 0r 5.0m at dwellings without garages shall be provided for approval by the Local Planning Authority and thereafter maintained.
Reason. To enable a vehicle to stand clear of the highway whilst the garage doors are opened and/or to allow adequate space to maintain a vehicle clear of the highway in the interests of pedestrian safety pursuant to pursuant to Bury Unitary Development Plan Policies H2/2 - The Layout of New Residential Development and HT6/2 - Pedestrian/Vehicular Conflict.

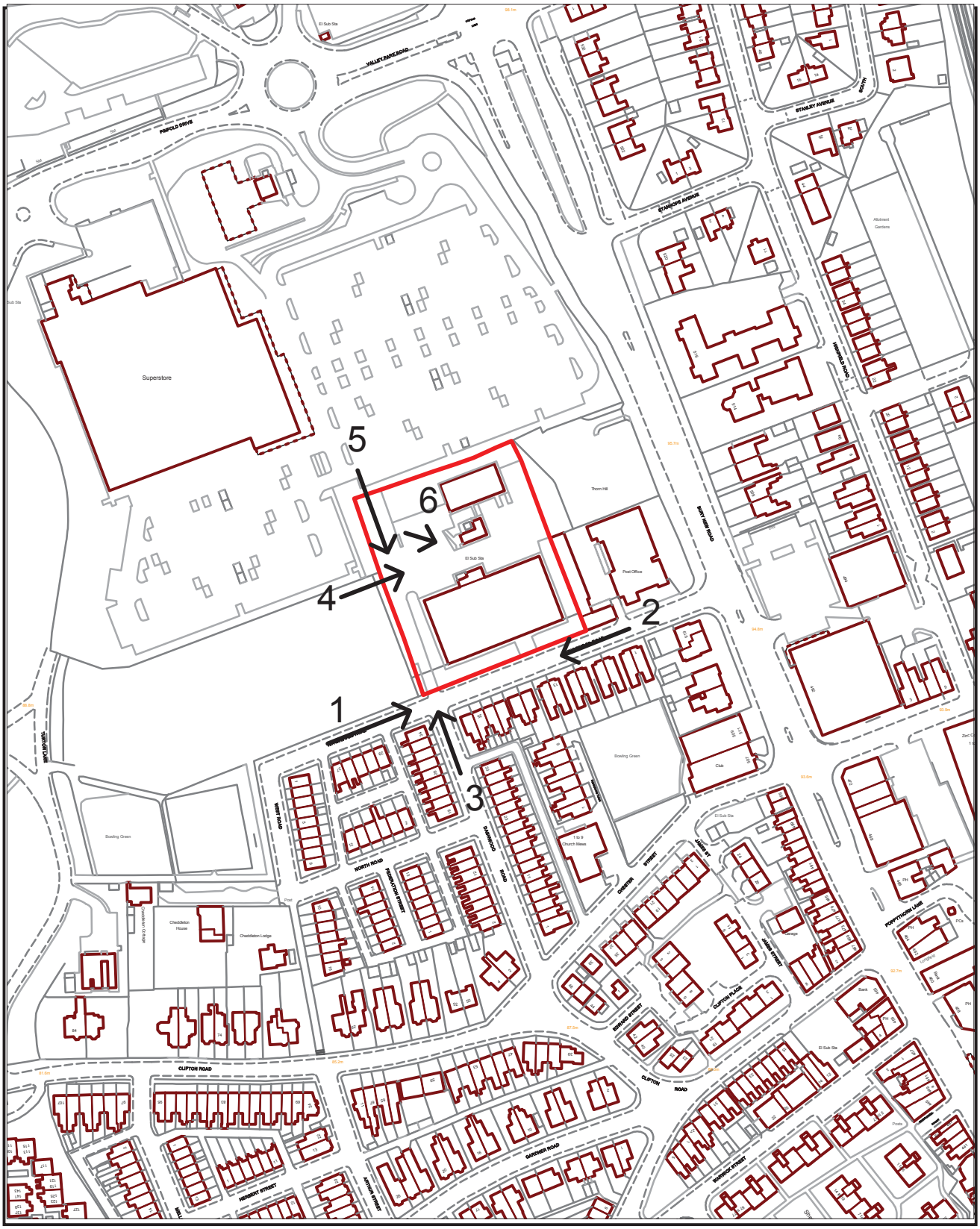
16. The turning facilities indicated on the approved plans (or similar alternative provision that enables construction traffic to enter and leave the site in a forward gear to be approved by the Local Planning Authority) shall be provided before construction of the dwellings is commenced and shall subsequently be maintained free of obstruction at all times.
Reason. To minimise the standing and turning movements of vehicles on the highway in the interests of road safety pursuant to Bury Unitary Development Plan Policies H2/2 - The Layout of New Residential Development, HT4 - New Development and HT6/2 - Pedestrian/Vehicular Conflict.

17. The Developer, within one week of the commencement of development, shall ensure that there is provision to be made for the parking on site of operatives' and construction vehicles together with storage on site of construction materials. The provision shall be retained and used for the intended purpose for the duration of the construction period and that area shall not be used for any other purposes other than the parking of vehicles and storage of construction materials respectively.
Reason. To ensure adequate off street car parking provision for the duration of the construction
period in the interests of road safety pursuant to Bury Unitary Development Plan Policy H2/2 - The
Layout of New Residential Development.

18. Before the development is commenced, details shall be submitted to and approved by the Local Planning Authority to cover measures to ensure that all mud and other loose materials are not carried on the wheels and chassis of any vehicles leaving the site and measures to minimise dust nuisance caused by the operations. The approved details shall be implemented and maintained thereafter during the period of construction.
Reason. To ensure that the adopted highways are kept free of deposited material from the groundworks operations pursuant to Bury Unitary Development Plan Policy HT4 - New Development.

For further information on the application please contact **Jennie Townsend** on **0161 253-5320**

Viewpoints



PLANNING APPLICATION LOCATION PLAN

APP. NO 57464

ADDRESS: Land off Kingswood Road
Prestwich

N
W E
S

Bury COUNCIL

Planning, Environmental and Regulatory Services **1:1250**

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57464

Photo 1



Photo 2



Photo 3



Photo 4



Photo 5



Photo 6





PROPOSED SITE PLAN

Notes

J	ACCESS WAY GATE AND SEMI DETACHED REAR GARDENS AMENDED AS REQUESTED BY PLANNING OFFICERS.	05.08.14 JA
H	CAR PARKING AND LAYOUT AMENDED AS REQUESTED BY PLANNING OFFICERS.	02.08.14 JA
G	PLANNING ISSUE	18.02.14 JA
F	REVISED SCHEME WITH REDUCED NUMBER OF HOUSES. AREA ADDED	22.01.14 JA
E	HOUSE TYPE A AMENDED, CAR PARK AREA ADDED	17.01.14 JA
D	REVISED LAYOUT	15.01.14 JA
C	REVISED LAYOUT	15.01.14 JA
B	ISSUED FOR PLANNING	09.01.14 JA
A	HOUSE TYPE A AMENDED	08.01.14 JA

Status -

Drawn - JA

Date - 25 Oct 2013

Scale @ A1 - 1:250

Review -

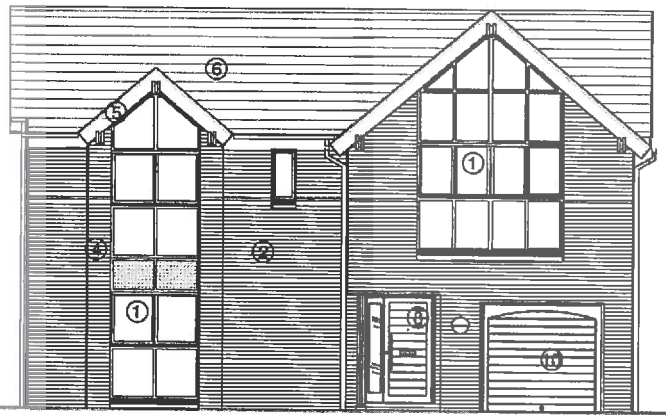
Client - BROOKMOOR REFURBISHMENTS

Project - RESIDENTIAL DEVELOPMENT
- KINGSWOOD ROAD
- PRESTWICH

Drawing Number - 13009,(0-)10J
- CAD File

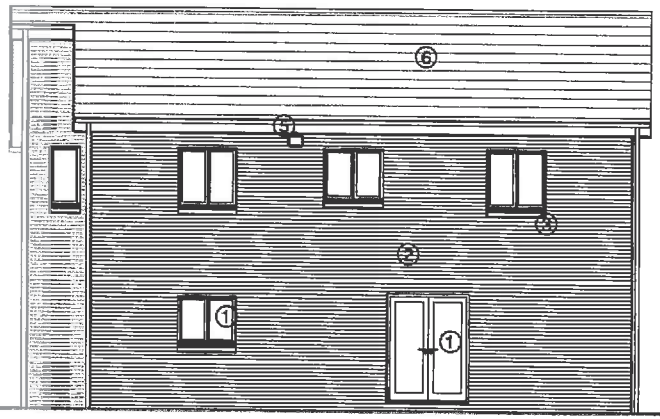
Drawing Title - SITE PLAN

URBANE URBAN
architects
designers
project
managers





FRONT & SIDE ELE'S





REAR & SIDE ELE'S

Where dimensions are not given drawings must not be scaled and this matter referred to the Architect.
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Rev		
1	DARK GREY UPVC DOORS & WINDOWS	
2	FACING BRICK WALLS	
3	ART STONE CILL	
4	FACING BRICKWALL TYPE TWO	
5	DARK GREY FACIAL , SOFFIT & RWP	
6	ART ROOF TILES (MARLEY ETERNIT RIVENDALE OR SIMILAR)	
7	BRUSHED S.S. HANDRAIL WITH GLASS INFILL PANEL	
8	STAINED SLATTED TIMBER PANEL DOOR	
9	DORMER WINDOW WITH GREY SINGLE PLY MEMBER FINISH	
10	GARAGE DOOR WITH TIMBER FINISH	
11	DARK GREY ARTIFICIAL PANEL	

A	ISSUED FOR PLANNING	02.01.14 JA

Status - PLANNING

Drawn - JA

Date - 11 NOV 2013

Scale @ A1 - 1:50

Review -

Client - BROOKMOOR REFURBISHMENTS LTD

Project - RESIDENTIAL DEVELOPMENT
KINGSWOOD ROAD
PRESTWICH

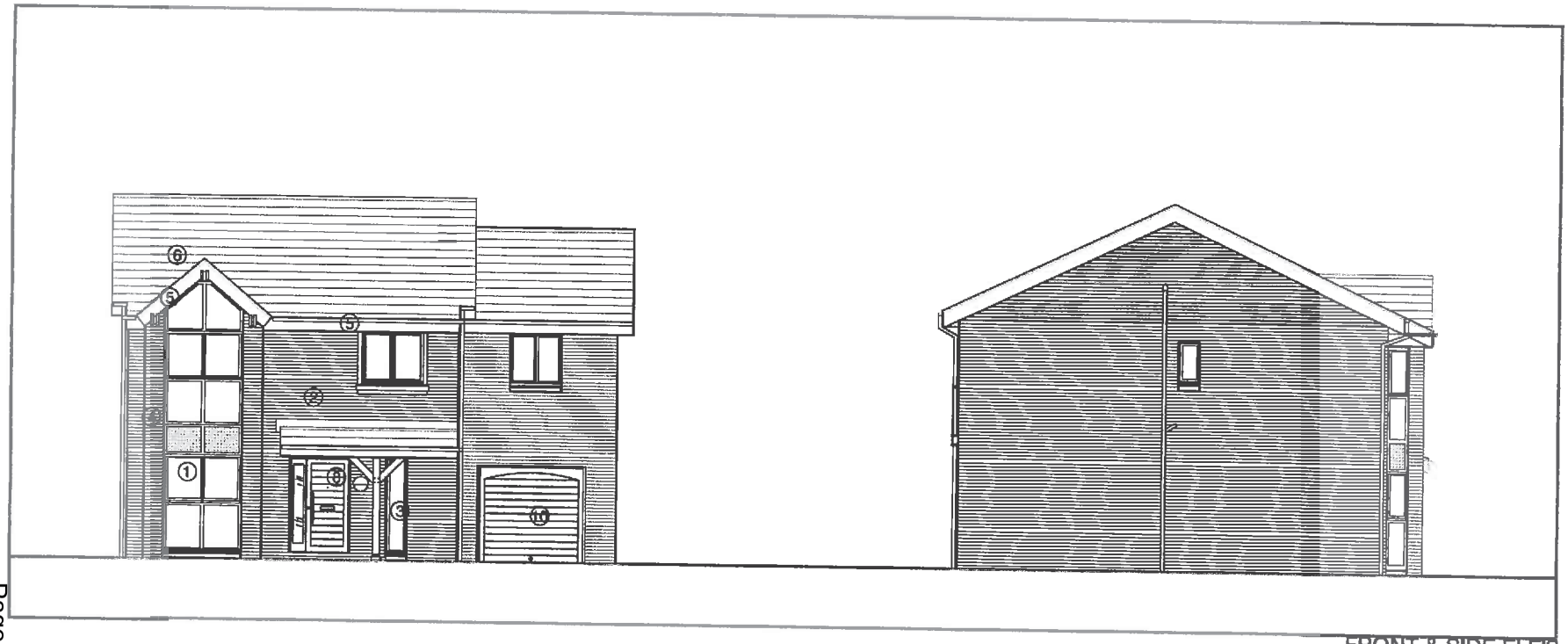
Drawing Number - 13009,(0-)40A

Drawing Title - DETACHED HOUSES
ELEVATIONS
TYPE A

17 Bank Street
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architect
designer
project manager

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FRONT & SIDE ELE'S



REAR & SIDE ELE'S

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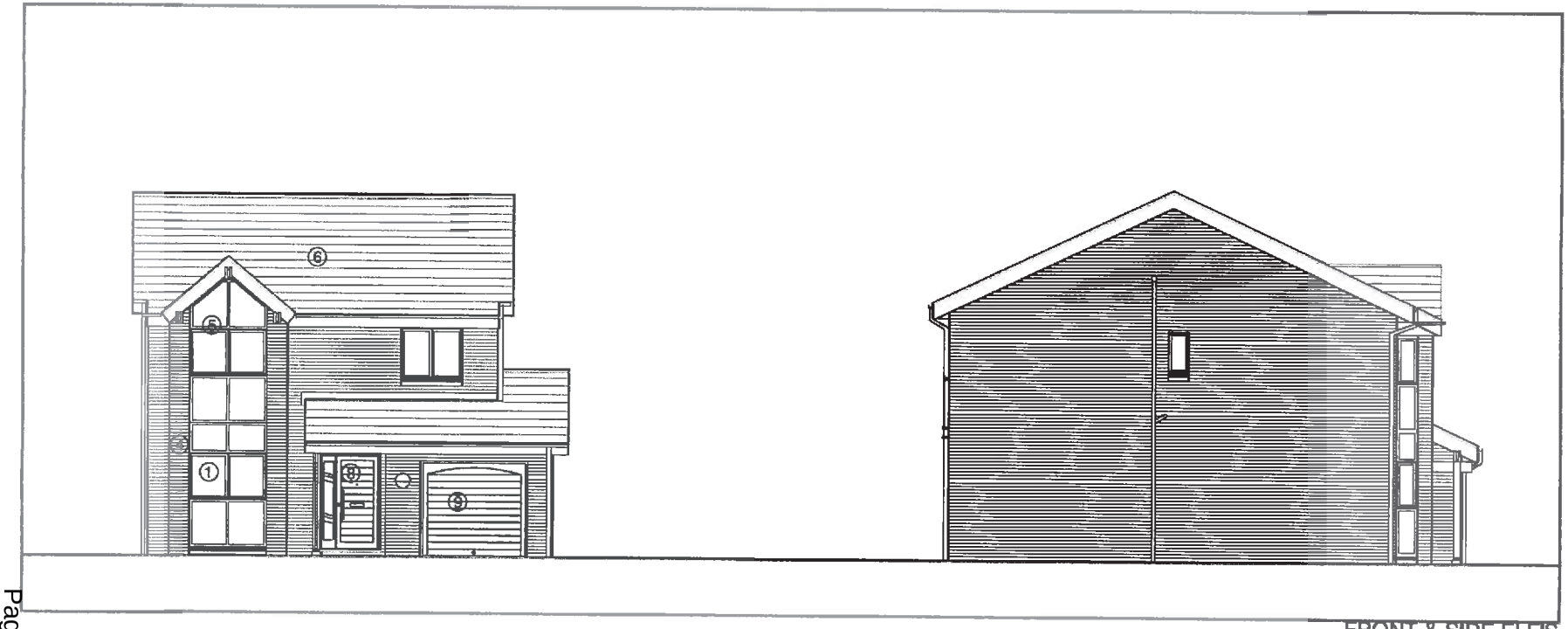
Notes

1 - DARK GREY UPVC DOORS & WINDOWS
2 - FACING BRICK WALLS
3 - ART STONE CILL
4 - FACING BRICK VEN L TYPE TWO
5 - DARK GREY FACIAL, SOFFIT & RWP
6 - ART ROOF TILES (MARLEY ETERNIT RIVENDALE OR SIMILAR)
7 - BRUSHED SILL HARDWAL WITH GLASS INFILL PANEL
8 - STAINED PLATTED TIMBER PANEL DOOR
9 - DORMER WINDOW WP in GREY SINGLE PLY MEMBER FINISH
10 - GARAGE DOOR WITH TIMBER FINISH
11 - DARK GREY ARTIFICIAL PANEL

A ISSUED FOR PLANNING 07.01.14 JA

Status - PLANNING
Drawn - JA
Date - 14 NOV 2013
Scale @ A1 - 1:50
Revision -
Client - BROOKMOOR REFURBISHMENTS LTD
Project - RESIDENTIAL DEVELOPMENT
KINGSWOOD ROAD
PRESTWICH
Drawing Number - 13009,(0-)41A
CAD File -
Drawing Title - DETACHED HOUSES
TYPE B
ELEVATIONS

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FRONT & SIDE ELE'S



REAR & SIDE ELE'S

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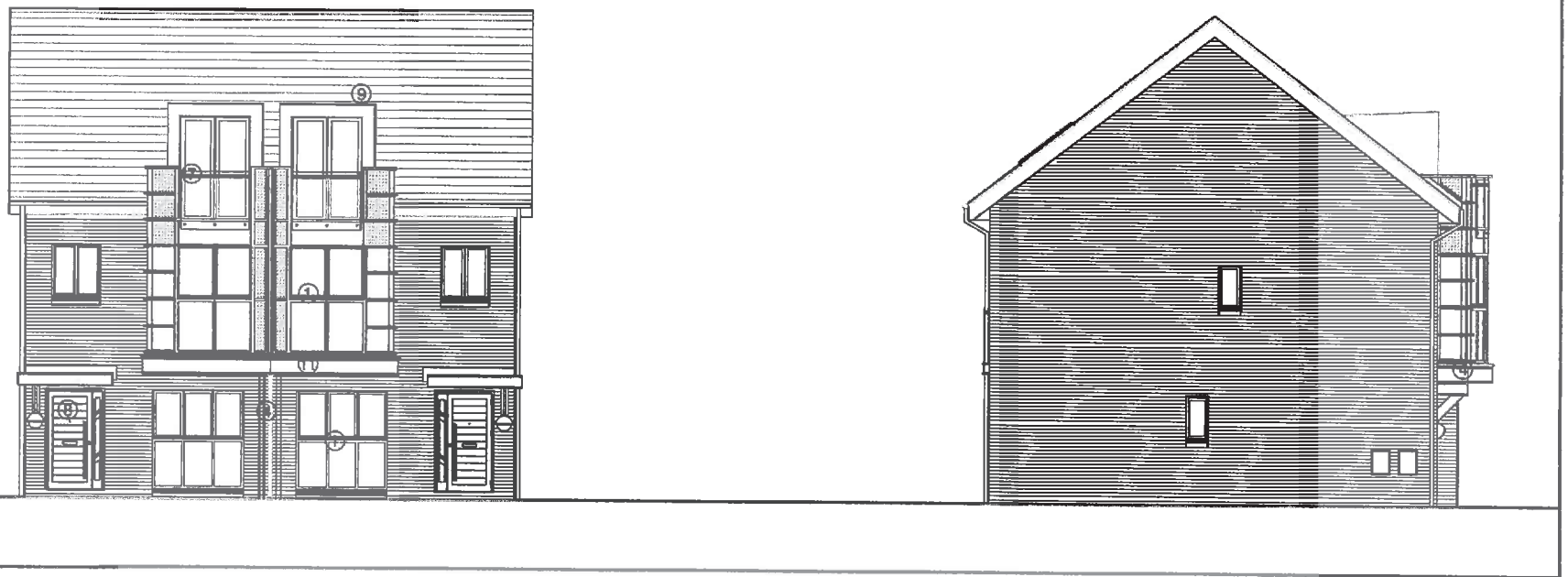
Notes -

1 - DARK GREY UPVC DOORS & WINDOWS
2 - FACING BRICK WALL B
3 - ART STONE CILL
4 - FACING BRICK WALL TYPE TWO
5 - DARK GREY FACIAL , BOSIT & RAMP
6 - ART ROOF TILES (MARLEY EDWARDIAN RIVENDALE OR SIMILAR)
7 - BRUNNED S.S. HANDRAIL WITH GLASS INFILL PANEL
8 - STAINED SLATTED TIMBER PANEL DOOR
9 - DORMER WINDOW WITH GREY SINGLE PLY MEMBER FINISH
10 - GARAGE DOOR WITH TIMBER FINISH
11 - DARK GREY ART METAL PANEL

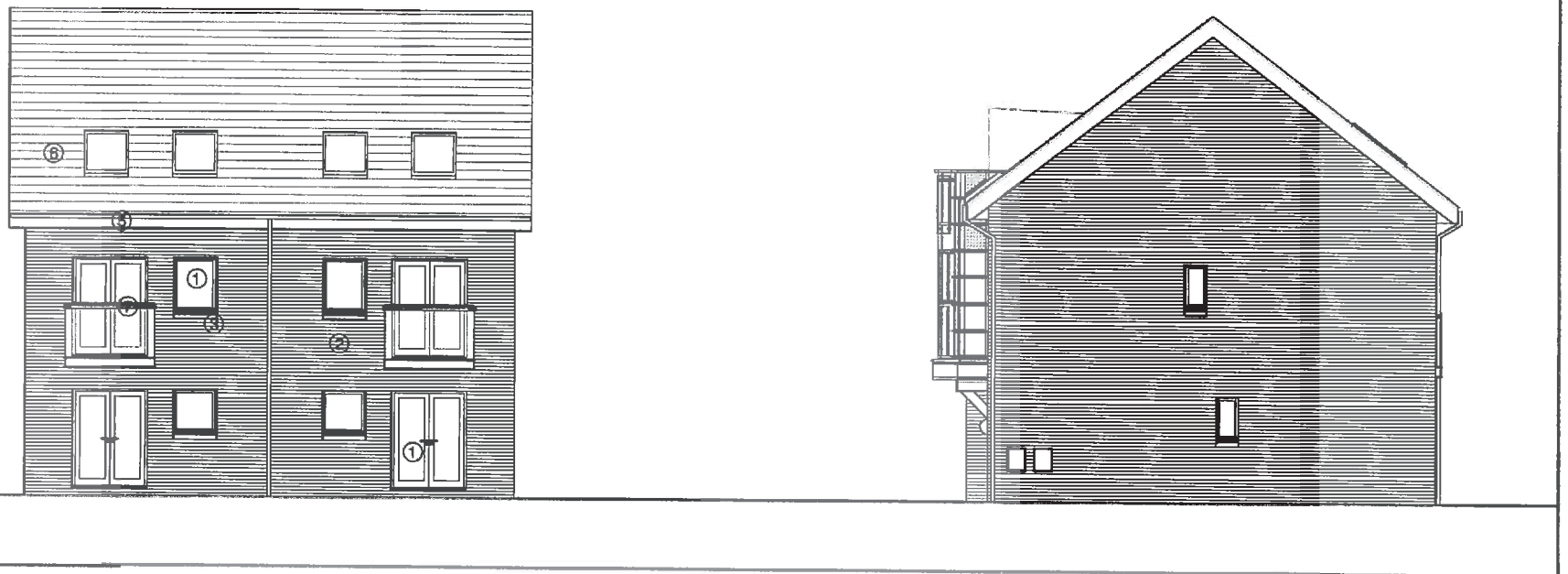
A - ISSUED FOR PLANNING 06.01.14 JA

Status - PLANNING
Drawn - JA
Date - 11 NOV 2013
Scale @ A1 - 1:50
Revision -
Client - BROOKMOOR REFURBISHMENTS LTD
Project - RESIDENTIAL DEVELOPMENT
KINGSWOOD ROAD
PRESTWICH
Drawing Number - 13009,(0-)42A
CAD File -
Drawing Title - DETACHED HOUSES
ELEVATIONS
TYPE C

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FRONT & SIDE ELEVATIONS



REAR & SIDE ELEVATIONS

Page 71

- Where dimensions are not given drawings must not be scaled and the matter referred to the Architect
- In the event of any dimensional conflict between drawings, the matter must be referred to the Architect for clarification. Do not scale from this drawing
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Notes

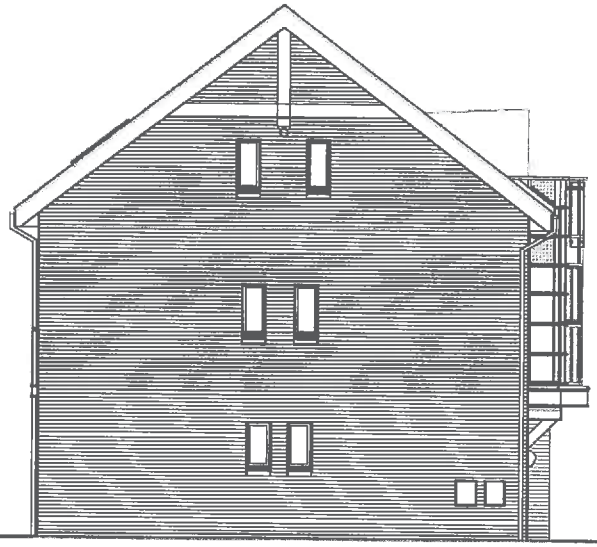
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2 - FACING BRICK WALL
3 - ART STONE CILL
4 - FACING BRICK WALL TYPE TWO
5 - DARK GREY FACIAL, SOFIT & RWP
6 - APT ROOF TILES (MARLEY ETERNIT RIVENDALE OR SIMILAR
7 - BRUSHED SS HANDRAIL WITH GLASS INFILL PANEL
8 - STAINED SLATTED TIMBER PANEL DOOR
9 - DORMER WINDOW WITH GREY SMOOTH PLY MEMBER FINISH
10 - GARAGE DOOR WITH TIMBER FINISH
11 - DARK GREY ARTIFICIAL PANEL

A - ISSUED FOR PLANNING 08.01.14 JA

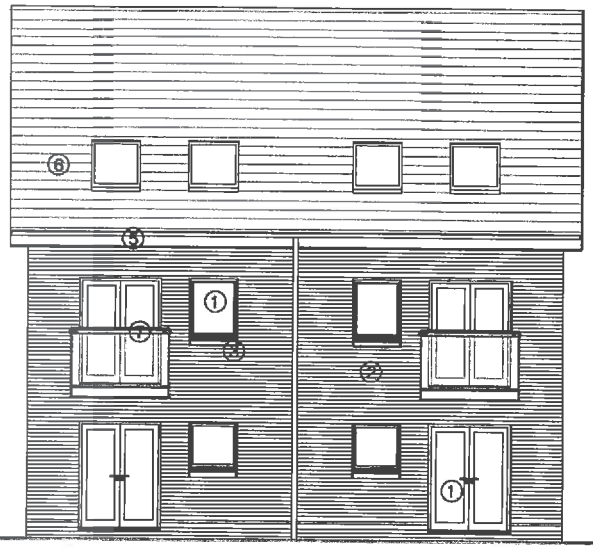
Status - PLANNING
Drawn - JA
Date - 30 Oct 2013
Scale @ A1 - 1:50
Review -
Client - BROOKMOOR REFURBISHMENTS LTD
Project - RESIDENTIAL DEVELOPMENT
KINGSWOOD ROAD
PRESTWICH
Drawing Number - 13009,(0-)43A
CAD File -
Drawing Title - SEMI DETACHED HOUSES (TYPE D)
ELEVATION

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FRONT & SIDE ELEVATIONS





REAR & SIDE ELEVATIONS

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Notes -

1 - DARK GREY UPVC DOORS & WINDOWS
2 - FACING BRICK WALLS
3 - ART STONE CILL
4 - FACING BRICK WALL TYPE TWO
5 - DARK GREY FACIAL , SOFIT & RWP
6 - ART ROOF TILES (MARLEY ETERNIT RIVENDALE OR SIMILAR)
7 - BRUSHED S.S. HANDRAIL WITH GLASS INFILL PANEL
8 - STAINED GLAZED TIMBER PANEL DOOR
9 - DORMER WINDOW WITH GREY SHINGLE PLY MEMBER FINISH
10 - GARAGE DOOR WITH TIMBER FINISH
11 - DARK GREY ARTIFICIAL PANEL

A - ISSUED FOR PLANNING - 08.01.14 JA

Status - PLANNING
Drawn - JA
Date - 30 Oct 2013
Scale @ A1 - 1:50
Revision -
Client - BROOKMOOR REFURBISHMENTS LTD
Project - RESIDENTIAL DEVELOPMENT, KINGSWOOD ROAD, PRESTWICH
Drawing Number - 13009,(0-)44A
CAD File -
Drawing Title - SEMI DETACHED HOUSES (TYPE E) ELEVATION

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www.[illegible].com

Ward: Whitefield + Unsworth - Unsworth Item 05

Applicant: The Spear Trust

Location: Bury & Whitefield Jewish Primary School, Parr Lane, Bury, BL9 8JT

Proposal: Single storey nursery building

Application Ref: 57470/Full **Target Date:** 05/06/2014

Recommendation: Approve with Conditions

Description
The application relates to a single storey primary school within a residential area close to the junction of Parr Lane and Sunny Bank Road. The school building lies to the north east of a playing field that is used by the school. The grounds are fenced off and there are trees and shrubs around the boundary. The pedestrian and vehicular entrance is from Parr Lane via a narrow access road - School Close.

The school caters for the Jewish community and includes a nursery facility which the applicant states in the supporting statement, is not particularly practical in terms of everyday operations.

The proposal is to construct a new nursery facility extending from the south west elevation, facing onto the adjacent field. The extension would be single storey with a shallow pitched and part glased roof and have a footprint measuring approximately 10m by 8m. It would be made up of new nursery space with toilet facilities. It would be finished in brick to match the existing school building.

Relevant Planning History
45865 - Construction of translucent roof covering to play area - Approved 24/02/2006
55273 - Single storey extension to classroom. - Approved 02/08/2012

Publicity
The following 60 neighbours were notified by letter dated 17/04/14. 108-172 (even)Parr Lane, 1-21 (odd) Hillsborough Drive, 278-288 (even) Sunnybank Road and 1-9 Leeds Close (odd).

Objections received from 108 and 126 Parr Lane and 286 Sunny Bank Road are summarised below.

- The extension would mean increased traffic during drop off and pick up times.
- Building work would cause added congestion around the entrance, blocking neighbour's access and garages.

The objectors have been notified of the Planning Control Committee.

Consultations
Drainage Section - No objection.
Education - No objection.
Traffic Section - No objection.

Unitary Development Plan and Policies
EN1/2 Townscape and Built Design
EN1/5 Crime Prevention
CF2 Education Land and Buildings
HT2/4 Car Parking and New Development
SPD11 Parking Standards in Bury
SPD16 Design and Layout of New Development in Bury

Issues and Analysis
The following report includes analysis of the merits of the application against the relevant polices of both the National Planning Policy Framework (NPPF) and the adopted Bury Unitary Development Plan (UDP) together with other relevant material planning considerations. The policies of the UDP that have been used to assess this application are considered to be in accordance with the NPPF and as such are material planning considerations. For simplicity, just the UDP Policy will be referred to in the report, unless there is a particular matter to highlight arising from the NPPF where it would otherwise be specifically mentioned.

Use - UDP Policy CF2 Education Land and Buildings states that favourable consideration will be given to proposals which provide or improve education facilities. As this proposal involves improving the existing nursery facilities at the school, the principle is acceptable and complies with Policy CF2.

Visual amenity - The proposed extension is relatively modest in scale and has been designed to be in keeping with the existing building in terms of style, appearance and finishing materials. The proposal is acceptable and complies with UDP Policy EN1/2 Townscape and Built Design.

Residential Amenity - Given the size and siting of the extension itself, approximately 35m away from the nearest residential properties on Parr Lane, residential amenity of neighbours would not be detrimentally affected.

The building phase of the project will no doubt generate related construction traffic and noise. This however is not a material planning consideration and would be subject to Environmental Health legislation.

The concerns that the new extension would generate more traffic from parents dropping off and picking up children are reasonable, particularly given the existing problems around the site at certain times of the day. However the Council's, and the school's own forecasts, do not predict a significant increase in numbers for the nursery, beyond the 30 already allocated in the school plan. The proposal represents more of an improvement to existing facilities rather than increasing numbers of children and as such there would be no significant increase in traffic generation. The proposal is acceptable in terms of traffic and parking and complies with UDP Policies CF2, HT2/4 and associated guidance.

Objections - The concerns of the objectors have been addressed in the above report.

Statement in accordance with Article 31 Town and Country Planning (Development Management Procedure) (England) (Amendment) Order 2012
The proposal complies with the development plan and would improve the economic, social and environmental conditions of the area. It therefore comprises sustainable development and the Local Planning Authority worked proactively and positively to issue the decision without delay. The Local Planning Authority has therefore implemented the requirement in Paragraphs 186-187 of the National Planning Policy Framework.

Recommendation: Approve with Conditions

Conditions/ Reasons

1. The development must be begun not later than three years beginning with the date of this permission.
   Reason. Required to be imposed by Section 91 Town & Country Planning Act 1990.

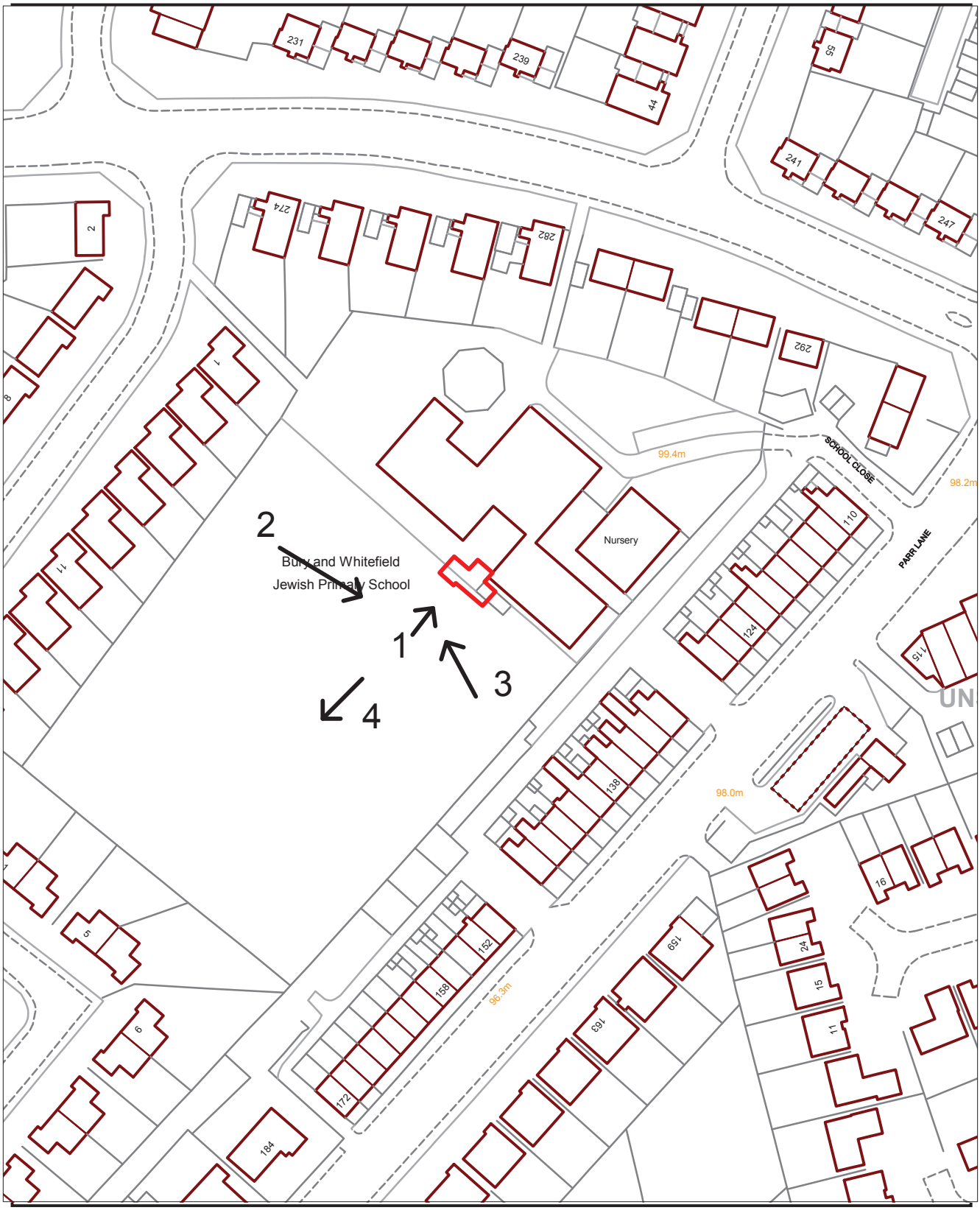
2. This decision relates to drawings numbered PLANG/001, 002, 003, 004, 005 and 006 and the development shall not be carried out except in accordance with the

drawings hereby approved.
Reason. For the avoidance of doubt and to ensure a satisfactory standard of design pursuant to the policies of the Bury Unitary Development Plan listed.

3. The external finishing materials for the proposal hereby approved shall match those of the existing building.
Reason. In the interests of visual amenity and to ensure a satisfactory development pursuant to Policy EN1/2 - Townscape and Built Design of Bury Unitary Development Plan.

For further information on the application please contact **Tom Beirne** on **0161 253 5361**

Viewpoints



PLANNING APPLICATION LOCATION PLAN

APP. NO 57470

ADDRESS: Bury & Whitefield Jewish Primary School
Parr Lane, Bury

N
W E
S

Bury COUNCIL

Planning, Environmental and Regulatory Services **1:1250**

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Photo 1



Photo 2

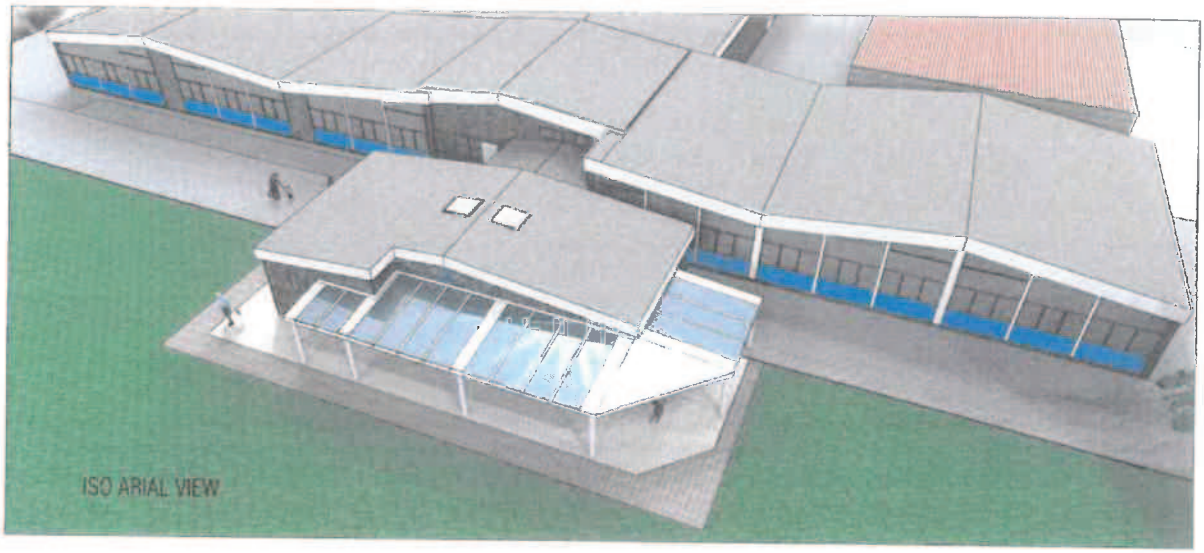


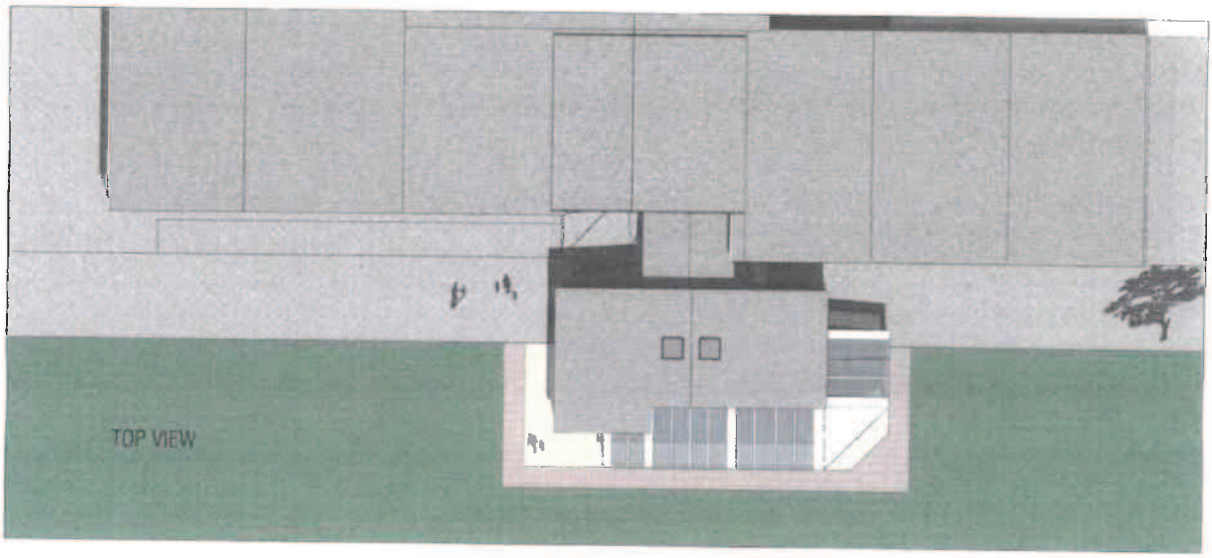
Photo 3

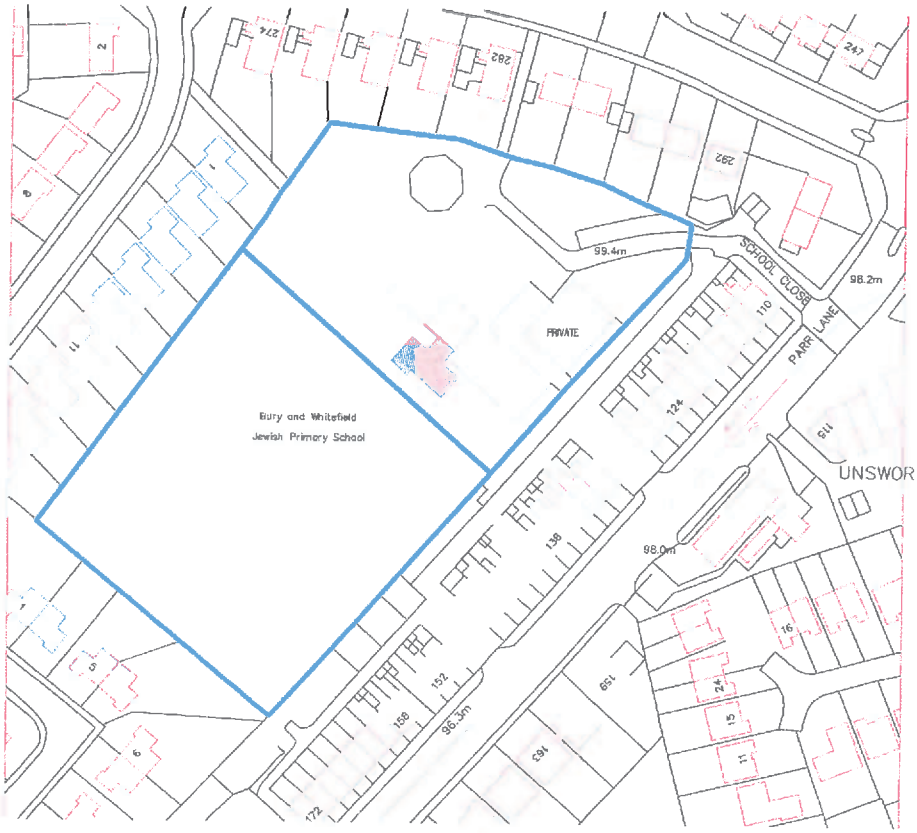


Photo 4









BUILDING CONTRACTORS
DESIGN and BUILD

Phoenix Buildings
Heywood Road
Manchester M25 1FN

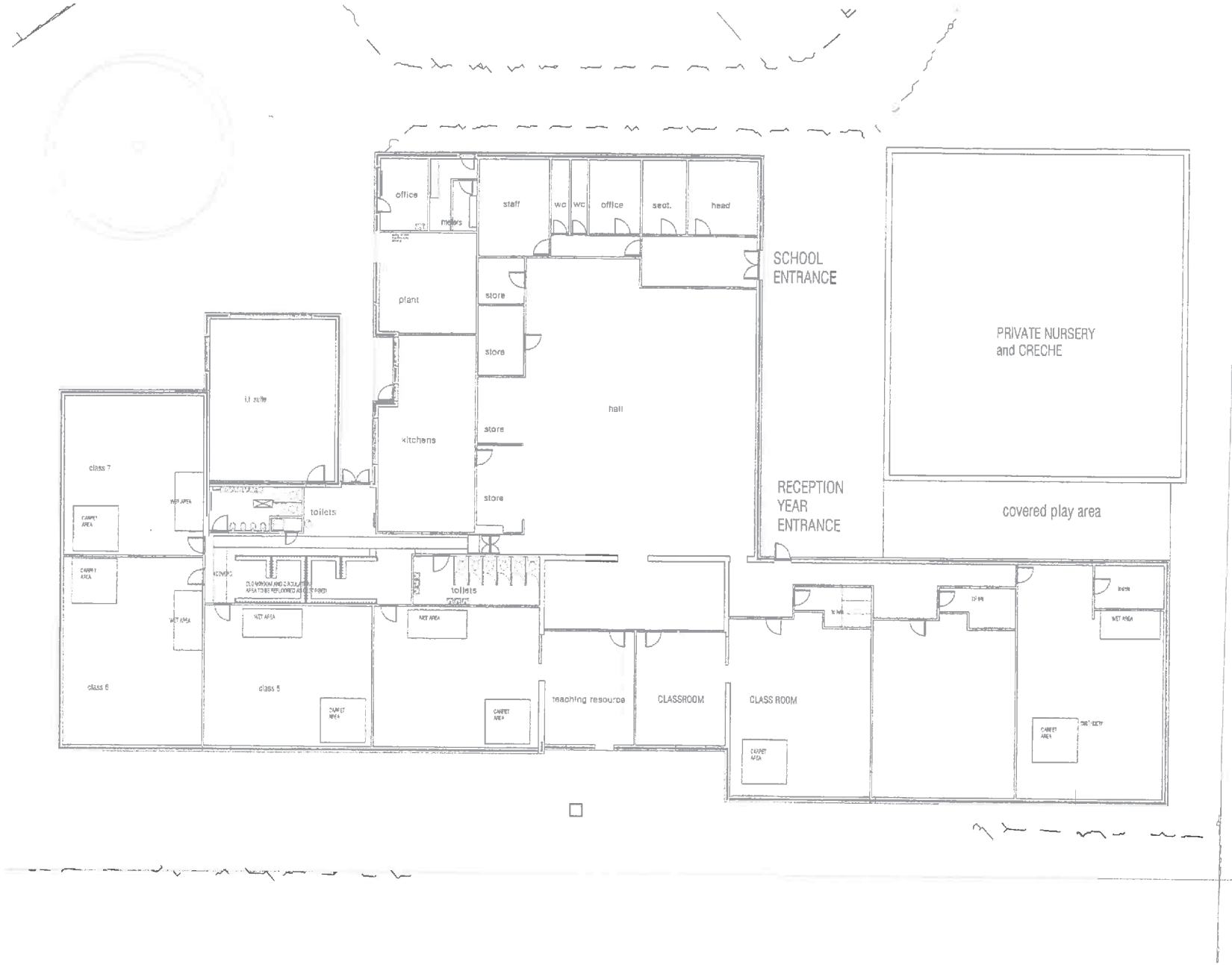
T: 0161 870 3611

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PROPOSED NURSERY at
BURY &WHITEFIELD JEWISH PRIMARY SCHOOL
PARR LANE, WHITEFIELD, BURY

THE SPEAR TRUST
26 OLD HALL ROAD
SALFORD M7 4JN

VIEWS 2	PLANG/005	1:100 @ A3	SPK	February 2014



Phoenix Buildings
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PROPOSED NURSERY at
BURY &WHITEFIELD JEWISH PRIMARY SCHOOL
PARR LANE, WHITEFIELD, BURY

THE SPEAR TRUST
26 OLD HALL ROAD
SALFORD M7 4JH

EXISTING PLAN	PLANS/001	1:200 @ A3	SPA	February 2014



PROPOSED WEST SIDE ELEVATION WITHOUT COVERED WAY



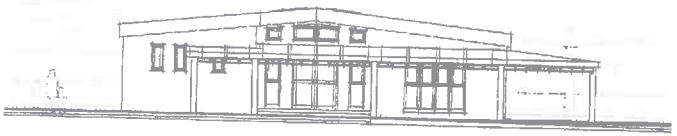
PROPOSED SOUTH ELEVATION WITHOUT COVERED WAY



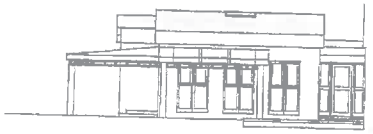
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PROPOSED WEST SIDE ELEVATION WITH COVERED WAY



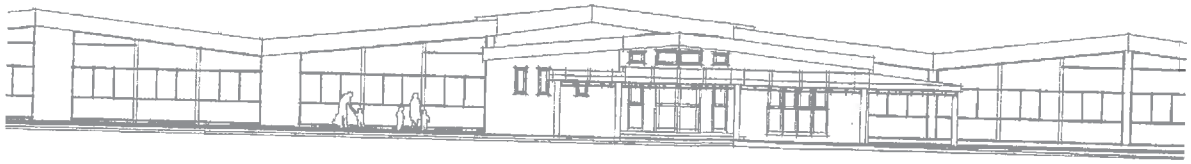
PROPOSED SOUTH ELEVATION WITH COVERED WAY



PROPOSED EAST SIDE ELEVATION WITH COVERED WAY



EXISTING SOUTH LONG ELEVATION



PROPOSED SOUTH LONG ELEVATION

BUILDING CONTRACTORS
DESIGN and BUILD

Phoenix Buildings
Heywood Road
Manchester M25 1FN

T: 0161 870 3611

E: harry@tlcbc.co.uk
W: www.tlcbc.co.uk

PROPOSED NURSERY at
BURY & WHITEFIELD JEWISH PRIMARY SCHOOL
PARR LANE, WHITEFIELD, BURY

THE SPEAR TRUST
26 OLD HALL ROAD
SALFORD M7 4LH

ELEVATIONS 1	PLANS/003	1:200 @ A3	SPA	February 2014	-

PROPOSED SOUTH ELEVATION



PROPOSED WEST ELEVATION



PROPOSED EAST ELEVATION



BUILDING CONTRACTORS
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SALFORD M7 4JH

VIEWS 1	PLANS/005	TO SCALE @ A3	SPA	February 2014

Ward: Radcliffe - West

Item 06

Applicant: Altin Homes

Location: Bankside Mill, Chapelfield, Radcliffe, Manchester, M26 1JF

Proposal: Substitution of plots 3 and 10 to approval no. 56201 - Residential development of 14No. dwellings with associated site access, parking and landscape works.

Application Ref: 57487/Full **Target Date:** 11/06/2014

Recommendation: Minded to Approve

It is recommended that this application is Minded to Approve subject to the signing and completion of a deed of variation to link the application to the Section 106 agreement from the previously approved application (56201). Should the agreement not be signed and completed within a reasonable period, it is requested that the application be determined by the Development Manager.

Description
The application site is located off Stand Lane and consists of a mill building. The mill building was previously used manufacturing industrial cotton thread. However, the manufacturing process has ceased at the premises and the site is currently used for storage with ancillary offices. The application site slopes from east to west and from south to north.

There are residential properties to the north of the site and this development has been completed within the last year. Stand golf course is located to the west of the site with a public right of way heading away from the site to the north west. There are further residential developments to the east and south of the application site, accessed from Chapelfield.

Planning permission was granted in July 2013 for the demolition of the existing buildings and the erection of 14 dwellings, The proposed dwellings would be constructed from brick with vertical cladding with a tile roof and would be accessed from Chapelfield.

The proposed development involves the change of house types for plots 3 and 10. The amendments include the provision of a garage to plot 3 and a larger dwelling to plot 10, which woudl include a two storey rear extension.

Relevant Planning History
50782 - Outline application for residential development 14 houses including the means of access to the site at Bankside Mills, Chapelfield, Radcliffe. Approved with conditions - 22 April 2009

55056 - Application for a new planning permission to replace an extant planning permission, in order to extend the time limit for implementation - outline application for residential development - 14 houses including means of access (application no. 50782) at Bankside Mills, Chapelfield, Radcliffe. Approved with conditions - 22 May 2012.

55923 - Demolition of existing mill and offices and erection of 14 no. dwellings with associated site access, parking and landscape works at Bankside Mill, Chapelfield, Radcliffe. Withdrawn - 10 April 2013. The application was withdrawn so the correct certificate relating to ownership could be served.

55934 - Prior notification of proposed demolition of mill, office and warehouse at Bankside Mill, Chapelfield, Radcliffe. Prior approval required and refused - 6 February 2013.

56090 - Prior notification of proposed demolition of mill, office and warehouse at Bankside

Mill, Chapelfield, Radcliffe. Prior approval required and granted - 26 March 2013.

56201 - Demolition of existing mill and offices and erection of 14 no. dwellings with associated site access, parking and landscape works (resubmission of 55923) at Bankside Mill, Chapelfield, Radcliffe. Approved with conditions - 4 July 2013.

Publicity
The neighbouring properties were notified by means of a letter on 24 April 2014.

1 letter has been received from the occupiers of 29 Stonemere Drive, which has raised the following issues:

- There has been a significant amount of noise and dust coming from the site.
- The rear gardens of Stonemere Drive will be overlooked due to the elevated position of the proposed dwellings.

The objector has been notified of the Planning Control Committee meeting.

Consultations
Traffic Section - Comments awaited and will be reported in the Supplementary Report.
Drainage Section - Comments awaited and will be reported in the Supplementary Report.
Environmental Health - Contaminated Land - No objections, subject to the inclusion of conditions relating to contaminated land.
Public Rights of Way Officer - A public right of way (No. 7 St Johns Radcliffe) abuts the site. Recommend an informative relating to the public right of way.

Unitary Development Plan and Policies

EC2/2	Employment Land and Premises
H1/2	Further Housing Development
H2/1	The Form of New Residential Development
H2/2	The Layout of New Residential Development
EN1/1	Visual Amenity
EN1/2	Townscape and Built Design
EN1/3	Landscaping Provision
EN6	Conservation of the Natural Environment
EN6/3	Features of Ecological Value
EN7	Pollution Control
EN7/2	Noise Pollution
EN7/5	Waste Water Management
EN8	Woodland and Trees
EN8/2	Woodland and Tree Planting
RT2/2	Recreation Provision in New Housing Development
HT2/4	Car Parking and New Development
HT4	New Development
HT5/1	Access For Those with Special Needs
SPD1	Open Space, Sport and Recreation Provision
SPD6	Supplementary Planning Document 6: Alterations & Extensions
SPD11	Parking Standards in Bury
NPPF	National Planning Policy Framework

Issues and Analysis
The following report includes analysis of the merits of the application against the relevant polices of both the National Planning Policy Framework (NPPF) and the adopted Bury Unitary Development Plan (UDP) together with other relevant material planning considerations. The policies of the UDP that have been used to assess this application are considered to be in accordance with the NPPF and as such are material planning considerations. For simplicity, just the UDP Policy will be referred to in the report, unless there is a particular matter to highlight arising from the NPPF where it would otherwise be specifically mentioned.
Principle - The principle of residential development was established with the grant of

planning permission (56201) in July 2013, which is still a valid planning permission. Therefore, the proposed development would be in accordance with Policy H1/2 of the Bury Unitary Development Plan.

Design and layout - The proposed changes to plot 3 include the provision of a garage with a dormer window above the garage door. The proposed dormer would relate to a bathroom and as such, there would be no loss of privacy within the proposed development. The proposed garage would be constructed from brick with a tile roof, which would match the proposed dwellings and the existing dwellings in the locality. Therefore, the proposed development would not be a prominent feature within the streetscene and would be in accordance with Policies EN1/2, H2/1 and H2/2 of the Bury Unitary Development Plan.

The proposed dwelling for plot 10 would be two storeys in height with living accommodation within the roofspace. The main difference from the previously approved house type would be a two storey extension to the rear. The proposed dwelling would be in proportion in terms of size and scale and would include various details, such as headers and cills, pike detail to the front and dormers to the rear elevation to add visual interest to the elevations. The proposed dwelling would be constructed from brick with vertical cladding and a tile roof, which would match the existing and proposed dwellings in the locality. As such, the proposed development would add visual interest to the streetscene and would not be a prominent feature. Therefore, the proposed development would be in accordance with Policies EN1/2, H2/1 and H2/2 of the Bury Unitary Development Plan.

Impact upon surrounding area - The gardens to plots 3 and 10 would not be affected by the proposed changes and would be acceptable in terms of size in relation to the dwellings. There would be space within the rear gardens for bin storage. Therefore, the proposed development would be in accordance with Policies H2/1 and H2/2 of the Bury Unitary Development Plan.

Impact upon residential amenity - SPD6 contains guidance on aspect standards and as such, is relevant to this application.

There would be 19 metres between the rear elevation of the plot 3 and the blank gable of Nos 33 and 35 Stonemere Drive, which are approximately 2 - 3 metres lower than the application site. The proposed development includes the addition of a single storey garage with a bathroom in the roodspace to plot 3. There would be 15.6 metres between the proposed garage and the gable elevation of the existing dwellings on Stonemere Drive. Currently the existing mill building is located hard up to the boundary and the proposed development, including the garage would represent an improvement.

There would be 10.6 metres between the gable of plot 10 and the gable elevation of the existing flats on Chapelfield. The gable elevation of the existing flats is a blank wall and there would be secondary windows in the gable of the proposed dwelling. As such, the proposed development would not have an adverse impact upon the amenity of the neighbouring properties.

Therefore, the proposed development would be in accordance with the aspect distances in SPD6 and would not have an adverse impact upon the amenity of the neighbouring properties.

Highways issues - The proposed development would not affect the access arrangements from the approved scheme. The Traffic Section has no objections in principle, subject to the inclusion of conditions.
Parking - SPD11 states that the maximum parking standards are 2 spaces per 3 bed dwelling and 3 spaces per 4 bed dwelling, which equates to 5 spaces.

The proposed development would provide 3 parking spaces and a garage. The proposed development would have good access to public transport and as such, the level of parking provision would be acceptable. Therefore, the proposed development would be in

accordance with Policy HT2/4 of the Bury Unitary Development Plan and SPD11.

Planning obligations - A deed of variation is required to link the current application to the previous Section 106 agreement for recreation provision in accordance with Policy RT2/2 of the Bury Unitary Development Plan and SPD1.

Response to objectors
The issue of residential amenity has been addressed within the main report.

Statement in accordance with Article 31 Town and Country Planning (Development Management Procedure) (England) (Amendment) Order 2012
The proposal complies with the development plan and would improve the economic, social and environmental conditions of the area. It therefore comprises sustainable development and the Local Planning Authority worked proactively and positively to issue the decision without delay. The Local Planning Authority has therefore implemented the requirement in Paragraphs 186-187 of the National Planning Policy Framework.

Recommendation: Minded to Approve

Conditions/ Reasons

1. The development must be begun not later than three years beginning with the date of this permission.
   Reason. Required to be imposed by Section 91 Town & Country Planning Act 1990.

2. This decision relates to drawings numbered 1270 (PL) 107 E, 1270 (PL) 111, 12070 (PL) 114, 1270 (PL) 11 and the development shall not be carried out except in accordance with the drawings hereby approved.
   Reason. For the avoidance of doubt and to ensure a satisfactory standard of design pursuant to the policies of the Bury Unitary Development Plan listed.

3. Details/Samples of the (materials/bricks) to be used in the external elevations, together with details of their manufacturer, type/colour and size, shall be submitted to and approved in writing by the Local Planning Authority before the development is commenced. Only the approved materials/bricks shall be used for the construction of the development.
   Reason. In the interests of visual amenity and to ensure a satisfactory development pursuant to Policy EN1/2 - Townscape and Built Design of Bury Unitary Development Plan.

4. No development shall commence unless and until:-
   - A contaminated land Preliminary Risk Assessment report to assess the actual/potential contamination and/or ground gas/landfill gas risks at the site shall be submitted to, and approved in writing by, the Local Planning Authority;
   - Where actual/potential contamination and/or ground gas/landfill gas risks have been identified, detailed site investigation and suitable risk assessment shall be submitted to, and approved in writing by the Local Planning Authority;
   - Where remediation/protection measures is/are required, a detailed Remediation Strategy shall be submitted to, and approved in writing by, the Local Planning Authority.

   Reason. To secure the satisfactory development of the site in terms of human health, controlled waters, ground gas and the wider environment and pursuant to National Planning Policy Framework Section 11 - Conserving and enhancing the natural environment.

5. Following the provisions of Condition 4 of this planning permission, where remediation is required, the approved Remediation Strategy must be carried out to the satisfaction of the Local Planning Authority within agreed timescales; and

A Site Verification Report detailing the actions taken and conclusions at each stage of the remediation works, including substantiating evidence, shall be submitted to and approved in writing by the Local Planning Authority prior to the development being brought into use.
Reason. To secure the satisfactory development of the site in terms of human health, controlled waters and the wider environment and pursuant to National Planning Policy Framework Section 11 - Conserving and enhancing the natural environment.

6. All instances of contamination encountered during the development works which do not form part of an approved Remediation Strategy shall be reported to the Local Planning Authority (LPA) immediately and the following shall be carried out where appropriate:

- Any further investigation, risk assessment, remedial and / or protective works shall be carried out to agreed timescales and be approved by the LPA in writing;

- A Site Verification Report detailing the conclusions and actions taken at each stage of the works including validation works shall be submitted to, and approved in writing by, the LPA prior to the development being brought into use.

Reason. To secure the satisfactory development of the site in terms of human health and the wider environment and pursuant to National Planning Policy Framework Section 11 - Conserving and enhancing the natural environment.

7. Following the provisions of Condition 4 of this planning permission, where ground gas remediation / protection measures are required, the approved Remediation Strategy must be carried out to the written satisfaction of the Local Planning Authority within approved timescales; and
A Site Verification Report detailing the actions taken and conclusions at each stage of the remediation works, including substantiating evidence, shall be submitted to and approved in writing by the Local Planning Authority prior to the development being brought into use.
Reason. To alleviate any possible risk associated with the production of landfill gas and ground gas in accordance with the recommendations of the Environment Agency and pursuant to National Planning Policy Framework Section 11 - Conserving and enhancing the natural environment.

8. The demolition of the building hereby approved, shall be undertaken in accordance with the recommendations in the bat survey dated 21 March 2012.
Reason. In order to ensure that no harm is caused to a Protected Species pursuant to policies EN6 – Conservation of the Natural Environment and EN6/3 – Features of Ecological Value of the Bury Unitary Development Plan and Section 11 of the National Planning Policy Framework.

9. Provision for lifetime homes shall be incorporated into the development in accordance with a scheme to be submitted to and approved in writing by the Local Planning Authority prior to the development hereby approved commencing. The development shall then be carried out incorporating the measures in accordance with the approved scheme unless otherwise agreed in writing with the Local Planning Authority.
Reason. To ensure that the development is fully accessible to disabled persons pursuant to Policies HT5/1 – Access for Those with Special Needs of the Bury Unitary Development Plan.

10. No development shall commence unless or until a scheme for the disposal of foul and surface water drainage has been submitted to and approved in writing by the Local Planning Authority. The development shall be carried out in accordance with

the approved details.
Reason. To ensure a satisfactory means of drainage pursuant to Policy EN7/5 - Waste Water Management of the Bury Unitary Development Plan.

11. The car parking indicated on the approved plans shall be surfaced, demarcated and made available for use prior to first occupation of the dwellings hereby approved.
Reason. To ensure adequate off street car parking provision in the interests of road safety pursuant to Policy HT2/4 - Car Parking and New Development of the Bury Unitary Development Plan and SPD11 - Parking Standards.

12. The landscaping scheme (plan reference M2149.02E) hereby approved shall be implemented to the written satisfaction of the Local Planning Authority not later than 12 months from the date the building(s) is first occupied. Any trees or shrubs removed, dying or becoming severely damaged or becoming seriously diseased within 5 years of planting shall be replaced by trees or shrubs of a similar size and species to those originally required to be planted to the written satisfaction of the Local Planning Authority.
Reason. To secure the satisfactory development of the site and in the interests of visual amenity pursuant to Policy EN8/2 – Woodland and Tree Planting of the Bury Unitary Development Plan.

13. No development shall commence unless and until full details of measures to provide a temporary diversion of Public Footpath No. 7, St. John's, Radcliffe during the course of the construction of the proposed retaining wall abutting part of the public right of way and a programme of implementation have been submitted to and approved by the Local Planning Authority. The details subsequently approved shall be implemented in accordance with the agreed programme.
Reason. To ensure that adequate provision is made to accommodate users of the adjacent public right of way during construction of the proposed retaining wall pursuant to Policy RT3/4 - Recreational Routes of the Bury Unitary Development Plan.

14. No development shall commence unless and until full details of the proposed highway improvements indicated on the approved plans, comprising the provision of an turning head at the junction of the main site access with Chapelfield, reinstatement of the footpath adjacent to Plot 10, provision of dropped kerbs and road markings opposite Plot 10, replacement of the northerly footway on Chapelfield from Shuttle Street to it's cul-de-sac end and all associated remedial works, have been submitted to and agreed in writing with the Local Planning Authority. The details subsequently approved shall be implemented in accordance with the agreed programme of works.
Reason. To ensure good highway design in the interests of road safety and to maintain the integrity of the adopted highway pursuant to Policy H2/1 - The Form of New Residential Development and Policy H2/2 - The Layout of New Residential Development of the Bury Unitary Development Plan.

15. The visibility splays indicated on the approved plans shall be implemented before the site accesses are brought into use and subsequently maintained free of obstruction above the height of 0.6m.
Reason. To ensure the intervisibility of the users of the site and the adjacent highways in the interests of road safety pursuant to Policy H2/1 - The Form of New Residential Development and Policy H2/2 - The Layout of New Residential Development of the Bury Unitary Development Plan

16. The driveways shall be a minimum hardstanding of 5m measured from the private estate road boundary. The driveways shall be provided prior to first occupation of the dwellings and thereafter maintained.
Reason. To allow adequate space to maintain a vehicle clear of the highway in the interests of road safety pursuant to Policy H2/1 - The Form of New Residential

Development and Policy H2/2 - The Layout of New Residential Development of the Bury Unitary Development Plan

17. The turning facilities within the curtilage of the site indicated on the approved plans (or similar alternative provision that enables construction traffic to enter and leave the site in a forward gear which shall be submitted to and approved in writing with the Local Planning Authority) shall be provided before construction of the dwellings is commenced and shall subsequently be maintained free of obstruction at all times
Reason. To minimise the standing and turning movements of vehicles on the highway in the interests of road safety pursuant to Policy H2/1 - The Form of New Residential Development and Policy H2/2 - The Layout of New Residential Development of the Bury Unitary Development Plan.

18. Before the development is commenced, details shall be submitted to and approved by the Local Planning Authority to cover measures to ensure that all mud and other loose materials are not carried on the wheels and chassis of any vehicles leaving the site and measures to minimise dust nuisance caused by the operations. The approved details shall be implemented and maintained thereafter during the period of construction.
Reason. To ensure that the adopted highways are kept free of deposited material from the ground works operations pursuant to Policy H2/2 - The Layout of New Residential Development of the Bury Unitary Development Plan.

For further information on the application please contact **Helen Longworth** on **0161 253 5322**

Viewpoints



PLANNING APPLICATION LOCATION PLAN

APP. NO 57487

ADDRESS: Bankside Mill
Chapelfield
Radcliffe

Planning, Environmental and Regulatory Services **1:1250**

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Photo 1



Photo 2

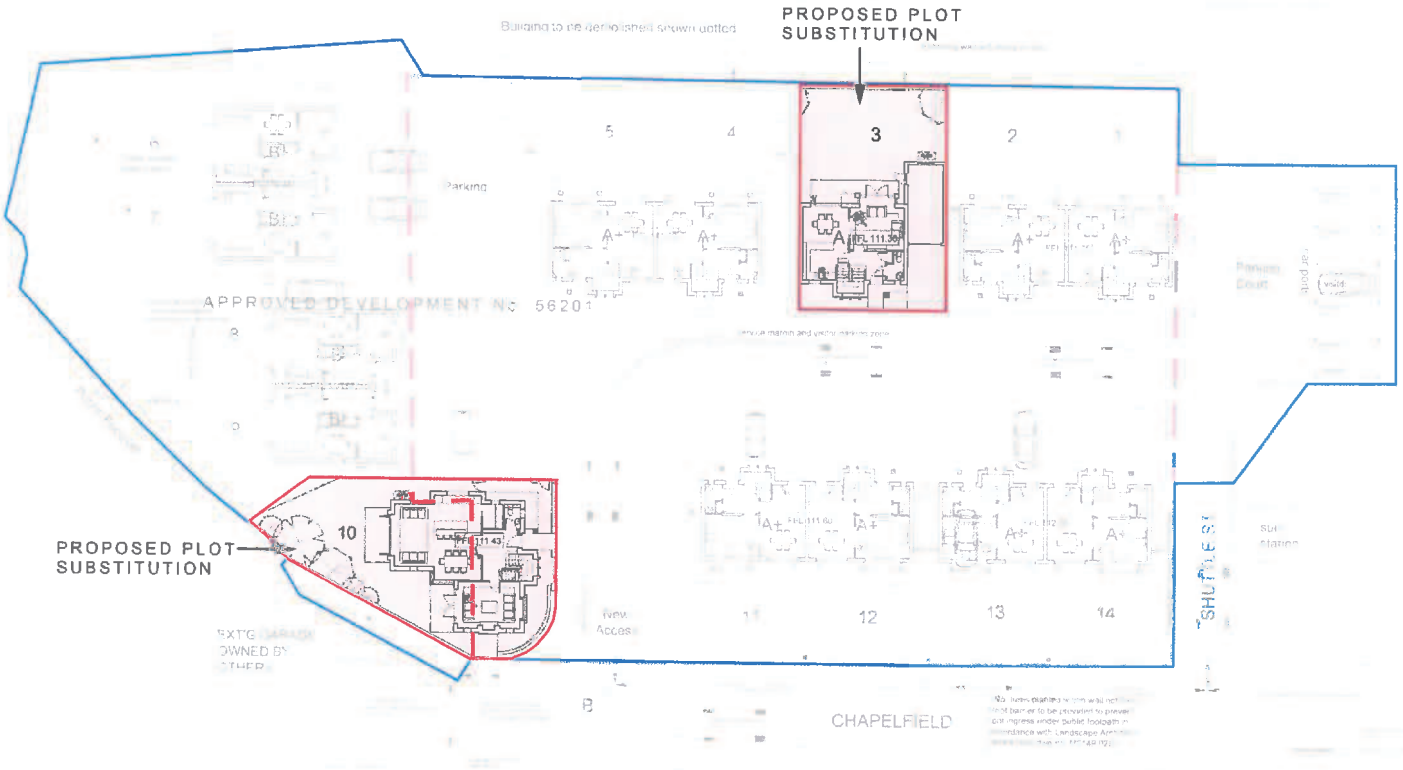


Photo 3



© calder peel partnership ltd

Scale Bar 1:200



Denotes approved site (app. no. 56201)

Denotes Plot Substitions

calderpeel fgp

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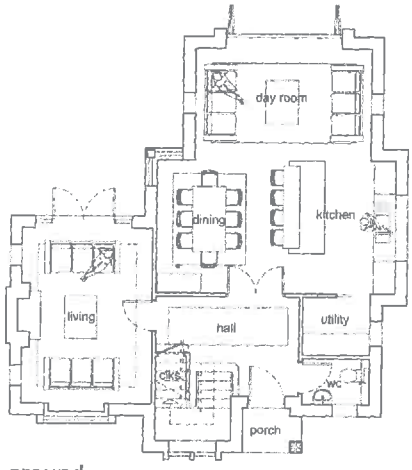
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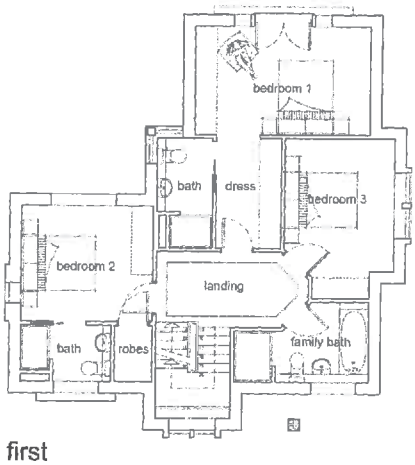
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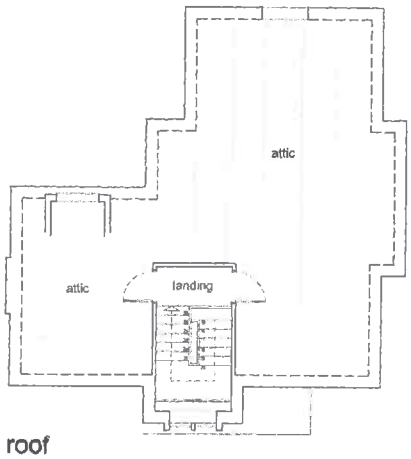
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ground



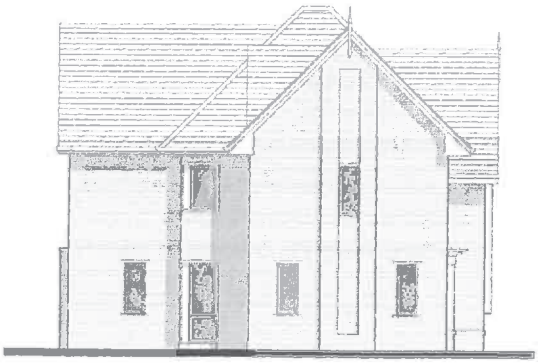
first



roof



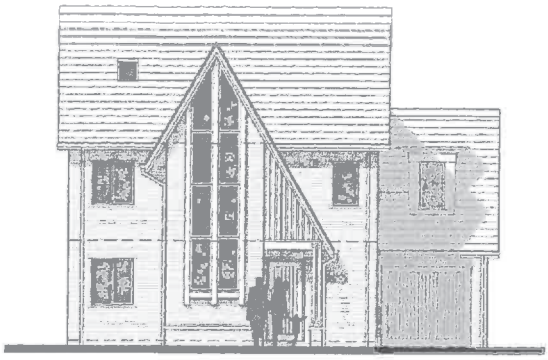
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side

plot 10 plans and elevations (1:100 @ A2)

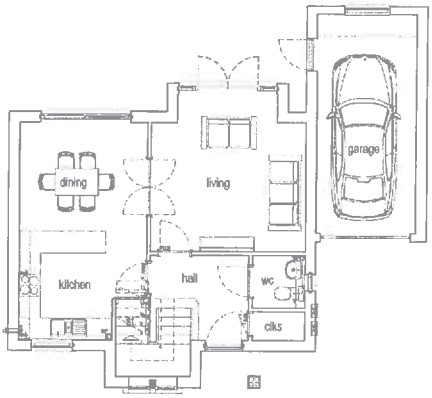
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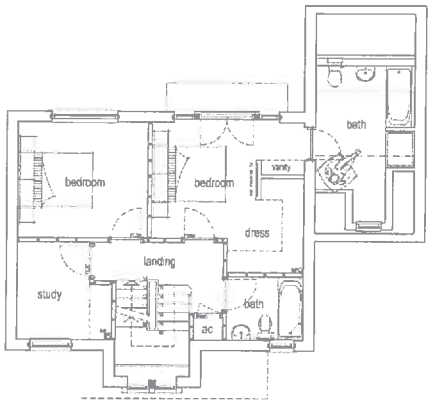
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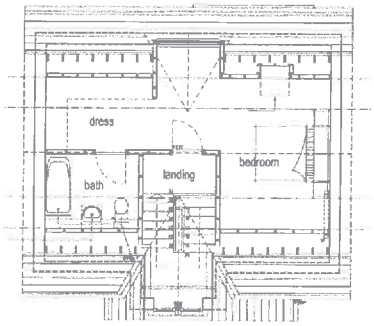
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ground



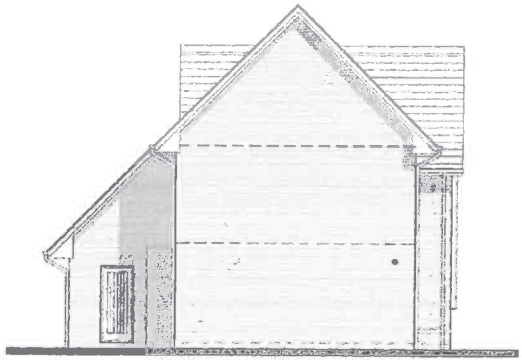
first



second



rear



side

Type A with attached garage (1:100 @ A2)

Ward: Radcliffe - East

Item 07

Applicant: Mr & Mrs Walker

Location: Spenside, Bury and Bolton Road, Radcliffe, Manchester, M26 4LA

Proposal: Erection of 4 no. detached dwellings

Application Ref: 57508/Full **Target Date:** 18/06/2014

Recommendation: Minded to Approve

The application has been advertised as a Departure from the Bury Unitary Development Plan.
It is recommended that this application is Minded to Approve subject to the signing and completion of a Section 106 agreement for recreation provision in accordance with Policy RT2/2 of the adopted Unitary Development Plan and SPD1. Should the agreement not be signed and completed within a reasonable period, it is requested that the application be determined by the Development Manager.

Description
The application refers to land located off Bury and Bolton Road and accessed via a private unadopted road. The site itself comprises Spendene, a single residential dwelling with detached garage to the southern part, stables, timber outbuildings and paddock to the east arranged around a concrete yard and a paddock to the west. Beyond the boundary of the site to the south is open land known as Spen Moor which has extant outline planning approval for 191 dwellings. To the north are detached houses Redcott and Spendene, with a cul de sac of residential properties on Spen Fold.

There are four trees to the centre of the site and 9 along the eastern boundary which are the subject to a TPO. Other hedgerows and trees are planted in and around the site and boundary treatment comprises a low timber post and rail fence.

The application seeks to develop the site for the erection of 4 detached 4/5 bed dwellings. Each property would have an integral garage and driveway with private amenity space. External elevations would be facing brickwork and slate tiled roofs with art stone band course detailing. Plots 1 and 2 would be sited to the west of Spendene in the paddock area, with plots 3 and 4 to the east on the footprint of the existing stables and paddock area.

The private access to Spendene would be retained and utilised for the development with turning areas and new driveways provided to each property. A dedicated hardstanding area for bins would be provided adjacent to a turning head further down the access road towards the Bury and Bolton Road on refuse collection days.

To facilitate the development , it is proposed to remove 4 trees, one of which would be a TPO tree, with the remaining trees on site retained. Replacement planting and a landscaping scheme has been proposed.

Relevant Planning History
43985 - Extension of existing bungalow; erection of new garage and stables - Approve with Conditions 18/03/2005
55003 - Outline - Residential development of 191 dwellings, creation of ecological enhancement ponds and access off Bury and Bolton Road - Approved 27/11/2012

Publicity
33 letters sent on 29/4/2014 to properties at Nos 1,2,3,2,4,6,8 Kensington Drive; ,5,7 Spen Fold; 1,2, and Middle Spen Moor; Spendene, Redcott, Higher Spen Moor Farm, Higher Spen Farm Cottage Bury Bolton Road; 565, 567, 569, 571, 573, 575, 581, 583, 588, 590,

592, 594, 596, 598, 600, 602, Peel Holdings The Trafford Centre.

Letter of support received from No 7 Spen Fold with the following comment:

- We support the submitted plans for this development. We think that the plans are very well thought out and most importantly have thought about the neighbours not being overlooked and the site not over developed. We would not be favour if the site was redesigned and the number or size of houses altered.

Comment received from No 5 Spen Fold with the following issue raised:

- Concerns about the water culvert to the rear of my property and the proposed new development. Require assurance that this will be improved and a detailed explanation of the proposal for the water culvert.

Objection from No 2 Spen Fold withdrawn.

Those who have expressed an interest have been informed of the Planning Control Committee meeting.

Consultations

Traffic Section - No objection subject to conditions.
Drainage Section - No objections in principle. Further comments and recommended conditions will be reported in the Supplementary Agenda.
Environmental Health Contaminated Land - No objection subject to conditions.
Waste Management - No objection.
Greater Manchester Ecology Unit - No objections subject to the inclusion of conditions relating to ecological mitigation measures.
Minerals and Waste Planning Unit (Urban Vision Partnership Ltd) - No objection. Prior mineral extraction may be considered inappropriate

Unitary Development Plan and Policies

NPPG	National Planning Policy Guide
H1/2	Further Housing Development
H2/1	The Form of New Residential Development
H2/2	The Layout of New Residential Development
EN1/1	Visual Amenity
EN1/2	Townscape and Built Design
EN6	Conservation of the Natural Environment
EN6/3	Features of Ecological Value
EN8/2	Woodland and Tree Planting
EN9	Landscape
OL1	Green Belt
OL1/2	New Buildings in the Green Belt
OL2/1	Development on Other Protected Open Land
HT2/4	Car Parking and New Development
HT4	New Development
RT2/2	Recreation Provision in New Housing Development
SPD1	Open Space, Sport and Recreation Provision
SPD6	Supplementary Planning Document 6: Alterations & Extensions
EN6/2	Sites of Nature Conservation Interest LNR's

Issues and Analysis

The following report includes analysis of the merits of the application against the relevant polices of both the National Planning Policy Framework (NPPF) and the adopted Bury Unitary Development Plan (UDP) together with other relevant material planning considerations. The policies of the UDP that have been used to assess this application are considered to be in accordance with the NPPF. For simplicity, just the UDP Policy will be referred to in the report, unless there is a particular matter to highlight arising from the NPPF where it would otherwise be specifically mentioned.

Green Belt Principle - With regard to the change of use of land in the Green Belt, the proposal would partly be in existing residential use, but the majority would be on land currently in use for stables and paddocks, which are outdoor recreation uses. Therefore, the proposal involves a change of use from outdoor recreation to residential and as such would be treated as inappropriate development in the Green Belt by virtue of this change of use not being covered under para 90 of the NPPF.

New buildings are not permitted in the Green Belt unless they meet the exceptions in para 89 of the NPPF. Residential development does not meet any of the exceptions and as such the proposed houses are also inappropriate development.

Inappropriate development is by definition harmful to the Green Belt and should not be approved except in Very Special Circumstances (VSC). The applicant has put forward three material considerations in favour of the development which forms their case for VSC:

1. **The approved residential development at Spen Moor to the south** - The application site is an isolated piece of Green Belt land which is sandwiched between the established residential area directly to the north and beyond Bury and Bolton Road, and the land to the east, south and west is the subject of an extant planning permission for outline residential development for 191 houses. The application site is "isolated" Green Belt land, which could essentially be further disconnected from the surrounding land uses by the Spen Moor development. As such, this is a material consideration and would be accepted as a Very Special Circumstance.
2. **Previously developed site within an established residential area** - This is not a consideration that is unique to form part of the case for VSC for justifying inappropriate development in the Green Belt. Furthermore, whilst the site would theoretically be surrounded by residential uses, the site would not be considered as wholly brownfield land as stables and paddocks do not come under the definition in national planning policy. As such, this is not a consideration that is unique to form part of the case for VSC.
3. **Sustainable development and deliverable residential development** - This is not a unique consideration for justifying inappropriate development in the Green Belt and therefore this should not form part of the VSC.

In view of the VSC case put forward by the applicant, it is considered that whilst the proposed residential development would be inappropriate development in the Green Belt, the material consideration of the approved residential development at Spen Moor constitutes VSC which would clearly outweigh the harm which would be caused to the Green Belt by reason of inappropriateness.

Housing Principle - Following revocation of the North West Regional Spatial Strategy on 20 May 2013, there is no statutory housing target for Bury. Work is in progress on Bury's Local Plan - "The Core Strategy", which will bring forward a new statutory housing target. It is currently proposed that the new housing target in the Local Plan should be set at 400 dwellings per annum, which is currently timetabled to be adopted in 2014.

In the meantime, the National Planning Policy Framework should be treated as a material planning consideration and it emphasises the need for local planning authorities to boost the supply of housing to meet local housing targets in both the short and long term. There is a particular emphasis, as in previous national planning guidance, to identify a rolling five year supply of deliverable housing land.

UDP Policy H1/2 states that the Council will have regard to various factors when assessing a proposal for residential development, including whether the proposal is within the urban area, the availability of infrastructure, the need to avoid the release of peripheral open land unless it can be shown to be consistent with urban regeneration, and the suitability of the site, with regard to amenity, the nature of the local environment and the surrounding land uses.

UDP Policies H2/1 - The Form of New Residential Development and H2/2 - The Layout of New Residential Development takes into consideration factors relating to the impact of developments on residential amenity, the density and character of the surrounding area and the position and proximity of neighbouring properties. Regard is also given to materials, design and form of developments, parking provision and access, landscaping and protection of trees/hedgerows and external areas.

Supplementary Planning Document 6 - Alterations and Extensions to Residential Properties provides useful guidance in terms of acceptable aspect standards between dwellings.

The site is located directly adjacent to residential properties to the north, and would not extend beyond the existing residential curtilage of the Spenside dwelling. There is existing infrastructure in place to support the additional houses and the layout demonstrates that the site could satisfactorily accommodate the development in relation to surrounding properties, access and parking.

As such, the principle is in general accordance with local planning policy H1/2 - Further Housing Development and complies with national planning policy.

Layout - Although the site is relatively large, there are a number of constraints which include the trees subject to a TPO, the existing access road and the property Spendene. These have dictated both the density of the development as well as the siting of the houses which has resulted in a development comprising a lesser dense scheme of modest sized family accommodation, which would be arranged around the trees as far as possible and utilise the land in the applicant's ownership to the best potential.

Plots 1 and 2 would be positioned in the paddock to the west of Spendene, with plots 3 and 4 to the east of the house, utilising the paddock and stabling area. Each dwelling would have a double driveway and garden with bin store areas. The private access would be extended to run either side of Spendene to serve the new properties, and designed to have the least impact as possible on the trees.

The scheme would also take into account the position of the existing properties and given the arrangement and distances away, the siting of the new houses would respect the privacy of these properties.

The low density approach to the site would also ensure that the existing access out onto Bury and Bolton Road would not be intensified to such a degree to cause concern for the existing or future occupiers, as well as satisfying the highways team.

A communal point for bins on collections days would be provided adjacent to the turning area on the access lane and the waste management team have not raised any issue with this been consulted and have not raised any issue with this arrangement.

As such, the proposed layout is considered to be acceptable and would comply with UDP Policies H2/1 - The Form of Residential Development and H/2 - The Layout of New Residential Development.

Design and appearance - The development would comprise 4 new dwellings, each 2 storey detached with 4/5 bedrooms. Three house types are proposed on similar design themes with the aim of delivering modern family sized accommodation. Elevations would be constructed of facing brick work, grey slate roof tiles and art stone heads and cills to light oak framed window fittings. Materials to be agreed would be subject to a planning condition. In terms of design the proposed houses are considered to reflect the character, context, scale and massing of Spenside and the properties to the north.
Gardens would be landscaped and bounded at the rear with a 1.2m timber post and rail fence which would integrate with the existing site boundary. The newly created access to the properties would replicate the existing gravel surfacing, which would lead to permeable brick paved driveways.

Whilst the site is located off the main road and generally out of public view, the design and appearance of the properties are considered to reinforce and reflect the general character of the residential area and as such be in compliance with EN1/1 - Visual amenity, EN1/2 - Townscape and Built Design and H2/1 - The Form of New Residential Development.

Impact upon residential amenity - SPD 6 advises separation distances between properties and habitable room windows, with 20m separation sought to be maintained between habitable room windows.

There would be a separation distance of more than 20m from plots 1 and 2 to Redcott and Spendene respectively. Plot 3 would be separated by 21.5m from No 7 Spen Fold and the nearest elevation of Plot 4 to No 7 would have a blank gable wall and a separation distance of 20.8m, with 27.5m separation from the nearest habitable room window. Both these plots would be orientated such that there would not be a direct relationship to the existing houses and therefore no overlooking or privacy issues.

In terms of the relationship to Spendene, aspect standards would be achieved.

The scheme would therefore comply with UDP Policies H2/1 - The Form of New Residential Development and H2/2 - The Layout of New Residential Development and SPD6.

Parking and access - Access to the new properties would be via the existing private lane with improvements made to the junction with Bury and Bolton Road including a kerbed radius and resurfacing. A turning head would also be provided along the access road. Whilst the development would result in more vehicles using this access from Bury and Bolton Road, it is considered 4 additional houses would not result in significantly higher levels of traffic to and from the area.

Integral garages and double driveways to each property would ensure adequate in-curtilage parking would be provided.

The Traffic section has no objection to the proposed development subject to the recommended improvements and the submission of details for the provision of construction traffic, which would be secured by conditions.

As such, the proposals would comply with HT2/4 - Car Parking and New Development, HT6/2 - Pedestrian/Vehicular Conflict and H2/2 - The Layout of New Residential Development.

Trees - The development would result in the removal of two trees, one under a TPO, which is located centrally within the site. None of these trees have been categorised as being high quality or of significant amenity value. All other trees would be retained on site and would be subject to protection measures during construction works.

A landscaping scheme has been submitted which proposes replacement tree planting as well as a new hedgerow along the southern boundary. GMEU are satisfied with the proposals to support the loss of bird nesting habitat and the extent of mitigation planting, both of which would be confirmed by condition.

As such, the proposals are considered to be acceptable and would comply with EN1/2 - Townscape and Built Design, H2/2 - The Layout of New Residential Development and EN8/2 - Woodland and Tree Planting.

Ecology - There are a number of potential ecological constraints associated with this development, the most significant being the proximity to the possible great crested newt breeding pond at Spen Moor. Other ecological issues include nesting birds, invasive species, bats, the loss of two mature trees and ecological mitigation. An Ecological Assessment has been submitted and GMEU have been consulted on the application.

Great Crested Newts - The developer accepts the presence of great crested newts and in consultation with GMEU has proposed reasonable avoidance measures (RAMs) as opposed to applying for a license. The GMEU accepts that the scale of the development is such that it is theoretically feasible to apply RAMs to this development, providing they are particularly detailed and closely monitored. The applicant's ecology consultant has provided a RAM statement and in a revised report has detailed safeguards and measures with which the GMEU are satisfied. A condition has been recommended that the detailed RAMs are put in place prior to any works on site and during the development.

Bats - Two mature trees assessed as bat roosting potential would be lost as a result of the development. The survey identified that there were no obvious roosts. GMEU are satisfied that the overall risk is low, but recommend a condition that a precautionary aerial assessment should occur prior to the felling of the trees.

Nesting birds - Potential bird nesting habitat would be lost as a result of the development. A condition to restrict vegetation removal would be applied unless a detailed survey to confirm there are no bird nests present is provided to the LPA.

Invasive species - Two species listed under Schedule 9 part 2 of the Wildlife and Countryside Act 1981 (as amended) were identified during the ecological assessment. The timing of the survey was such that species such as Himalayan balsam may have been missed. Whilst this species is known to occur on the adjacent land along the Brook immediately to the east, the risk of heavy infestation is however low as the fields are grazed with the balsam are likely to be restricted to the hedgerows. Therefore to survey the area, including a method statement detailing avoidance, control and eradication measures will be included as a condition.

Ecological mitigation - In order to ensure no net loss of biodiversity as recommended under section 109 of the NPPF ecological mitigation should occur for the loss of the two mature trees, bird nesting habitat and potential bat roosting habitat and potentially for loss of great crested newt terrestrial. A new hedge is proposed along the southern boundary of the development which would be adequate for loss of bird nesting habitat in the medium to long term. The provision of bird and bat boxes in the interim has been recommended by the ecology consultant. Replacement trees would also be required. As such, it is considered that a landscape and ecological enhancement plan to be submitted for approval would be appropriate to secure sufficient ecological enhancement of the site.

Response to objector - It is proposed to utilise the existing drainage connection within the site ownership of the applicant. The drainage engineer has no objections in principle to the proposed development. A condition which will be finalised in the Supplementary Agenda, will seek details of a drainage scheme to be submitted for approval before any works could commence.

Statement in accordance with Article 31 Town and Country Planning (Development Management Procedure) (England) (Amendment) Order 2012
The Local Planning Authority worked positively and proactively with the applicant to identify various solutions during the application process to ensure that the proposal comprised sustainable development and would improve the economic, social and environmental conditions of the area and would accord with the development plan. These were incorporated into the scheme and/or have been secured by planning condition. The Local Planning Authority has therefore implemented the requirement in Paragraphs 186-187 of the National Planning Policy Framework.

Recommendation: Minded to Approve

Conditions/ Reasons

1. The development must be begun not later than three years beginning with the date of this permission.

Reason. Required to be imposed by Section 91 Town & Country Planning Act 1990.

2. This decision relates to drawings 14/1050/100 - Location Plan; 13/1050/101 Existing site plan; 13/1050/201 Proposed site plan; TRI-11152-01, TRI-1152-02 TRI-1152-03 Existing site survey; M98/BL/LAND/01A Landscape Planting Plan; Planning Design and Access Statement 16th April 2014; Geoenvironmental Site Investigation Report April 2014 E0040 IW; Aboricultural Method Statement and Implications Assessment 7 April 2014 ref TRE/SBBR; Ecological Assessment TEP Report Ref:4400.001 April 2014 Version 2.0 and the development shall not be carried out except in accordance with the drawings hereby approved.
Reason. For the avoidance of doubt and to ensure a satisfactory standard of design pursuant to the policies of the Bury Unitary Development Plan listed.

3. No development shall commence unless and until:-
   - A contaminated land Preliminary Risk Assessment report to assess the actual/potential contamination and/or ground gas/landfill gas risks at the site shall be submitted to, and approved in writing by, the Local Planning Authority;
   - Where actual/potential contamination and/or ground gas/landfill gas risks have been identified, detailed site investigation and suitable risk assessment shall be submitted to, and approved in writing by the Local Planning Authority;
   - Where remediation/protection measures is/are required, a detailed Remediation Strategy shall be submitted to, and approved in writing by, the Local Planning Authority.

   Reason. To secure the satisfactory development of the site in terms of human health, controlled waters, ground gas and the wider environment and pursuant to National Planning Policy Framework Section 11 - Conserving and enhancing the natural environment.

4. Following the provisions of Condition 3 of this planning permission, where remediation is required, the approved Remediation Strategy must be carried out to the satisfaction of the Local Planning Authority within agreed timescales; and
A Site Verification Report detailing the actions taken and conclusions at each stage of the remediation works, including substantiating evidence, shall be submitted to and approved in writing by the Local Planning Authority prior to the development being brought into use.
Reason. To secure the satisfactory development of the site in terms of human health, controlled waters and the wider environment and pursuant to National Planning Policy Framework Section 11 - Conserving and enhancing the natural environment.

5. Any soil or soil forming materials brought to site for use in garden areas, soft landscaping, filling and level raising shall be tested for contamination and suitability for use on site. Proposals for contamination testing including testing schedules, sampling frequencies and allowable contaminant concentrations (as determined by appropriate risk assessment) and source material information shall be submitted to and approved in writing by the Local Planning Authority prior to any soil or soil forming materials being brought onto site, and;
The approved contamination testing shall then be carried out and validatory evidence (soil descriptions, laboratory certificates, photographs etc) submitted to and approved in writing by the Local Planning Authority prior to the development being brought into use.
Reason. To secure the satisfactory development of the site in terms of human health, controlled waters and the wider environment and pursuant to National Planning Policy Framework Section 11 - Conserving and enhancing the natural environment.

6. All instances of contamination encountered during the development works which do not form part of an approved Remediation Strategy shall be reported to the

Local Planning Authority (LPA) immediately and the following shall be carried out where appropriate:

- Any further investigation, risk assessment, remedial and / or protective works shall be carried out to agreed timescales and be approved by the LPA in writing;

- A Site Verification Report detailing the conclusions and actions taken at each stage of the works including validation works shall be submitted to, and approved in writing by, the LPA prior to the development being brought into use.

Reason. To secure the satisfactory development of the site in terms of human health and the wider environment and pursuant to National Planning Policy Framework Section 11 - Conserving and enhancing the natural environment.

7. Following the provisions of Condition 3 of this planning permission, where ground gas remediation / protection measures are required, the approved Remediation Strategy must be carried out to the written satisfaction of the Local Planning Authority within approved timescales; and
A Site Verification Report detailing the actions taken and conclusions at each stage of the remediation works, including substantiating evidence, shall be submitted to and approved in writing by the Local Planning Authority prior to the development being brought into use.
Reason. To alleviate any possible risk associated with the production of landfill gas and ground gas in accordance with the recommendations of the Environment Agency and pursuant to National Planning Policy Framework Section 11 - Conserving and enhancing the natural environment.

8. No development, earthworks or machinery shall be brought on or carried out on the site until all fencing, signage and other stated measures have been implemented in accordance with the approved reasonable avoidance measures as detailed in the Revised Ecological Assessment (TEP Report Ref: 4400.001) April 2014 Version 2.0. All measures within the reasonable avoidance measures method statement shall be carried out throughout the development in accordance with the approved details.
Reason. To ensure there is no undue harm upon any ecologically protected species pursuant to Bury Unitary Development Plan Policy EN6/3 - Features of Ecological Value and Chapter 11 - Conserving and Enhancing the Natural Environment of the National Planning Policy Framework.

9. Prior to the felling of any category two mature trees, a precautionary aerial bat assessment shall be carried out by a suitably experienced person and the results supplied to and agreed in writing by the Local Planning Authority.
Reason. In order to ensure that no harm is caused to a Protected Species pursuant to policies EN6 – Conservation of the Natural Environment and EN6/3 – Features of Ecological Value of the Bury Unitary Development Plan and Section 11 of the National Planning Policy Framework.

10. No works shall be carried out to the trees or shrubs between 1st March and 31st August inclusive in any year unless a detailed bird nest survey by a suitably experienced ecologist has been carried out immediately prior to clearance and written confirmation provided that no bird nests are present, to the Local Planning Authority.
Reason. In order to ensure that no harm is caused to a Protected Species pursuant to policies EN6 – Conservation of the Natural Environment and EN6/3 – Features of Ecological Value of the Bury Unitary Development Plan and National Planning Policy Framework Section 11 - Conserving and enhancing the natural environment and section 1 of the Wildlife and Countryside Act 1981, as amended.

11. Prior to any earthworks, a survey for invasive plant species (as listed under schedule 9 part 2 of the Wildlife and Countryside Act 1981) including Japanese knotweed and himalayan balsam will occur at an appropriate time of year and the finding supplied to and approved by the Local Planning Authority. Prior to any earthworks, a method statement detailing avoidance, control and eradication measures should be suppled for mobrieta, variegated yellow archangel and any other species located during the survey shall be supplied to and approved by the Local planning Authority. The approved survey and statements shall be carried out in accordance with the approved details only.
Reason. To ensure that the site is free from invasive plant species in the interest of UDP Policy EN9 - Landscape and pursuant to the Countryside and Wildlife Act 1981 as amended.

12. No development shall commence until a landscape and ecological enhancement plan (including measures to mitigate for the loss of mature trees and bird nesting habitat) has been submitted to and approved by the Local Planning Authority. The approved plan shall be implemented in accordance with the approved details.
Reason. In order to ensure no loss of ecological importance and biodiversity pursuant to UDP Policy EN6 - Conservation of the Natural Environment and chapter 11 - Conserving and enhancing the natural environment of the NPPF.

13. The development shall be carried out in accordance with the tree protection measures detailed in the Aboricultural method Statement dated 7 April 2014 ref TRE/SBBR. The development shall not commence unless and until the measures required by that scheme have been implemented and all measures required by the scheme shall continue until the development has been completed.
Reason. To avoid the loss of trees which are of amenity value to the area pursuant to Policy EN1/2 - Townscape and Built Design and EN8/2 – Woodland and Tree Planting of the Bury Unitary Development Plan.

14. The development hereby approved shall not be first occupied unless and until the access improvements at the junction of the site access with Bolton Road and on the private access road to form a passing place and turning head to the north of the gated entrance to the site indicated on approved plan reference 13/1050/201 have been implemented in full to the written satisfaction of the Local Planning Authority.
Reason. To ensure good highway design in the interests of road safety and to maintain the integrity of the adopted highway pursuant to Bury Unitary Development Plan Policies H2/2 – The layout of New Residential Development and HT6/2 – Pedestrian/Vehicular Conflict.

15. The turning facilities indicated on approved plan reference 13/1050/201 (or similar alternative provision that enables construction traffic to enter and leave the site in a forward gear agreed in writing with the Local Planning Authority) shall be provided before construction of the dwellings is commenced and shall subsequently be maintained free of obstruction at all times.
Reason. To minimise the standing and turning movements of vehicles on the highway in the interests of road safety pursuant to Bury Unitary Development Plan Policies H2/2 – The layout of New Residential Development and HT6/2 – Pedestrian/Vehicular Conflict.

16. The bin collection hardstanding area indicated on approved plan reference 13/1050/201 shall be provided before the dwellings hereby approved are first occupied and shall subsequently be maintained therafter for this use.
Reason. To ensure adequate off-highway refuse collection facilities are provided, in the interests of pedestrian safety pursuant to Bury Unitary Development Plan Policies H2/2 – The layout of New Residential Development and HT6/2 – Pedestrian/Vehicular Conflict.

17. The Developer, within one week of the commencement of development, shall

ensure that there is provision to be made for the parking on site of operatives' and construction vehicles together with storage on site of construction materials. The provision shall be retained and used for the intended purpose for the duration of the construction period and that area shall not be used for any other purposes other than the parking of vehicles and storage of construction materials respectively.
Reason. To ensure adequate off street car parking and materials storage provision for the duration of the construction period in the interests of road safety pursuant to Bury Unitary Development Plan Policies HT 4 - New Development.

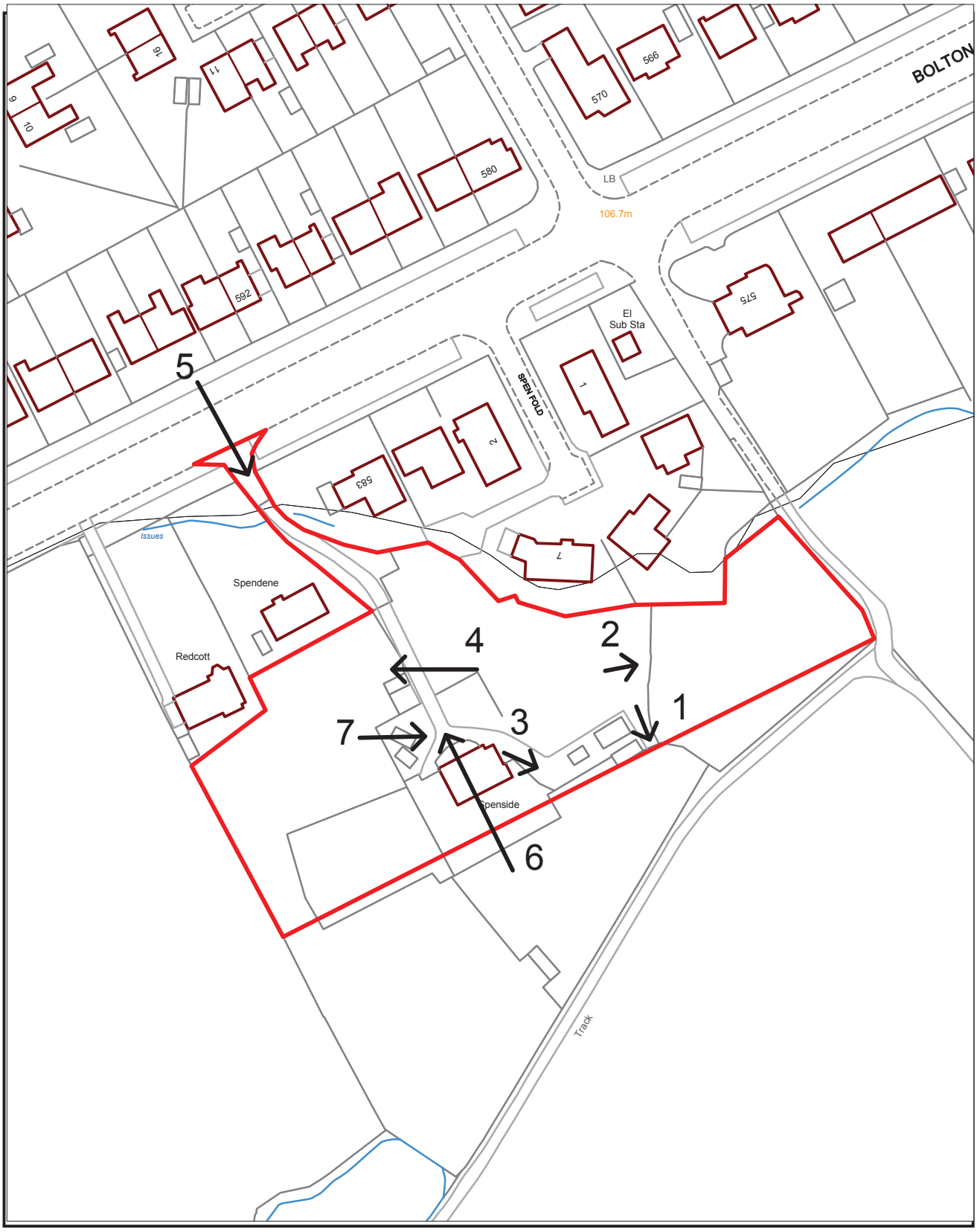
18. Before the development is commenced, details shall be submitted to and approved by the Local Planning Authority to cover measures to ensure that all mud and other loose materials are not carried on the wheels and chassis of any vehicles leaving the site and measures to minimise dust nuisance caused by the operations. The approved details shall be implemented and maintained thereafter during the period of construction.
Reason. To ensure that the adopted highways are kept free of deposited material from the ground works operations pursuant to Bury Unitary Development Plan Policy EN1/2 - Townscape and Built Design.

19. The car parking indicated on the approved plans shall be surfaced, demarcated and made available for use prior to the first occupation of the dwellings hereby approved.
Reason. To ensure adequate off street car parking provision in the interests of road safety pursuant to policy HT2/4 - Car Parking and New Development of the Bury Unitary Development Plan.

20. Details/Samples of the materials, bricks, tiles to be used in the external elevations, together with details of their manufacturer, type/colour and size, shall be submitted to and approved in writing by the Local Planning Authority before the development is commenced. Only the approved materials/bricks/tiles shall be used for the construction of the development.
Reason. In the interests of visual amenity and to ensure a satisfactory development pursuant to Policy EN1/2 - Townscape and Built Design of Bury Unitary Development Plan.

For further information on the application please contact **Jennie Townsend** on **0161 253-5320**

Viewpoints



PLANNING APPLICATION LOCATION PLAN

APP. NO 57508

ADDRESS: Spenside, Bury & Bolton Road Radcliffe

N W E S

Bury COUNCIL

Planning, Environmental and Regulatory Services **1:1250**

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Photo 1



Photo 2



Photo 3



Photo 4



Photo 5



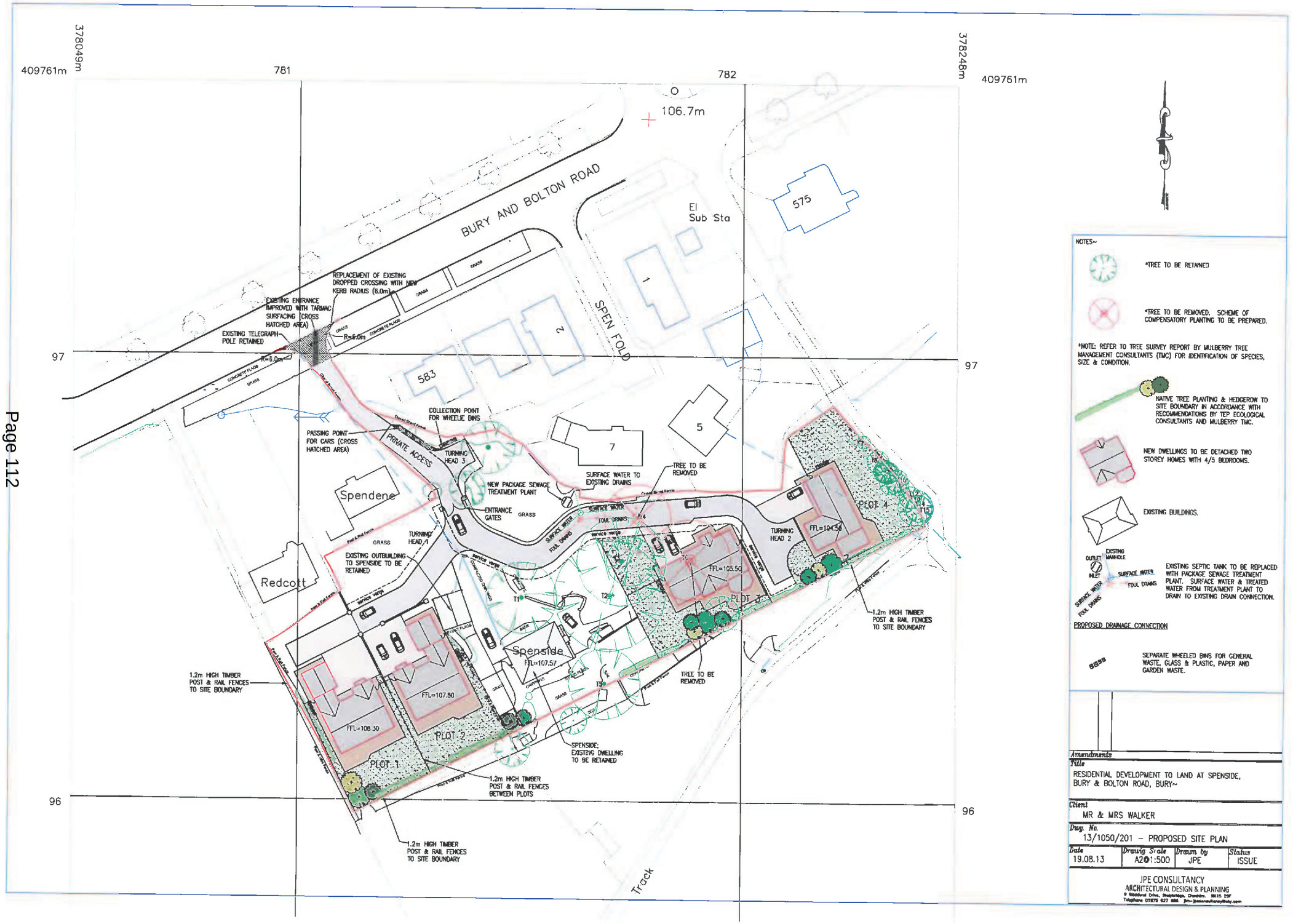
Photo 6



Photo 7




378049m
409761m
781
782
378248m
409761m
106.7m
BURY AND BOLTON ROAD
SPEN FOLD
El Sub Sta
575
583
1
2
EXISTING ACCESS ONTO BURY AND BOLTON ROAD
Issues
PRIVATE ACCESS
Spendene
EXISTING ACCESS
Redcott
OUTBUILDING
SPENSIDE; EXISTING DWELLING TO BE RETAINED
Spenside
STABLES
YARD
PADDOCK
GARDENS
Road Const. & Ward Bdy
CR
97
96
Track
T1
T2
T3
T4
T5
T6
T7
T8
T15
NOTES~
*TREE TO BE RETAINED
*TREE TO BE REMOVED. SCHEME OF COMPENSATORY PLANTING TO BE PREPARED.
*NOTE: REFER TO TREE SURVEY REPORT BY MULBERRY TREE MANAGEMENT CONSULTANTS (TMC) FOR IDENTIFICATION OF SPECIES, SIZE & CONDITION.
Amendments
Title
RESIDENTIAL DEVELOPMENT TO LAND AT SPENSIDE, BURY & BOLTON ROAD, BURY~
Client
MR & MRS WALKER
Dwg. No.
13/1050/101 – EXISTING SITE PLAN
Date
19.08.13
Drawing Scale
A2@1:500
Drawn by
JPE
Status
ISSUE
JPE CONSULTANCY
ARCHITECTURAL DESIGN & PLANNING



Page 112

NOTES~

*TREE TO BE RETAINED

*TREE TO BE REMOVED. SCHEME OF COMPENSATORY PLANTING TO BE PREPARED.

*NOTE: REFER TO TREE SURVEY REPORT BY MULBERRY TREE MANAGEMENT CONSULTANTS (TMC) FOR IDENTIFICATION OF SPECIES, SIZE & CONDITION.

NATIVE TREE PLANTING & HEDGEROW TO SITE BOUNDARY IN ACCORDANCE WITH RECOMMENDATIONS BY TEP ECOLOGICAL CONSULTANTS AND MULBERRY TMC.

NEW DWELLINGS TO BE DETACHED TWO STOREY HOMES WITH 4/5 BEDROOMS.

EXISTING BUILDINGS.

EXISTING MANHOLE
OUTLET
INLET
SURFACE WATER
FOUL DRAINS

EXISTING SEPTIC TANK TO BE REPLACED WITH PACKAGE SEWAGE TREATMENT PLANT. SURFACE WATER & TREATED WATER FROM TREATMENT PLANT TO DRAIN TO EXISTING DRAIN CONNECTION.

PROPOSED DRAINAGE CONNECTION

SEPARATE WHEELED BINS FOR GENERAL WASTE, GLASS & PLASTIC, PAPER AND GARDEN WASTE.

Amendments

Title
RESIDENTIAL DEVELOPMENT TO LAND AT SPENSIDE, BURY & BOLTON ROAD, BURY~

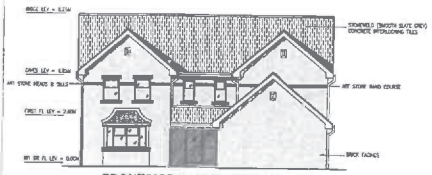
Client
MR & MRS WALKER

Dwg. No.
13/1050/201 – PROPOSED SITE PLAN

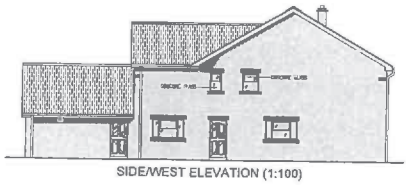
Date	Drawig Scale	Drawn by	Status
19.08.13	A2●1:500	JPE	ISSUE

JPE CONSULTANCY
ARCHITECTURAL DESIGN & PLANNING
9 Woodland Drive, Shaftenhoe, Cheshire. SK15 2SF
Telephone 07879 627 886 jpe-jpeconsultancy@sky.com

PLOT 1 RESIDENTIAL DEVELOPMENT AT SPENSIDE~



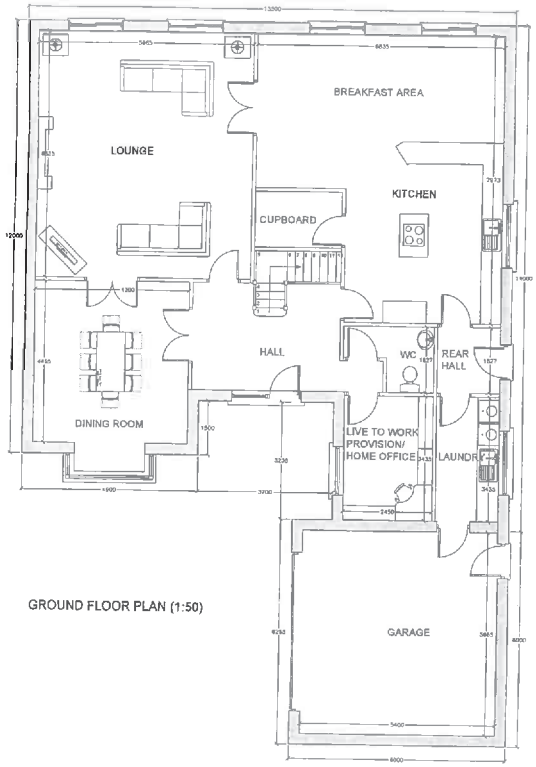
FRONT/NORTH ELEVATION (1:100)



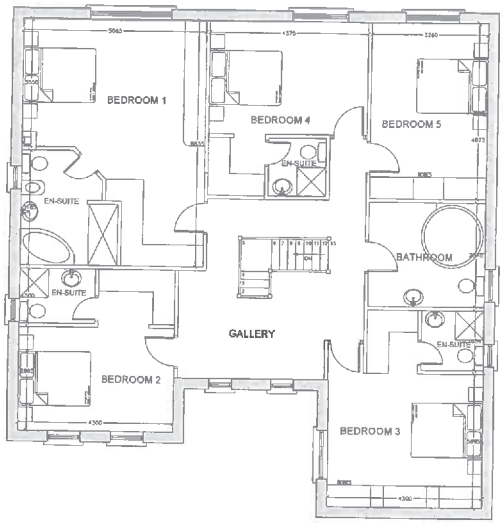
SIDE/WEST ELEVATION (1:100)



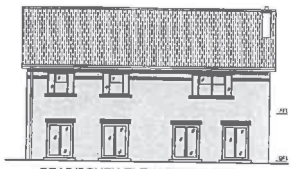
SIDE/EAST ELEVATION (1:100)



GROUND FLOOR PLAN (1:50)



FIRST FLOOR PLAN (1:50)



REAR/SOUTH ELEVATION (1:100)

NOTES~

Gross Internal Floor Area (GIA)
Ground floor = 152.8 sq m (1,643 sq ft)
First floor = 151.1 sq m (1,626 sq ft)
total accommodation = 303.7 sq m (3,269 sq ft)

A DEC 14 PC: BALCONY REMOVED FROM REAR BROKEN BEDROOM & DOORS REPLACED WITH WINDOW

Amendments

Title
RESIDENTIAL DEVELOPMENT AT SPENSIDE, BURY AND BOLTON ROAD, BURY~

Client
MR & MRS WALKER

Dwg. No.
14/1050/201A/PLANS – PLOT 1

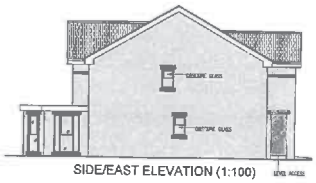
Date	Plot Scale	Drawn by	Status
04.03.2014	A1@1:50	JPE	ISSUE

JPE CONSULTANCY
ARCHITECTURAL DESIGN & PLANNING

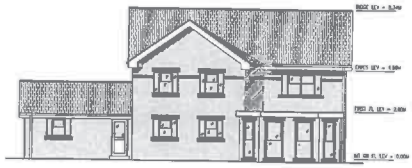
PLOT 3 RESIDENTIAL DEVELOPMENT AT SPENSIDE~



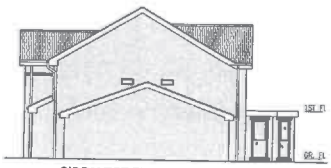
FRONT/NORTH ELEVATION (1:100)



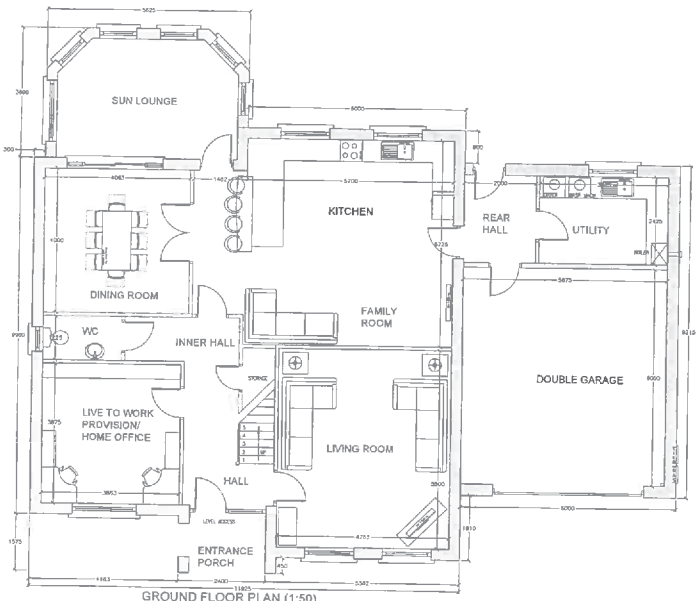
SIDE/EAST ELEVATION (1:100)



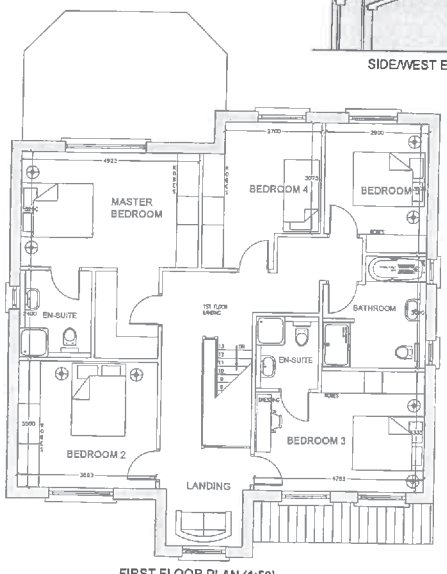
REAR/SOUTH ELEVATION (1:100)



SIDE/WEST ELEVATION (1:100)



GROUND FLOOR PLAN (1:50)



FIRST FLOOR PLAN (1:50)

NOTES~

Gross Internal Floor Area (GIA)
Ground floor = 181.7 sq m (1,956 sq ft)
First floor = 113.6 sq m (1,255 sq ft)
total accommodation = 295.3 sq m (3,181 sq ft)

A 04.14 PC: BALCONY REMOVED FROM SUN ROOM AND GLASS BRICKWORK WITH WINDOW TO REAR MASTER BEDROOM

Amendments

Title
RESIDENTIAL DEVELOPMENT AT SPENSIDE, BURY AND BOLTON ROAD, BURY~

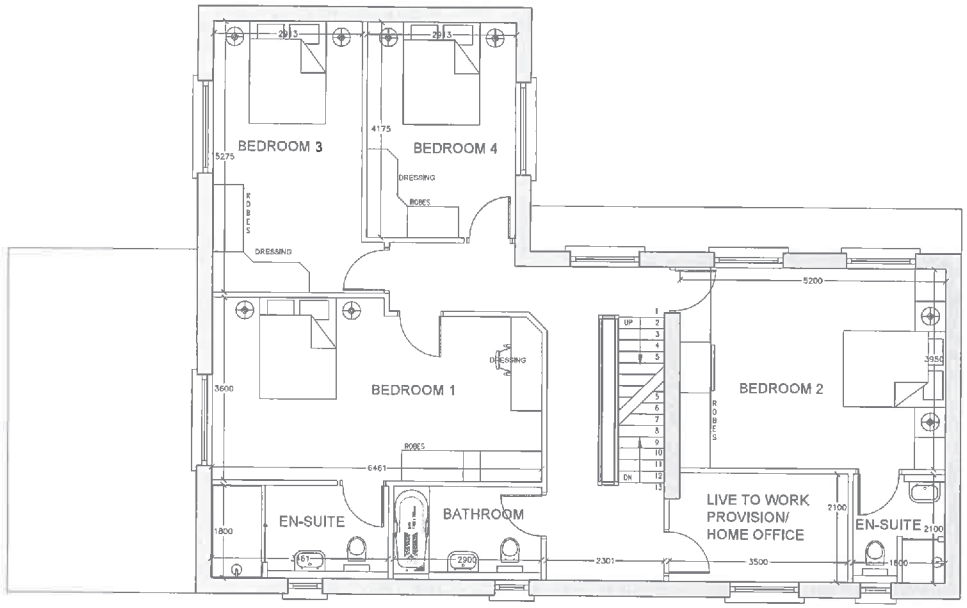
Client
MR & MRS WALKER

Dwg. No.
14/1050/203A/PLANS – PLOT 3

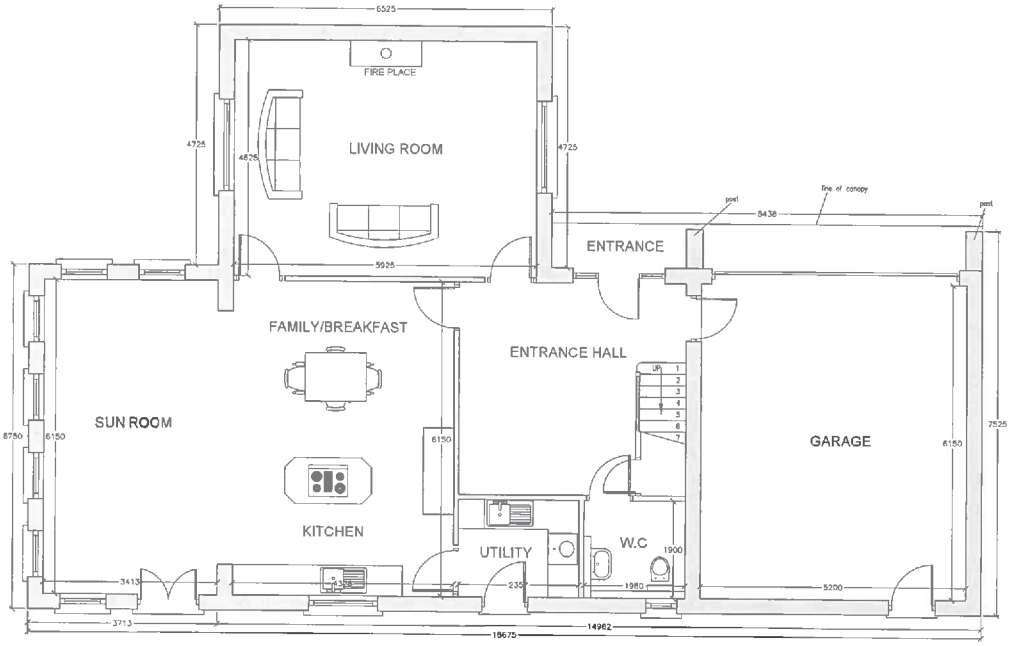
Date	Plot Scale	Drawn by	Status
04.03.2014	A1@1:50	JPE	ISSUE

JPE CONSULTANCY
ARCHITECTURAL DESIGN & PLANNING

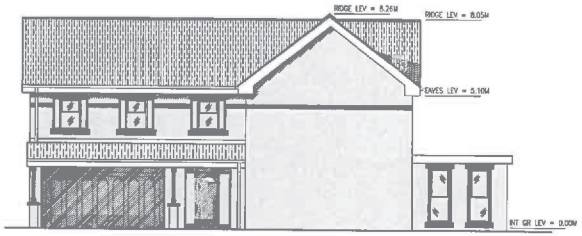
PLOT 4 RESIDENTIAL DEVELOPMENT AT SPENSIDE~



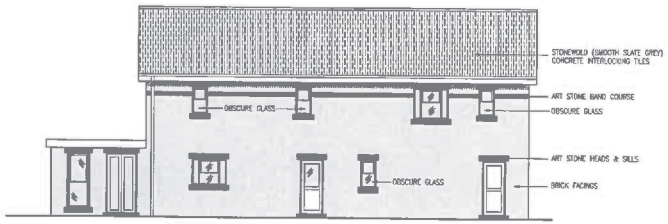
FIRST FLOOR PLAN (1:50)



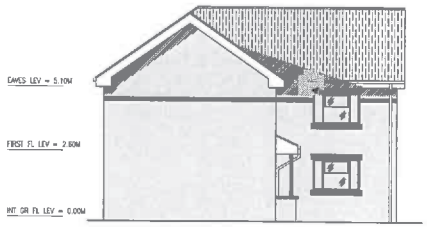
GROUND FLOOR PLAN (1:50)



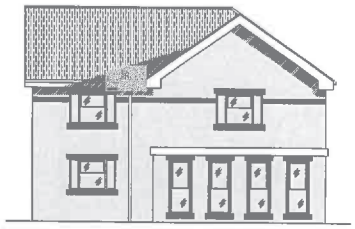
FRONT/WEST ELEVATION (1:100)



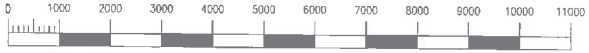
SIDE/EAST ELEVATION (1:100)



SIDE/NORTH ELEVATION (1:100)



REAR/SOUTH ELEVATION (1:100)



NOTES~

Gross Internal Floor Area (GIA)
Ground floor = 137.3 sq m (1,477 sq ft)
First floor = 116.3 sq m (1,252 sq ft)
total accommodation = 253.6 sq m (2,729 sq ft)

A	05.06.14	JPE	BALCONY REMOVED OVER SUN ROOM AND DOORS REPLACED WITH WINDOW TO REAR MASTER BEDROOM

Amendments

Title
RESIDENTIAL DEVELOPMENT AT SPENSIDE, BURY AND BOLTON ROAD, BURY~

Client
MR & MRS WALKER

Dwg. No.
14/1050/204A/PLANS – PLOT 4

Date	Plot Scale	Drawn by	Status
04.03.2014	A1@1:50	JPE	ISSUE

JPE CONSULTANCY
ARCHITECTURAL DESIGN & PLANNING
9 Woodland Drive, Stalybridge, Cheshire. SK15 2QF
Telephone 07875 627 668 jpe@jpeconsultancy.co.uk

Ward: Whitefield + Unsworth - Unsworth Item 08

Applicant: Vodafone Ltd

Location: Parr Lane Service Station, Parr Lane, Bury, BL9 8LZ

Proposal: Prior notification of removal of existing 11.3 metre monopole and installation of 15 metre monopole (resubmission)

Application Ref: 57516/Telecom Determination (56 Days) **Target Date:** 02/07/2014

Recommendation: Prior Approval Required and Granted

Description
The site is currently used as a vehicle repair/car sales and is located at the junction of Parr Lane and Randale Drive. The building is located diagonally across the site with a car park to the front. Site is open with low 'hoop' fencing marking the boundary with the adopted highway.

There is a building to the northeast containing retail units at ground floor and apartments above and the former Dragon pub is beyond. The Dragon is currently undergoing redevelopment to a shop. There are residential properties to all other boundaries.

Permission was granted on appeal for the installation of a 11.8 metre high monopole and equipment cabinets on land at the rear of the service station in October 2011. It should be noted that the height of the monopole including the antennae is 12.3 metres

The proposed development involves the removal of the existing monopole and the installation of a 15 metre monopole including 4 antennae. The proposed monopole would be located some 3.5 metres to the north of the existing monopole. The existing equipment cabinet and meter pillar would be removed and a cabinet and meter pillar would be located adjacent to the proposed monopole.

The proposed development will facilitate site sharing by both Vodafone and O2 and is required to provide 3G and 4G coverage.

Relevant Planning History
53699 - Prior notification for 11.8 m high monopole with shrouded antennas and equipment cabinets to facilitate site sharing at Parr Lane Service Station, Parr Lane, Bury. Prior approval required and refused - 21 April 2011.

57249 - Prior notification of removal of existing 11.3 metre monopole and installation of 15 metre monopole at Parr Lane Service Station, Parr Lane, Bury. Withdrawn - 2 April 2014.

Publicity
55 neighbouring properties were notified by means of a letter on 7 May and site notices were posted on 13 May 2014.

1 letter has been received from the occupiers of 127 Randale Drive, which has raised the following issues:
- If 11 metres does not provide sufficient coverage what does that say about the competence of the company?
- Is it right to assume that residents will go through the same stress in a few years when they look to raise the mast further?
- Can you confirm that no harm is being done to the developing brains of young children by the proximity of such sources of radiation?
- I expect the application to be rejected and then allowed on appeal - what a waste of our

money.

The objector has been notified of the Planning Control Committee meeting.

Consultations
Traffic Section - Comments awaited.

Unitary Development Plan and Policies
EN1/2 Townscape and Built Design
EN1/10 Telecommunications
EN7 Pollution Control
S1/5 Neighbourhood Centres and Local Shops
HT4 New Development
NPPF National Planning Policy Framework

Issues and Analysis
The following report includes analysis of the merits of the application against the relevant polices of both the National Planning Policy Framework (NPPF) and the adopted Bury Unitary Development Plan (UDP) together with other relevant material planning considerations. The policies of the UDP that have been used to assess this application are considered to be in accordance with the NPPF and as such are material planning considerations. For simplicity, just the UDP Policy will be referred to in the report, unless there is a particular matter to highlight arising from the NPPF where it would otherwise be specifically mentioned.

Health issue - The NPPF states that applications for telecommunications development should include a statement that self certifies that the cumulative exposure, when operational, will not exceed the International Commission on non-ionising radiation protection guidelines. Local Planning Authorities must determine applications on planning grounds. They should not seek to determine health safeguards if the proposal meets International Commission guidelines for public exposure. In this case, the applicant has indicated that the proposal would meet the ICNIRP guidelines, through the submission of a certificate.

Supporting information - No additional sites have been put forward as the proposed development would involve the sharing of a single mast, which is encouraged in the NPPF. The application site includes a mast, which would be replaced with a monopole some 2.7 metres higher to facilitate site sharing and provide 4G coverage. The applicant has provided sufficient information to justify the need of the proposed development, thereby reducing the need for additional masts in the locality. Therefore, the proposed development would be in accordance with Policy EN1/10 of the Bury Unitary Development Plan and Section 5 of the NPPF

Visual amenity - The proposed monopole would be located at the rear of the garage building and would be some 3.5 metres further north than the existing mast. As such, the proposed monopole would be visible from the habitable room windows of the nearby residential properties.

The Planning Inspectorate allowed the existing monopole on appeal, as it was considered that the proposed mast would be screened by the existing trees within the surrounding gardens. It was clear from the site visit that some of these trees have been lopped and do not provide the same level of screening as previously. As such, the agent has amended the design of the proposed monopole from the previously withdrawn application (57249) to one which resembles a telegraph pole.

The proposed monopole would be grey in colour and the proposed equipment cabinet would be green in colour. The proposed equipment cabinet would not be visible from the streetscene or to the neighbouring properties due to the 1.8 metre high fencing along the boundary between the two sites. Given, the screening provided by the existing trees, the

existing street furniture within the locality and the amendment to the design of the monopole, it is considered that the proposed development would be acceptable and would not be detrimental to the visual amenity of the locality. Therefore, the proposed development would be in accordance with Policy EN1/2 and EN1/10 of the Bury Unitary Development Plan.

Highways issues - The proposed mast, equipment cabinet and meter pillar would be located behind the garage building and as such, would not impact upon the servicing or parking arrangements at the site. Therefore, the proposed development would be in accordance with Policy EN1/10 of the Bury Unitary Development Plan.

Response to objectors
The issues relating to the risk to health have been addressed in the main report.
The increase in height of the proposed mast is required to facilitate site sharing and 3G and 4G coverage. The provision of a single higher mast would reduce the need for other masts in the locality.

Statement in accordance with Article 31 Town and Country Planning (Development Management Procedure) (England) (Amendment) Order 2012
The proposal complies with the development plan and would improve the economic, social and environmental conditions of the area. It therefore comprises sustainable development and the Local Planning Authority worked proactively and positively to issue the decision without delay. The Local Planning Authority has therefore implemented the requirement in Paragraphs 186-187 of the National Planning Policy Framework.

Recommendation: Prior Approval Required and Granted

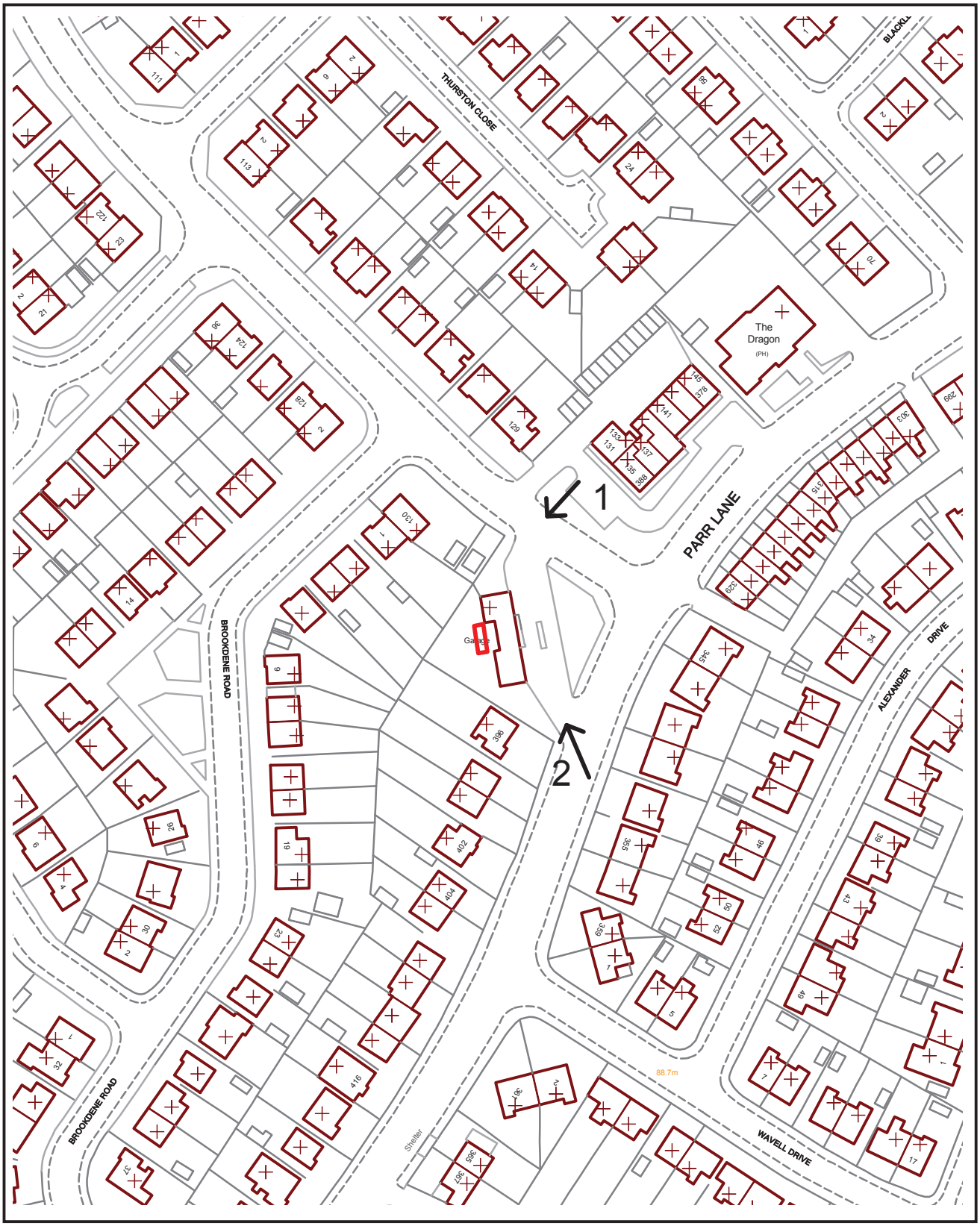
Conditions/ Reasons

1. The development must be begun not later than three years beginning with the date of this permission.
   Reason. Required to be imposed by Section 91 Town & Country Planning Act 1990.

2. This decision relates to drawings numbered 100 A, 201 C, 202 D, 301 B, 302 E, 400 E, 500 D and the development shall not be carried out except in accordance with the drawings hereby approved.
   Reason. For the avoidance of doubt and to ensure a satisfactory standard of design pursuant to the policies of the Bury Unitary Development Plan listed.

3. The mast hereby approved shall be painted grey (RAL 7035) and the equipment cabinets shall be green (RAL 6009).
   Reason. In the interest of visual amenity pursuant to Policies EN1/2 - Townscape and Built Design and Policy EN1/10 - Telecommunications of the Bury Unitary Development Plan.

For further information on the application please contact **Helen Longworth** on **0161 253 5322**



PLANNING APPLICATION LOCATION PLAN

APP. NO 57516

ADDRESS: Parr Lane Service Station
Parr Lane, Bury

N
W E
S

Bury COUNCIL

Planning, Environmental and Regulatory Services **1:1250**

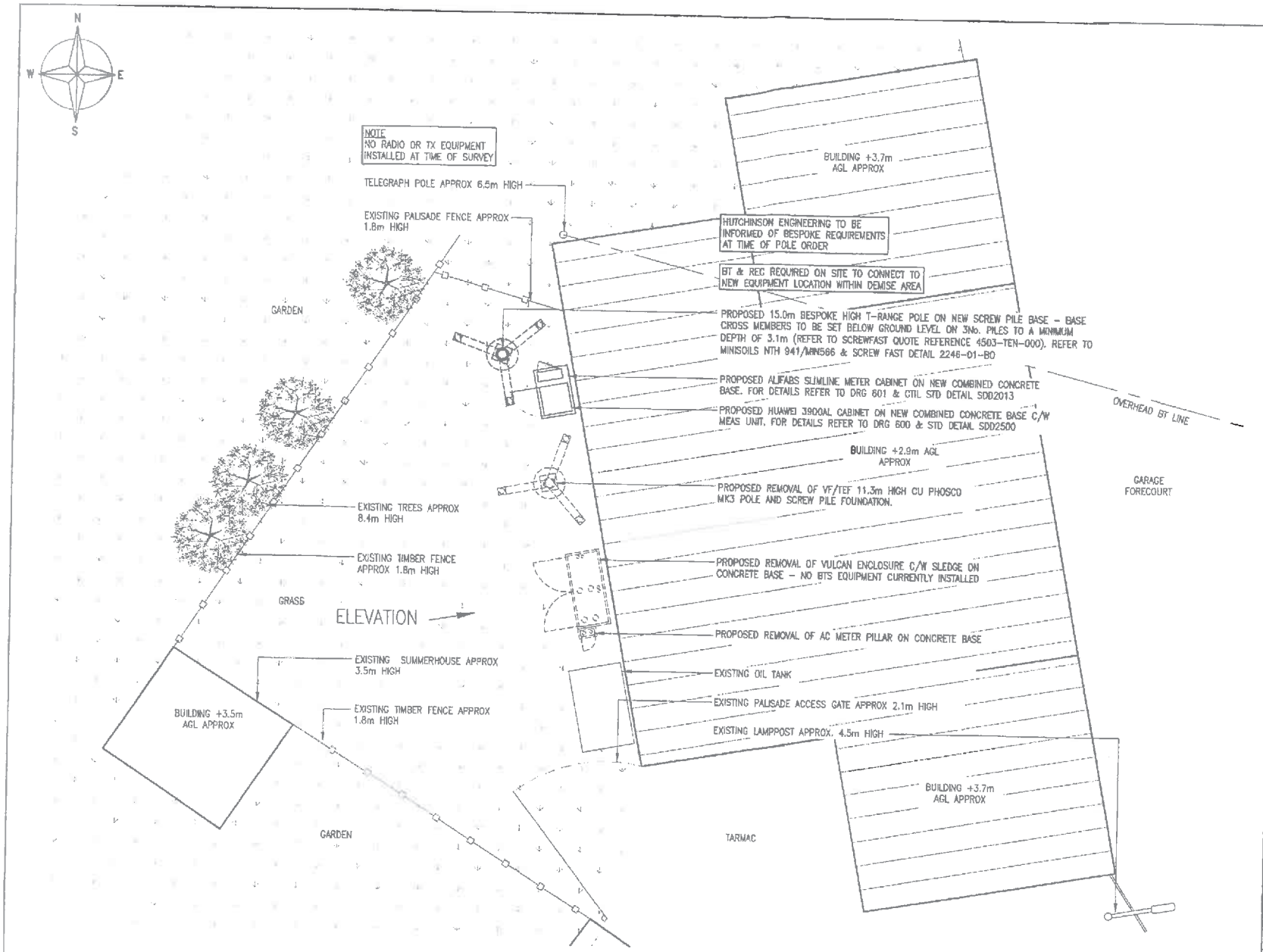
(C) Crown Copyright and database right (2013). Ordnance Survey 100023063.

Photo 1



Photo 2





PROPOSED SITE PLAN
(1:100)

The drawings comply with TEF & Vodafone Standard ICNIRP guidelines.
Designed in accordance with Cornerstone document: CORN/09/006

Notes:
1 ALL DIMENSIONS ARE IN MM UNLESS NOTED OTHERWISE

N.G.R. E: : 381349 N: 406556

NOTE:
1. ALL WORK TO BE CARRIED OUT TO CURRENT BRITISH STANDARDS AND/OR EUROCODES AS REQUIRED.

2. ALL MATERIALS INSTALLED TO BE AS PER CLIENTS APPROVED SPECIFICATION, AND COMPLY WITH CURRENT BRITISH STANDARDS AND/OR EUROCODES AS REQUIRED.

3. ANY DEVIATION FROM THE DESIGN SHOULD BE REPORTED TO DESIGN ENGINEER IMMEDIATELY PRIOR TO WORKS CONTINUING.

ELECTRICAL NOTE:
PROPOSED EQUIPMENT AND ALL ADDITIONAL EXTRANEOUS STEELWORK TO BE BONDED TO THE EXISTING LPS. UPGRADE WORKS TO COMPLY WITH CTIL STANDARD DOCUMENTS SDD5003 & SDN5002 EARTHING & LIGHTNING PROTECTION SITE REQUIREMENTS

NOTE:
RIGGING WORKS TO COMPLY WITH CTIL STANDARD DOCUMENTS

REV	MODIFICATION	BY	CH	DATE
D	Proposed Column Amended	SPD	SH	09.04.14
C	Issued for Construction	SPD	SH	14.02.14
B	Proposed plan added	SPD	SH	13.01.14
A	Issued for Approval	SPD	SH	24.12.13

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CTIL

Cell Name	Opt
PARR LANE SERVICE STATION	A

Cell ID No

CTIL	Host	Sharer
(CTIL) 132145	(VF) 74891	(TEF) 040822

Site Address / Contact Details

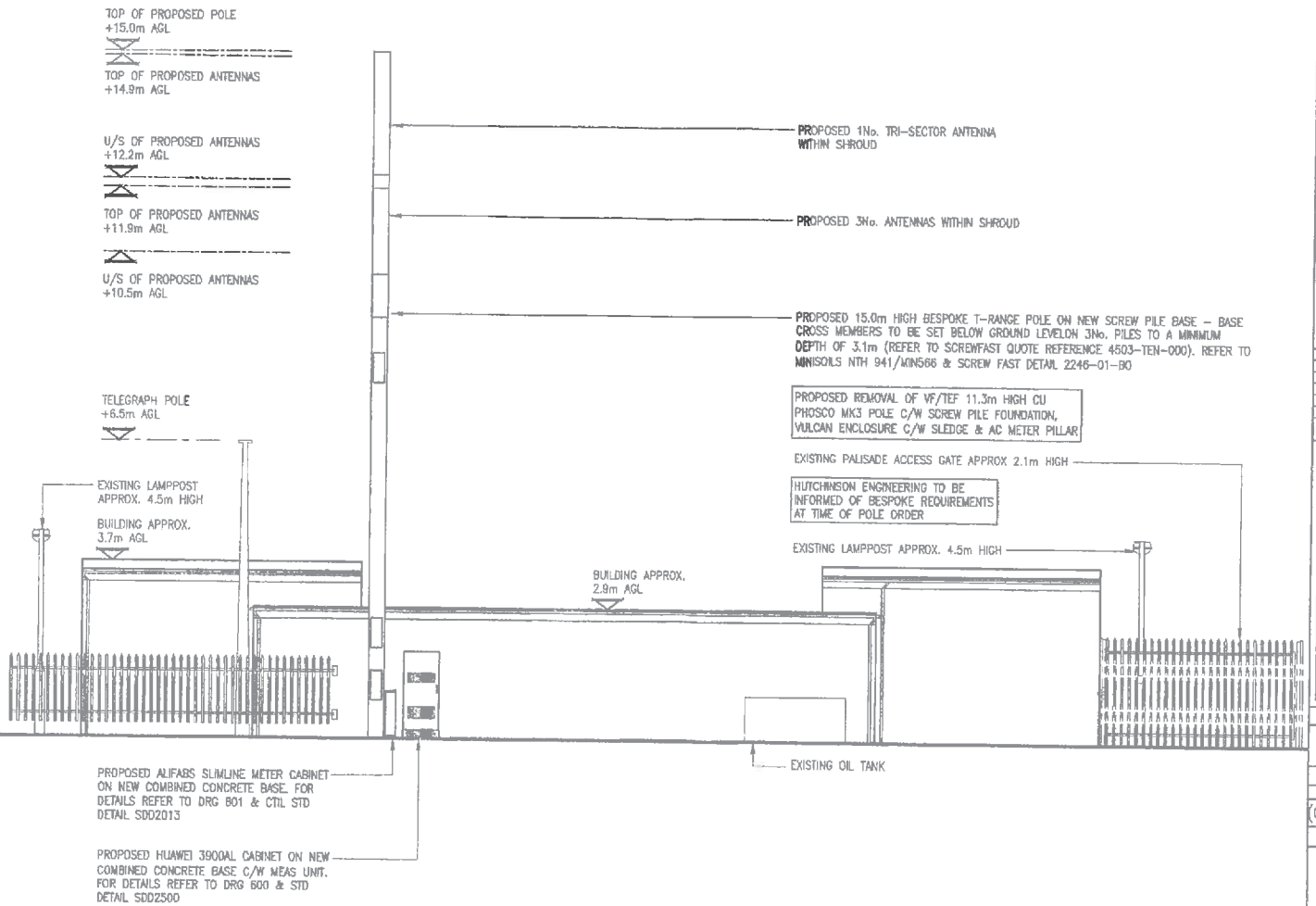
PARR LANE SERVICE STATION
UNSWORTH
BURY
BL9 8ND

Drawing Title: PROPOSED SITE PLAN

Purpose of Issue: CONSTRUCTION

Drawing Number: 202

Scale:	Drawn:	Date:	Issue:
As Shown	SPD	24.12.13	D
Checked: SH / Date: 24.12.13	Approved: DS	Date: 24.12.13	



PROPOSED NORTH EAST ELEVATION
(1:100)

Notes:
1 ALL DIMENSIONS ARE IN MM UNLESS NOTED OTHERWISE

N.G.R. E : 381349 N: 408558

NOTE:
1. ALL WORK TO BE CARRIED OUT TO CURRENT BRITISH STANDARDS AND/OR EUROCODES AS REQUIRED.

2. ALL MATERIALS INSTALLED TO BE AS PER CLIENTS APPROVED SPECIFICATION, AND COMPLY WITH CURRENT BRITISH STANDARDS AND/OR EUROCODES AS REQUIRED.

3. ANY DEVIATION FROM THE DESIGN SHOULD BE REPORTED TO DESIGN ENGINEER IMMEDIATELY PRIOR TO WORKS CONTINUING.

ELECTRICAL NOTE:
PROPOSED EQUIPMENT AND ALL ADDITIONAL EXTRANEOUS STEELWORK TO BE BONDED TO THE EXISTING LPS. UPGRADE WORKS TO COMPLY WITH CTIL STANDARD DOCUMENTS SDD5003 & SDN5002 EARTHING & LIGHTNING PROTECTION SITE REQUIREMENTS

NOTE:
RIGGING WORKS TO COMPLY WITH CTIL STANDARD DOCUMENTS

REV	MODIFICATION	BY	CH	DATE
E	Proposed Column Amended	SPD	SH	09.04.14
D	Tnet Dig Note Removed	SPD	SH	24.02.14
C	Issued for Construction	SPD	SH	14.02.14
B	Layout/Pole revised	SPD	SH	13.01.14
A	Issued for Approval	SPD	SH	24.12.13

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CTIL

Cell Name	Opt
PARR LANE SERVICE STATION	A

Cell ID No

CTIL	Host	Sharer
(CTIL) 132145	(VF) 74891	(TEF) 040822

Site Address / Contact Details

PARR LANE SERVICE STATION
UNSWORTH
BURY
BL9 8ND

Drawing Title: PROPOSED SITE ELEVATION

Purpose of Issue: CONSTRUCTION

Drawing Number: 302

Scale:	Drawn:	Date:	Issue:
As Shown	SPD	24.12.13	E
Checked: SH / Date: 24.12.13	Approved: DS / Date: 24.12.13		

The drawings comply with TEF & Vodafone Standard ICNIRP guidelines.
Designed in accordance with Cornerstone document: CORN/09/006

Ward: Whitefield + Unsworth - Pilkington Park Item 09

Applicant: Latimer Lee

Location: Whitefield House, Pinfold Lane, Whitefield, Manchester, M45 7NY

Proposal: Variation of condition no. 20 of planning permission 53353 (60 no. bed care home with ancillary clinic/rehabilitation facilities, car parking and landscaping) to:
The construction of the care home and associated works within the site shall not commence unless and until a scheme showing the phased implementation of the development has been submitted to and approved by the Local Planning Authority. The development shall be implemented in accordance with the approved details only. The new access shall be formed onto Pinfold Lane and the redundant access reinstated as indicated on approved plan reference 2004-094/850 before first occupation of the building. All the public highway works shall then be implemented to a standard that makes them available for public use before the development is first brought into use.

Application Ref: 57525/Full **Target Date:** 07/07/2014

Recommendation: Approve with Conditions

Description
The former Whitefield Town Hall is located in an area of parkland within the All Saints Conservation Area. The property was formerly used by the Council but was sold to the current owner of the site in 1991. Historically, the property was built some time around 1805, remodelled around 1857 and then became the Whitefield Town Hall in 1894.

The land ownership accompanying the town hall is tightly drawn around the building and also includes the access road from Pinfold Lane.

Since the original sale of the property, there has been a planning permission granted for a 50 bed nursing home, which has not been developed out.

In March 2004 the Council designated a Conservation Area, which includes the site, the parkland, Hamilton Road Park and areas extending along Higher Lane, Pinfold Lane and Church Lane.

This application is for a 60 bed nursing home, which would involve the demolition of the former Whitefield House and its reconstruction in salvaged and new materials. To the rear of the house would be a two and three storey annex building containing the main residential accommodation. This rear annex would use the levels of the land in such a way that part of the building would be at a basement level, so predominantly two storeys would be visible from surrounding land and it would be cut into the embankment at the rear.

In addition, the scheme proposes to create a newly formed pedestrian and vehicular access from Pinfold Lane and the closure of the existing access from Pinfold Lane. Parking and servicing would be provided towards the immediate frontage of the building.

This application is seeking to vary condition 20 of the approved planning permission scheme (53353) to permit the main new access to be provided at different timing in the implementation of the project rather than at the start of the project. The reasoning behind this is to enable/assist the coordination of land negotiations, financing and implementation.

Relevant Planning History
49732 - Single storey extension at the rear - Approve with Conditions 09/05/2008.

34524 - Extensions to former Whitefield Town Hall and change of use of building to form a

50 bed residential care home - Approved - 7/7/99.

42809 - Renewal of consent 24524 for Extensions to former Whitefield Town Hall and change of use of building to form a 50 bed residential care home - Refused 23/8/04 for the following reasons -

- The proposed development would be detrimental to the character of the building to be retained and the Pinfold Lane Conservation Area by reason of its height, size and design.
- The application and submitted plans contain insufficient information in terms of the extent of demolition and remedial measures to protect the remaining structure to enable them to be properly assessed.
- The proposed development requires the demolition of a building, which may provide a habitat potential for roosting bats and other protected species. The application does not provide a full assessment of any ecological potential and as such the proposal would conflict with Planning Policy Guidance Note 9 - Nature Conservation.

53080 - Conservation area consent for demolition of building with recording, removal and storage of south facade - Withdrawn by Applicant 08/11/2010.

53353 - 60 bed nursing home - Approved 18/5/11

53354 - Conservation area consent for demolition of building with recording, removal and storage of south facade (resubmission) - Approved 15/3/11 (granted for 6 months)

54450 - Conservation area consent for demolition of building with recording, removal and storage of south facade (varying condition 1 to tie to the land transfer - Refused 16/11/11. Appeal allowed 7/10/13 (granting 3 years but not tying demolition to land transfer)

Publicity
28 residential and business properties including Whitefield Health Centre, Cooksons Cycles, Slatterys, and houses on Pinfold Lane, Bury New Road and Parklands were consulted on 13/5/14. A site notice was erected on 22/5/14 and the press notice was published in the Bury Times on 22/5/14.

As a result of this publicity, three letters of objection have been received, from 4 and 8 Pinfold Lane and Mr M Saunders. points raised include:

- The current application basically seeks to use the existing access for construction purposes and provide the new access later in the process. I can understand this in terms of the practical implications on the construction of the new access, but this is not a reason to increase the impact upon my family unduly.
- Significant concerns regarding the impact of construction traffic on the existing boundary fence, and the harm that will arise in terms of noise and disturbance and the quiet enjoyment of our property. I have belatedly received details of a proposed boundary fence yesterday. However, details of the extent of the fencing are unclear ie. whether it will run the complete length of our boundary down to Pinfold Lane. Once this has been established, I will be in a better position to respond in a constructive manner and it may well address a large part of our concerns.
- Suggest, at the very least, conditions are imposed regarding the submission of such details before any work on site commences, and that the fence is erected as the first operation to ensure that any adverse impacts are appropriately mitigated.
- Having lived on Pinfold Lane for over 20 yrs and in that time have seen the volume of traffic increase 10 fold passing along the road.
- Where are the staff, residents of the facility and visitors going to park?
- We constantly have parking issues from the fact that Slatterys car park is insufficient for their needs, the school pupils are picked up and dropped off along the Lane and finally there are double yellow lines along the north side of the road. We also have a public library and day care centre on the road.
- From my understanding of the plans there is no possibility of there being enough

parking spaces to accommodate the requirements of the facility.
- There is going to be major congestion issues if this construction is allowed to proceed and it will inevitably end up with a greater risk of accident on the Lane.
- Pinfold Lane is narrow Cars cannot pass in both directions as cars are already always parked on the odd numbers side of the Lane.
- There have been too many car crashes and there is a need for traffic calming.
- Abuse from impatient car drivers.

Respondents have been informed of the Planning Control Committee meeting.

Consultations
Traffic Management - No objections

Unitary Development Plan and Policies

EN2/1	Character of Conservation Areas
EN2/2	Conservation Area Control
RT1/1	Protection of Recreation Provision in the Urban Area
EN8/1	Tree Preservation Orders
EN8/2	Woodland and Tree Planting
EN1/1	Visual Amenity
EN1/3	Landscaping Provision
EN1/5	Crime Prevention
EN6/3	Features of Ecological Value
HT2/4	Car Parking and New Development
TC2	Town Centre Enhancement and Development
CF1/1	Location of New Community Facilities
CF4	Healthcare Facilities
EN1/6	Public Art
SPD4	DC Policy Guidance Note 4: Percent for Art
NPPF	National Planning Policy Framework

Issues and Analysis
The following report includes analysis of the merits of the application against the relevant polices of both the National Planning Policy Framework (NPPF) and the adopted Bury Unitary Development Plan (UDP) together with other relevant material planning considerations. The policies of the UDP that have been used to assess this application are considered to be in accordance with the NPPF and as such are material planning considerations.

Principle - There have been previous proposals and approvals for the development of a nursing home on the site in the past. The most recent scheme involving the development of a 60 bed scheme required additional Council land to be developed out. That permission has been implemented by way of the creation of a small foundation and planning conditions relating to that permission are in the process of being discharged. If accepted, the permission is still valid and this may als result in the some of the conditions proposed being amended to reflect their discharged status. An update of this will be provided within the supplementary.

This current planning application is not changing the principle of development nor the way that the development would appear if implemented, simply the phasing of implementation in relation to the access provisions. As such, the principle of the development is already approved including the scale of development, parking and servicing, landscaping, appearance and access.

Details - The existing planning condition required that the new access on to Pinfold Lane be implemented first so that the existing access becomes immediately redundant. However, the applicant and agent consider that the way the condition is currently drafted, the access would need to be completed before the remainder of the development is commenced and would in fact result in it becoming damaged through construction traffic.

The proposed amendment seeks to permit a phased approach to be adopted in relation to the implementation of the main elements of the scheme so that the implementation of the development can take better account of both the land negotiations and the build. In any event, the variation to the condition would require a phasing plan to be submitted and be subsequently approved such that the timings of the closure of the existing access, the construction of the new access, the implementation of the landscaping and the main building construction has to be formally approved through a condition discharge. As such, the variation of the condition would still enable a clear and precise understanding of the implementation.

Residential Amenity - The development components would not change as a result of the varying of condition 20. To that end, the issues in relation to residential amenity arising from the scheme have been considered in the approval of the original permission 53353. However, as there is now a potential for the existing access to be used for construction purposes, it is suggested that condition 24 (measures to prevent dust and mud) be broadened to include the need for a site hoarding to protect adjoining residential property of 4 Pinfold Lane. Issues arising through the construction of the development would still be subject to Environmental Pollution Act controls to ensure that there is not any undue impact arising from construction.

Given the above considerations, the amendment to the condition is considered to be acceptable.

Response to objections - These have been responded to in the above report.

Permission should be granted having regard to the policies and proposals listed and the reason(s) for granting permissions can be summarised as follows;-The development on balance would together with conditional controls and the completion and signing of a s106 planning agreement, would provide additional care facilities in the area, within a development that would not have a significantly detrimental effect upon the character of the parkland and St Mary's Conservation Area. The development would not unduly impact upon residential or visual amenity and would provide sufficient parking, access and servicing facilities for the sure. The development would comply with the policies described within this report and further would not detrimentally impact upon the ecology and nature on the site. As such, the development is considered to be acceptable on this basis and there are no other material considerations that outweigh this finding.

Recommendation: Approve with Conditions

Conditions/ Reasons

1. The development must be begun not later than three years beginning with the date of this permission.
   Reason. Required to be imposed by Section 91 Town & Country Planning Act 1990.

2. This decision relates to drawings/reports numbered/referenced:
   Letters and Reports: DLA letters dated 21 February 2011 - Response to Woodland Trust Comments and "Whitefield House"; HY Transport Assessment 10052/January 2011; HY Interim Travel Plan - 10052/January 2011; 9010-018-SCH - Table Revised ScheduleOf Tree Loss and Mitigation; DLA Heritage Statement; Groundsure Desktop Site Investigation Report; JCA Ecological Scoping Report; Construction Phase Health & Safety Plan; DLA Planning Statement; DLA Design & Access Statement; JCA Arboricultural Report 9713/RG as amended by 21 February 2011 DLA letter; Bat Survey by JCA,Waldeck 11-3071 Structural Assessment report.

   Plans: 9010-018-003 rev E, 9010-018-004 rev B, 2004-094-10 rev A, 2004-094-20 rev A, 2004-094-21 rev A, 2004-094-22 rev A, 2004-094-23 rev A, 2004-94-30 rev

A, 2004-094-31 rev A, 2004-094-40 rev A, 2004-094-41 rev A, 2004-094-42 rev A, 2004-94-50 rev A, 2004-094-51 rev A, 2004-94-52 rev A, 2004-94-53 rev A, 2004-094-61 Rev A, 2004-094-462 rev A, 2004-094-63 Rev A, 2004-094-700 Rev A, 1405101, 1405102, 1405103, 1405104,and 2009-094-850 and the development shall not be carried out except in accordance with the drawings hereby approved.
Reason. For the avoidance of doubt and to ensure a satisfactory standard of design pursuant to policies of the Bury Unitary Development Plan listed below.

3. No development shall commence unless and until a sample panel of brickwork (from the materials to be recovered under Conservation Area Consent 53354) and lime mortar, demonstrating the colour, texture, face bond and pointing , not less than 1 sq.m in size, has been erected on site for inspection, and approval in writing, by the Local Planning Authority. Samples of the propopsed roofing materials shall also be made available for inspection on site. Thereafter the development shall be constructed in the approved materials and approved manner of construction.
Reason. In the interests of visual amenity and to ensure a satisfactory development pursuant to Policies EN1/2 - Townscape and Built Design and EN2/2 - Conservation Area Control of Bury Unitary Development Plan.

4. A minimum of 5 working days written notice shall be provided to the LPA of intended commencement of the development. The notification of commencement shall include a timetabled schedule of the intended tree protection measures and tree works. Any subsequent variation of the timetable shall be subject to further written notice.
Reason - To ensure that the development is carried out in accordance with the approved plans, to protect trees which are of amenity value on the site and pursuant to Policies EN8/1 – Tree Preservation Orders and EN8/2 – Woodland and Tree Planting of the Bury Unitary Development Plan.

5. The landscaping scheme hereby approved shall be implemented to the written satisfaction of the Local Planning Authority not later than 12 months from the date the building(s) is first occupied. Any trees or shrubs removed, dying or becoming severely damaged or becoming seriously diseased within 5 years of planting shall be replaced by trees or shrubs of a similar size and species to those originally required to be planted to the written satisfaction of the Local Planning Authority.
Reason. To secure the satisfactory development of the site and in the interests of visual amenity pursuant to Policy EN8/2 – Woodland and Tree Planting of the Bury Unitary Development Plan.

6. No trees, unless indicated otherwise on the approved plans, shall be felled, lopped or topped before or during the construction period without the previous written consent of the Local Planning Authority.
Reason. To avoid the loss of trees which are of amenity value to the area pursuant to Policy EN1/2 - Townscape and Built Design and EN8/2 – Woodland and Tree Planting of the Bury Unitary Development Plan.

7. No development shall commence unless and until:-
   - A contaminated land Preliminary Risk Assessment report to assess the actual/potential contamination and/or ground gas/landfill gas risks at the site shall be submitted to, and approved in writing by, the Local Planning Authority;
   - Where actual/potential contamination and/or ground gas/landfill gas risks have been identified, detailed site investigation and suitable risk assessment shall be submitted to, and approved in writing by the Local Planning Authority;
   - Where remediation/protection measures is/are required, a detailed Remediation Strategy shall be submitted to, and approved in writing by, the Local Planning Authority.

   Reason. To secure the satisfactory development of the site in terms of human health, controlled waters, ground gas and the wider environment and pursuant to

National Planning Policy Framework Section 11 - Conserving and enhancing the natural environment.

8. Following the provisions of Condition 6 of this planning permission, where remediation is required, the approved Remediation Strategy must be carried out to the satisfaction of the Local Planning Authority within agreed timescales; and
A Site Verification Report detailing the actions taken and conclusions at each stage of the remediation works, including substantiating evidence, shall be submitted to and approved in writing by the Local Planning Authority prior to the development being brought into use.
Reason. To secure the satisfactory development of the site in terms of human health, controlled waters and the wider environment and pursuant to Planning Policy Statement 23 - Planning and Pollution Control.

9. Any soil or soil forming materials brought to site for use in garden areas, soft landscaping, filling and level raising shall be tested for contamination and suitability for use on site. Proposals for contamination testing including testing schedules, sampling frequencies and allowable contaminant concentrations (as determined by appropriate risk assessment) and source material information shall be submitted to and approved in writing by the Local Planning Authority prior to any soil or soil forming materials being brought onto site, and;
The approved contamination testing shall then be carried out and validatory evidence (soil descriptions, laboratory certificates, photographs etc) submitted to and approved in writing by the Local Planning Authority prior to the development being brought into use.
Reason. To secure the satisfactory development of the site in terms of human health, controlled waters and the wider environment and pursuant to National Planning Policy Framework Section 11 - Conserving and enhancing the natural environment.

10. All instances of contamination encountered during the development works which do not form part of an approved Remediation Strategy shall be reported to the Local Planning Authority (LPA) immediately and the following shall be carried out where appropriate:

- Any further investigation, risk assessment, remedial and / or protective works shall be carried out to agreed timescales and be approved by the LPA in writing;

- A Site Verification Report detailing the conclusions and actions taken at each stage of the works including validation works shall be submitted to, and approved in writing by, the LPA prior to the development being brought into use.

Reason. To secure the satisfactory development of the site in terms of human health and the wider environment and pursuant to National Planning Policy Framework Section 11 - Conserving and enhancing the natural environment.

11. No development shall commence until full details of a scheme for the eradication and/or control of Japanese Knotweed (Fallonica Japonica, Rouse Decraene, Polygonum Cuspidatum) and Himalayan Balsam (Impatiens Glandulifera) is submitted to and approved in writing by the Local Planning Authority. The approved management plan shall include a timetable for implementation. Should a delay of more than one year occur between the date of approval of the management scheme and either the date of implementation of the management scheme or the date of development commencing, a further site survey must be undertaken and submitted to the Local Planning Authority.
Reason. To ensure that the site is free from Japanese Knotweed and Himalayan Balsam in the interest of UDP Policy EN9 - Landscape

12. No works shall be carried out to the trees that would disturb nesting birds between 1st March and 31st August inclusive in any year unless otherwise agreed in writing with the Local Planning Authority.
Reason. In order to ensure that no harm is caused to a Protected Species pursuant to policies EN6 – Conservation of the Natural Environment and EN6/3 – Features of Ecological Value of the Bury Unitary Development Plan and National Planning Policy Framework Section 11 - Conserving and enhancing the natural environment.

13. The car parking indicated on the approved plans shall be surfaced, demarcated and made available for use prior to the extension hereby approved being brought into use.
Reason. To ensure adequate off street car parking provision in the interests of road safety pursuant to policy HT2/4 - Car Parking and New Development of the Bury Unitary Development Plan.

14. No development shall commence unless and until the details relating to a woodland landscape management plan have been submitted to and approved in writing by the Local Planning Authority. The management plan shall relate solely to areas that fall within the applicant's control.
Reason - The scheme would require the removal, replanting or maintenance works to extant trees subject to a Tree Preservation Order. As such the plan is required to ensure that the character and quality of the trees within the Conservation Area still reflects the woodland nature of the site and parkland pursuant to Unitary Development Plan Policy EN8/1 - Tree Preservation Orders.

15. Notwithstanding the provisions of the plan reference number 2004-094-022 rev A, there shall be no windows in the westerly elevation of room 37 located on the first floor; and the landing window within the westerly elevation and stairwell windows in the westerly elevation at first floor shall be fitted with obscured glazing prior to first occupation and this glazing shall remain as obscure glazing whilst they serve the development hereby approved.
Reason - To ensure that there would be no loss of privacy and undue impact upon the residential amenities of the occupant of 5 Parklands, Whitefield pursuant to Unitary Development Plan Policy CF1/1 - Community Facilities.

16. Prior to the commencement of development, details relating to the proposed boundary fencing treatment for the site shall be submitted to and approved in writing by the Local Planning Authority. The approved details only shall be implemented as part of the approved development.
Reason - In the interests of visual amenity and to ensure a satisfactory development pursuant to Policies EN1/2 - Townscape and Built Design and EN2/2 - Conservation Area Control of Bury Unitary Development Plan.

17. The reconstruction of the 'Whitefield House' part of the development shall not commence until details of its the brick facings, headers in relation to the mortar , its tooling and depth, reveal details for windows and window frame sections and openings and reconstruction of the portico have been supplied to and approved in writing by the Local Planning Authority. The work shall then be carried out in complete accordance with those details.
Reason. In order to ensure that the reconstruction of Whitefield House is as authentic as can be achieved using the salvaged materials and pursuant to Unitary Development Plan Policy EN2/2 - Conservation Area Control.

18. No development, building work or demolition shall take place unless and until a desk study and scoping report for an archaeolgical watching brief has been submitted to and approved in writing by the Local Planning Authority. On implementation of development, excavation works shall be carried out in accordance with the approved scoping report.

Reason. To make a record of buildings and features of archaeological interest pursuant to policies EN3/1 – Impact of Development on Archaeological Sites, EN3/2 – Development Affecting Archaeological Sites of the Bury Unitary Development Plan.

19. Development shall not commence until details of foul & surface water drainage aspects have been submitted to and approved by the Local Planning Authority.
Reason - The current application contains insufficient information regarding the disposal of foul and surface water from the proposed development to be properly appraised at this stage pursuant to NPPF Chapter 10 - Meeting the challenge of climate change, flooding and coastal change.

20. The construction of the care home and associated works within the site shall not commence unless and until a scheme showing the phased implementation of the development has been submitted to and approved by the Local Planning Authority. The development shall be implemented in accordance with the approved details only. The new access shall be formed onto Pinfold Lane and the redundant access reinstated as indicated on approved plan reference 2004-094/850 before first occupation of the building. All the public highway works shall then be implemented to a standard that makes them available for public use before the development is first brought into use.
Reason - To ensure good highway design in the interests of highway safety pursuant to Unitatary Development Plan Policies HT2 - Highway Network, HT6/1 - Pedestrian and Cyclist Movement.

21. The construction of the care home and associated works within the site shall not commence unless and until the turning facilities indicated on approved plan reference 2004-094/850 have been provided to a specification to be agreed in writing with the Local Planning Authority. The turning facilities provided shall then be fully completed to the written satisfaction of the Local Planning Authority before the development is brought into use or first occupied and shall subsequently be maintained free of obstruction at all times.
Reason - To minimise the standing and turning movements of vehicles on the highway in the interests of road safety pursuant to Unitatary Development Plan Policies HT2 - Highway Network, HT6/1 - Pedestrian and Cyclist Movement.

22. The visibility splays indicated on approved plan reference 2004-094/850, shall be implemented to the written satisfaction of the Local Planning Authority before the access is brought into use and subsequently maintained free of obstruction above the height of 0.6m.
Reason - To ensure the intervisibility of the users of the site and the adjacent highways in the interests of road safety pursuant to Unitatary Development Plan Policies HT2 - Highway Network, HT6/1 - Pedestrian and Cyclist Movement.

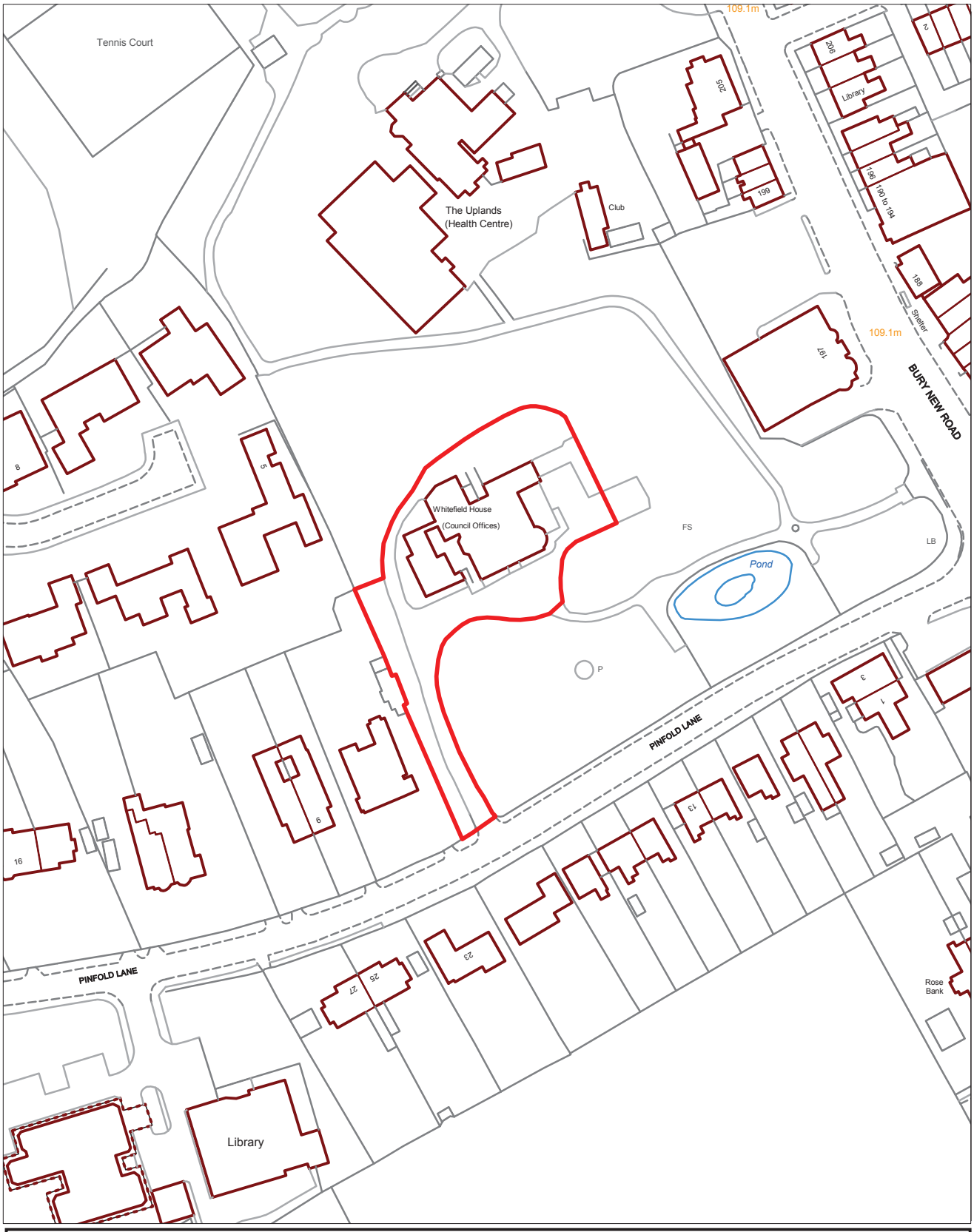
23. There shall be no direct means of vehicular access between the site and Pinfold Lane other than the new access to be formed onto Pinfold Lane.
Reason - To ensure good highway design in the interests of highway safety pursuant to Unitatary Development Plan Policies HT2 - Highway Network and HT6/1 - Pedestrian and Cyclist Movement.

24. Before the development is commenced, details shall be submitted to and approved by the Local Planning Authority to cover measures to include hoarding of the site and the construction access and to ensure that all mud and other loose materials are not carried on the wheels and chassis of any vehicles leaving the site and measures to minimise dust nuisance caused by the operations. The approved details shall be implemented and maintained thereafter during the period of construction.
Reason - To ensure that the adopted highways are kept free of deposited material from the ground works operations pursuant to UDP Policy EC6/1 - Assessing New Business, Industrial and Commercial Development, HT2 - Highway Network and

HT6/1 - Pedestrian and Cyclist Movement.

25. No construction work shall commence unless and until details relating to the bin store and cycle store have been submitted to and approved in writing by the Local Planning Authority. The development shall be carried out in accordance with the approved details and both the bin and cycle stores shall be made available for use prior to the development first becoming operable and thereafter be maintained and available for use.
Reason - The application contained insufficient elevation details for these two matters and to ensure that the site is adequately serviced for refuse provisions pursuant to EN7 - Pollution Control and pursuant to the NPPF Chapter 4 - Promoting sustainable transport.

For further information on the application please contact **Dave Marno** on **0161 253 5291**



PLANNING APPLICATION LOCATION PLAN

APP. NO 57525

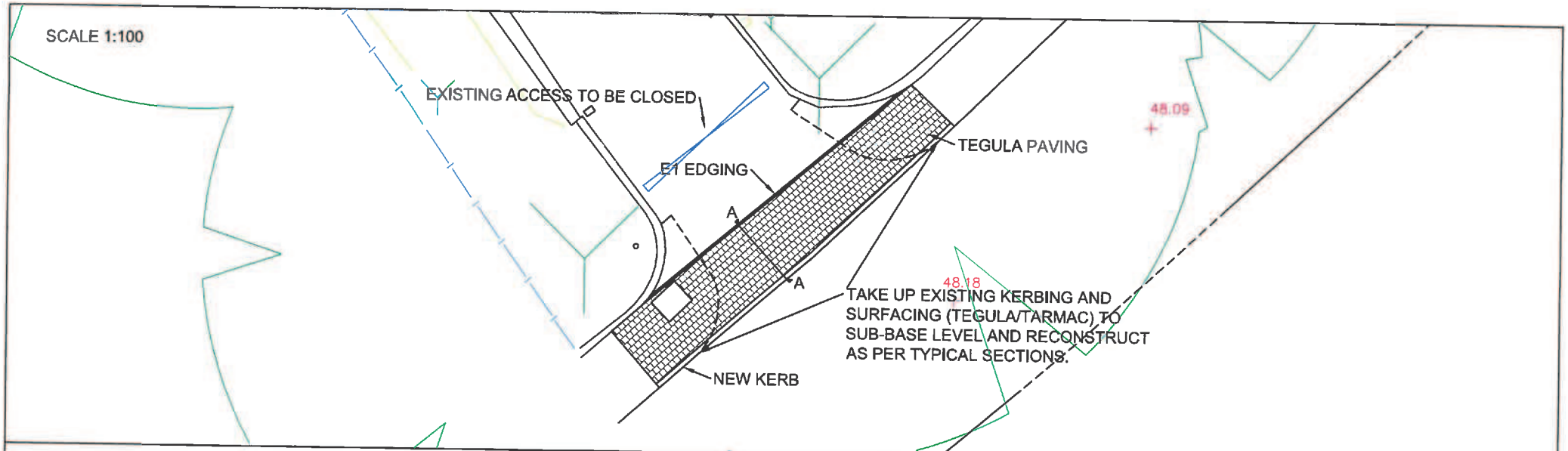
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Pinfold Lane, Whitefield

N
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Bury COUNCIL

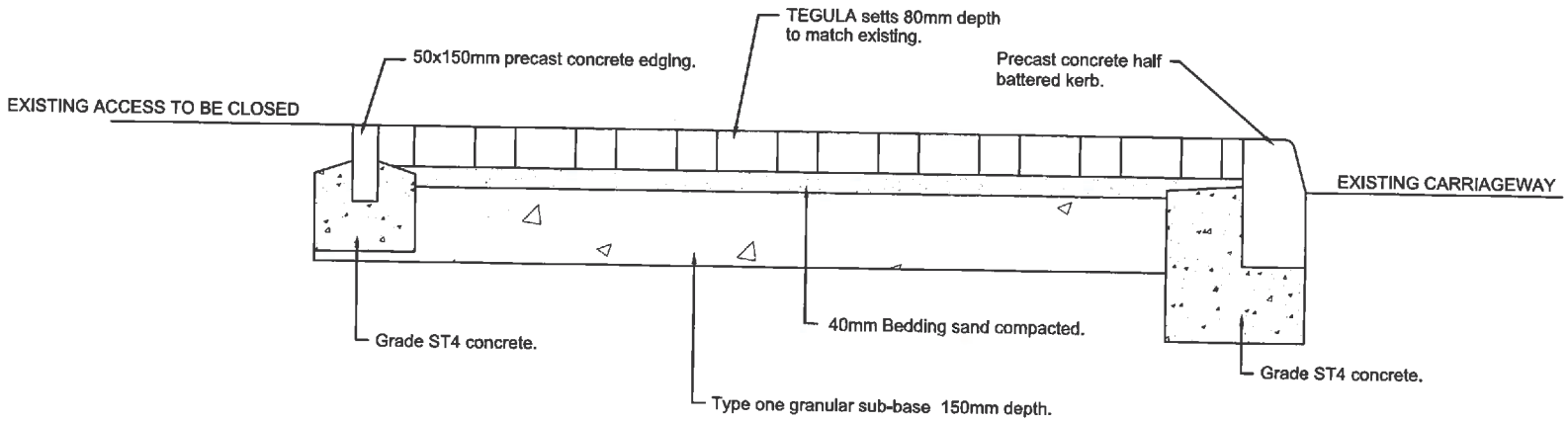
Planning, Environmental and Regulatory Services **1:1250**

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CLOSED ACCESS FOOTWAY DETAILS SCALE 1:10

SECTION A-A



THIS DRAWING SHOWS THE PRELIMINARY DESIGN ONLY AND IS SUBJECT TO DETAILED DESIGN, TOPOGRAPHICAL SURVEY INFORMATION AND LOCAL AUTHORITY APPROVAL

REV	AMENDMENTS	DATE

HY CONSULTING Ltd
UNIT 2 THE OFFICE CAMPUS
RED HALL COURT
PARAGON BUSINESS VILLAGE
WAKEFIELD WF1 2UY
tel: 01924 291536
email: mail@hyconsulting.com

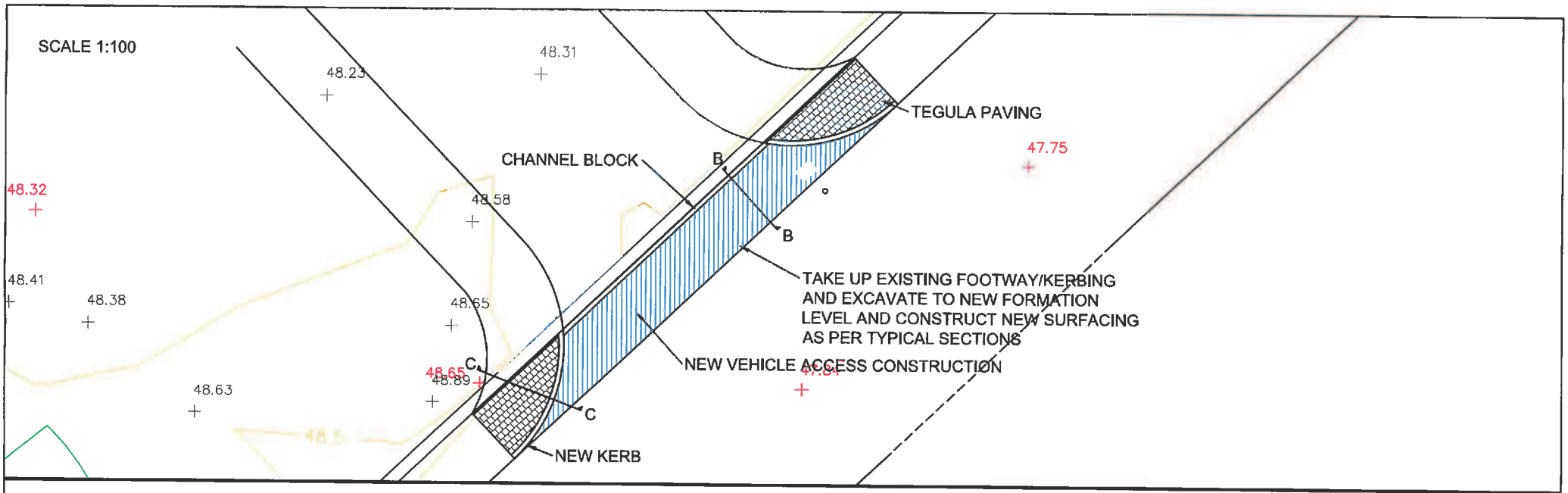
WHITEFIELD HOUSE
PINFOLD LANE, BURY

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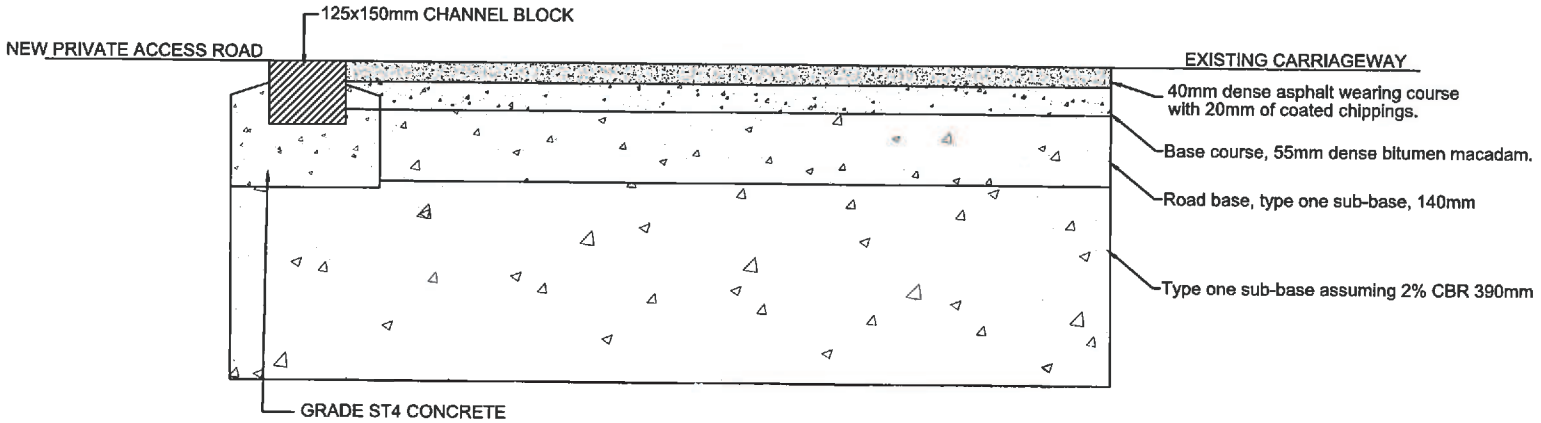
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DATE: MAY 2014

DRAWING No: 1405101



NEW ACCESS PROPOSALS SCALE 1:10
SECTION B-B



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REV	AMENDMENTS	DATE

HY CONSULTING Ltd
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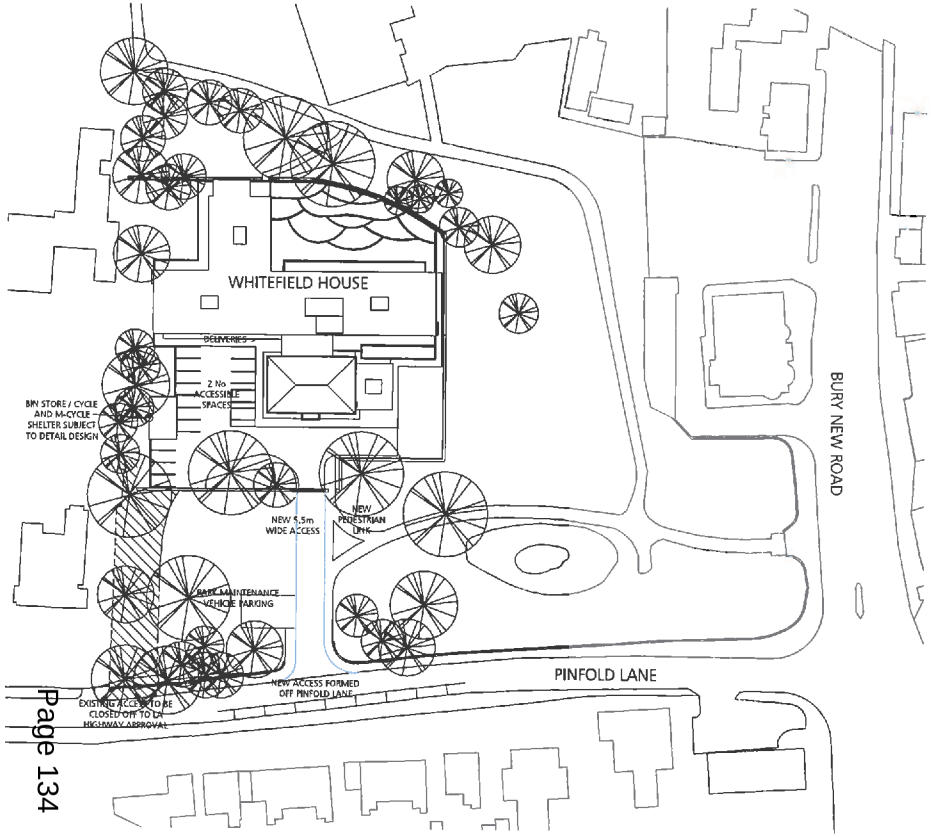
WHITEFIELD HOUSE
PINFOLD LANE, BURY

NEW ACCESS PROPOSALS

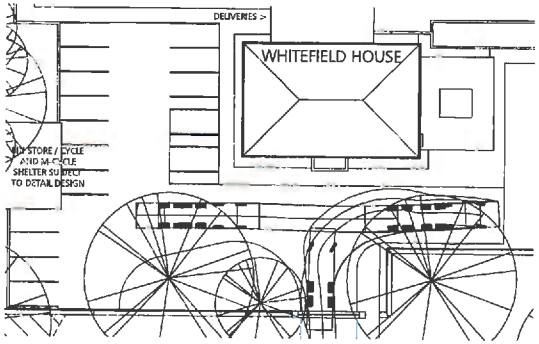
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DATE: MAY 2014

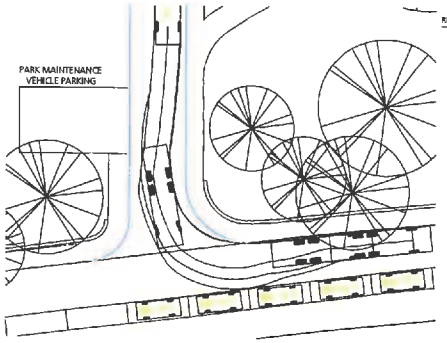
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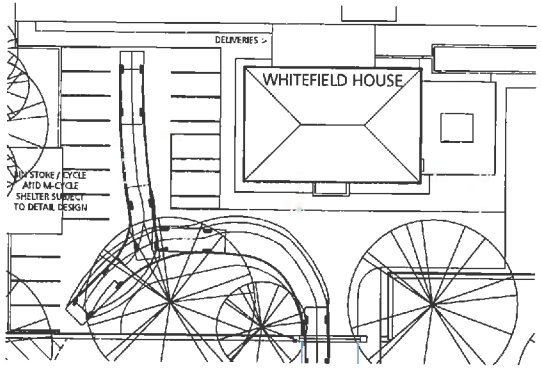
SITE PLAN 1:500



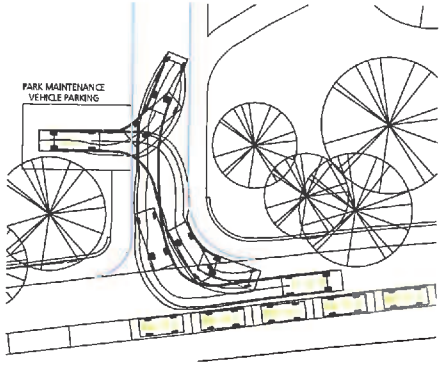
LARGE REFUSE VEHICLE MANOEUVRING WITHIN SITE TO ACCESS BIN STORE - 1:250



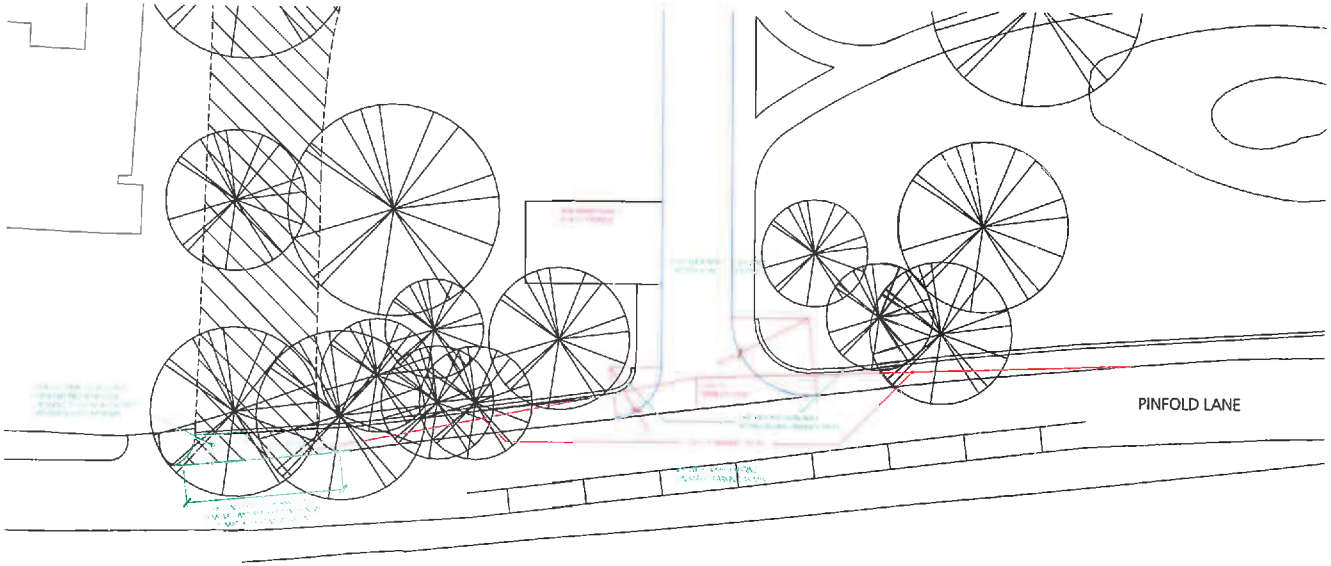
LARGE REFUSE VEHICLE EXITING SITE FROM NEW ACCESS ROAD ONTO PINFOLD LANE - 1:250



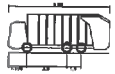
DELIVERY VEHICLE MANOEUVRING WITHIN SITE TO DELIVERY AREA - 1:250



PARK MAINTENANCE VEHICLE ACCESSING DEDICATED PARKING AREA - 1:250



NEW SITE ACCESS OFF PINFOLD LANE - 1:200



Large Refuse Vehicle (3 axle)

Overall Length	8.460m
Overall Width	2.450m
Overall Body Height	3.521m
Min Body Ground Clearance	0.365m
Track Width	2.450m
Lock to Lock Time	6.00 sec
Kerb to Kerb Turning Radius	9.500m

LARGE REFUSE VEHICLE



FTA Design LS Rigid Vehicle (1996)

Overall Length	7.170m
Overall Width	2.500m
Overall Body Height	3.400m
Min Body Ground Clearance	0.350m
Track Width	2.500m
Lock to Lock Time	6.00 sec
Kerb to Kerb Turning Radius	7.000m

DELIVERY VEHICLE



4.6t Light Van

Overall Length	5.885m
Overall Width	2.100m
Overall Body Height	2.430m
Min Body Ground Clearance	0.268m
Track Width	1.768m
Lock to Lock Time	6.00 sec
Kerb to Kerb Turning Radius	8.000m

MAINTENANCE VEHICLE

REVISIONS

DLA ARCHITECTURE

South Park Way | Wakefield 41 Business Park
WAKEFIELD | WF2 0XJ
Tel : 01924 858585 | Fax : 01924 858555

PROJECT
WHITEFIELD HOUSE

TITLE
VEHICLE SWEPT PATHS
ACCESS ROAD DETAILS

SCALE	DATE
AS NOTED	17/02/11

DRAWN BY	REVIEWED
PSL	

DRAWING NO	REVISION
2004-094/850	

DWG PATH
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ORIGINAL PAPER SIZE A1

Ward: Whitefield + Unsworth - Pilkington Park Item 10

Applicant: Mrs Barbara Critchley

Location: Dudley House, Clarkes Hill, Whitefield, Manchester, M45 7TG

Proposal: Erection of additional domestic kennelling facility (resubmission of 57210).

Application Ref: 57535/Full **Target Date:** 03/07/2014

Recommendation: Approve with Conditions

Description
The application relates to a well established boarding kennels and cattery with a private dwelling on the south side of Ringley Road West. Other than three neighbouring properties immediately to the east, the site is relatively isolated, surrounded by open countryside. The site is within the Green Belt and is designated within a River Valley. The kennels and the immediate neighbours are all accessed via a private driveway off Ringley Road.

Within the kennels and cattery site, the applicant's house is in the north east section and the majority of the kennels are in the north west corner. Currently there are 45 licensed kennels on the site, situated in the north west part of the site. The main cattery buildings, with accommodation for 36 cats, are on the eastern side of the site, to the south of the main dwelling.

The proposal involves constructing a new kennel block to accommodate the applicant's own dogs, of which there are seven. The building would be located on the north east boundary, set down from the adjacent open field, owned by Outwood Gate Farm. It would be constructed in painted blockwork with a corrugated steel roof. The footprint would measure approx 11.6m by 5.2m with a shallow pitched roof to a maximum height of 3m (approx). The kennels which would have a sleeping and exercise area for each dog.

It is noted that building work has commenced.

Relevant Planning History
57210 - Erection of kennel/stable block - Refused 16/04/2014 on grounds that the kennels were inappropriate so close to the shared boundary with the immediate neighbour.
48510 - Two new cattery units to replace existing cattery and dog kennels (resubmission) - Approved 03/09/2007
37016 - Erection of five kennels to replace existing domestic kennels - Approved 02/01/2001 (not implemented)
35405/99 - Additional dog kennels, store building and reception office - Approved 21/03/2000. The approval was subject to the following condition restricting the number of kennels on the site to a maximum of 54.

Publicity
The following 5 neighbours, all at Clarkes Hill, were notified by letter dated 09/05/14. Hurstwood, Hurstwood Cottage, Clarkes Hill Cottage, The Cottage and Clarkes Hill House.

Two letters of objection have been received from The Cottage and Outwood Gate Farm are summarised below.

- The would be additional noise particularly if the kennels are open.
- They could be used for commercial boarding.
- The new kennels, used for commercial boarding, would generate increased traffic.
- The new building will encroach onto neighbouring land, not within the applicant's ownership.

The objectors have been notified of the Planning Control Committee.

Consultations
Traffic Section - No objection.
Drainage Section - No objection.
Environmental Health - No objection.

Unitary Development Plan and Policies
OL1/2 New Buildings in the Green Belt
OL5/2 Development in River Valleys
EC4/1 Small Businesses
EN1/1 Visual Amenity
EN7/2 Noise Pollution
SPD8 DC Policy Guidance Note 8 - New Buildings in the Green Belt

Issues and Analysis

The following report includes analysis of the merits of the application against the relevant polices of both the National Planning Policy Framework (NPPF) and the adopted Bury Unitary Development Plan (UDP) together with other relevant material planning considerations. The policies of the UDP that have been used to assess this application are considered to be in accordance with the NPPF and as such are material planning considerations. For simplicity, just the UDP Policy will be referred to in the report, unless there is a particular matter to highlight arising from the NPPF where it would otherwise be specifically mentioned.

Policy - The proposal involves a new building in the Green Belt and as such the following policies are involved.

The NPPF and the Councils own UDP Policy OL1/2 New Buildings in the Green Belt indicates that new buildings in the Green Belt are inappropriate unless they are for agriculture/forestry, essential facilities for outdoor sport and recreation and limited extensions to dwellings and infill development. Replacement buildings are also acceptable as long as they are for the same use and of a similar size to the original building.

The proposed new building does not fall within these criteria and therefore, by definition the proposal is inappropriate development in the Green Belt. 'Very special circumstances'(VSC) are therefore required to justify the development.

Need - The applicant owns eight dogs that need to be housed in appropriate accommodation within the site. In order to reduce the impact of noise and disturbance to neighbours, it is considered that the best location for these kennels is away from the main house and immediate neighbours and closer to the existing commercial kennels.

It is noted that past approvals for kennels on the site, submitted by the previous owners, allowed for up to 54 kennels on the site, including within the curtilage of the main house. This application would allow the Local Planning Authority to limit the kennelling of dogs to the area furthest from the house whilst keeping the numbers of dogs (45 commercial and 7 private) below that previously approved in 2000.

Visual amenity and character of the Green Belt - The new building would be relatively modest in scale, set down from the adjacent field and situated close to the existing cluster of commercial kennels that have been in situ for a number of years. As such the new building would not be particularly prominant within the site. A length of post and wire fencing and three small trees on the boundary were removed recently. It would be appropriate to attach a condition requiring replacement fencing and planting along the same boundary.

Residential amenity - The majority of the development relating to kennels has occurred in the north west corner of the site, away from the immediate neighbours and this has generally been satisfactory.

The revised application sites the kennels away from the boundary with the neighbour and with the building being completely enclosed, would not have a serious impact, over and above the existing kennels, on the amenity of the neighbours.

Traffic - Given that the new kennels are specifically for the applicant's own dogs and that there is a sizeable parking area for customers, there would be no significant traffic or parking issues arising from the proposal. It is noted that there have in the past been issues relating to customers dropping off dogs early in the morning when the gates to the kennels have been closed but these problems have been sporadic and are not related to this proposal.

Objections - The concerns raised by the objectors, relating to noise and access, have been addressed in the above report. The proposed kennels themselves would be restricted to domestic use (the applicant's own dogs) rather than commercial boarding purposes by an appropriate condition. On a wider issue, there would be a condition restricting

In terms of land ownership and encroachment, whilst the building appears to be adjacent to the boundary, these issues are more of a private matter.

Given the previous approvals and the size, siting and use of the new kennels, it is considered that there is sufficient justification to allow the proposal subject to appropriate conditions.

Recommendation: Approve with Conditions

Conditions/ Reasons

1. This decision relates to drawings numbered 456a/CHK/PL, 456a/CHK/LP and 456a/CHK/SPD and the development shall not be carried out except in accordance with the drawings hereby approved.
   Reason. For the avoidance of doubt and to ensure a satisfactory standard of design pursuant to the policies of the Bury Unitary Development Plan listed.

2. The external finishing materials for the proposal hereby approved shall match those of the existing buildings.
   Reason. In the interests of visual amenity and to ensure a satisfactory development pursuant to Policy EN1/1 Visual Amenity of Bury Unitary Development Plan.

3. The kennels hereby approved shall only be used for the purposes of kennelling the applicant's own domestic dogs and shall for no period be used for commercial/boarding purposes. Should the domestic use of the kennels cease, the building shall be demolished within two months of it ceasing this use.
   Reason. In order to retain control over the use of the building pursuant to UDP Policy OL1/2 New Buildings in the Green Belt.

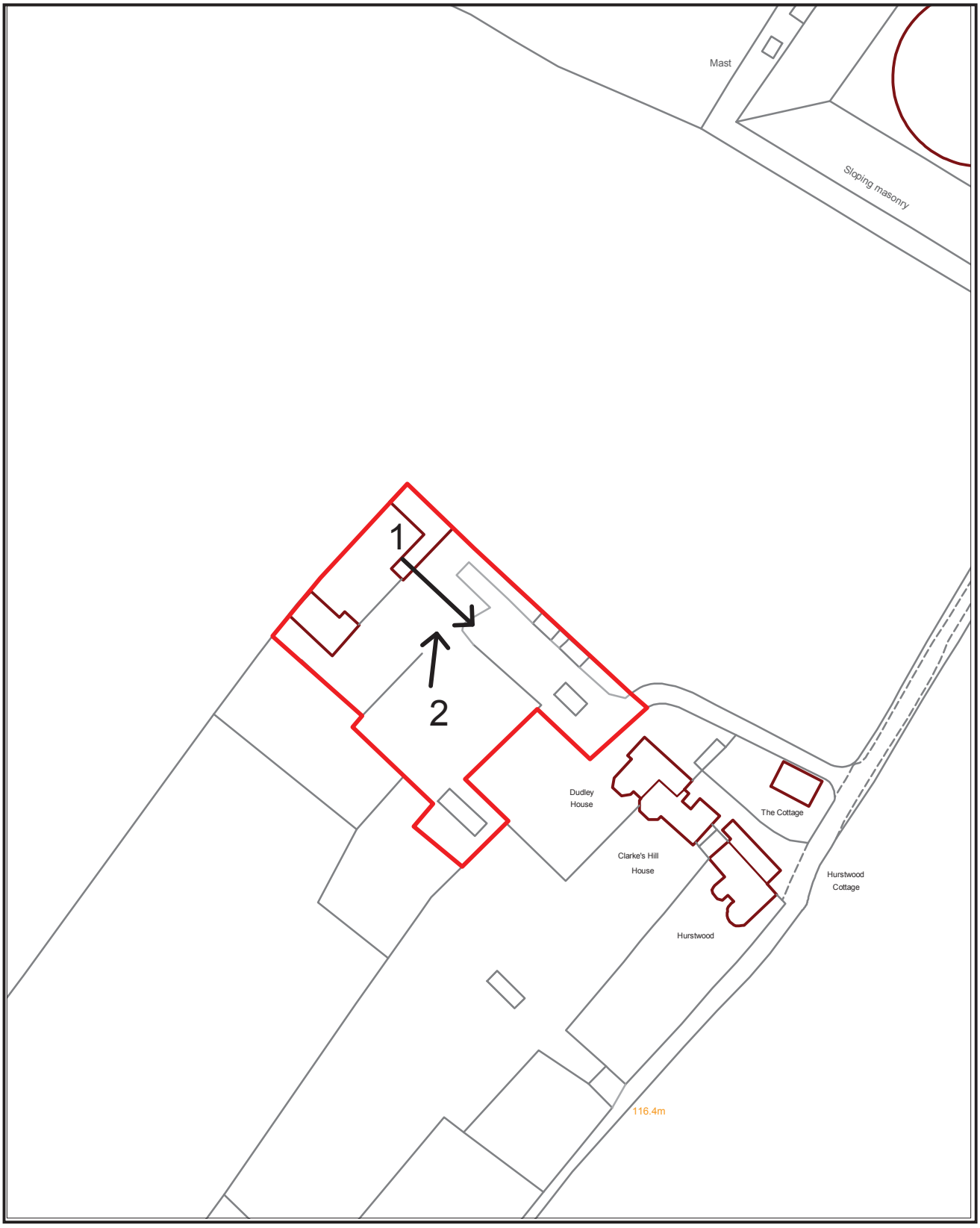
4. Boundary details, including new fencing and planting along the , shall be submitted to, and approved in writing by, the Local Planning Authority within one month of the date of this decision notice. It shall be implemented not later than two months from the date the building is brought into use; and any trees or shrubs removed, dying or becoming severely damaged or becoming severely diseased within five years of planting shall be replaced by trees or shrubs of a similar size or species to those originally required to be planted to the written satisfaction of the Local Planning Authority.
   Reason. To secure the satisfactory development of the site and in the interests of visual amenity pursuant to UDP Policy EN1/1 - Visual Amenity.

5. No dogs shall be kennelled within the bounds of the area edged in blue on Site

Plan 456a/CHK/SPD other than within those areas indicated for this purpose on site plan.
Reason. In the interests of residential amenity pursuant to UDP Policy EN7/2 Noise Pollution.

For further information on the application please contact **Tom Beirne** on **0161 253 5361**

Viewpoints



PLANNING APPLICATION LOCATION PLAN

APP. NO 57535

ADDRESS: Dudley House
Clarkes Hill
Whitefield

Planning, Environmental and Regulatory Services **1:1250**

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Photo 1



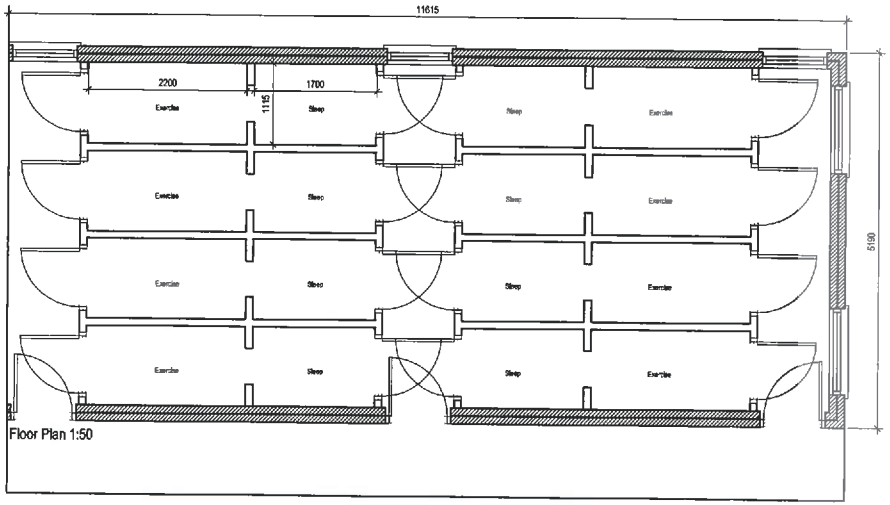
Photo 2



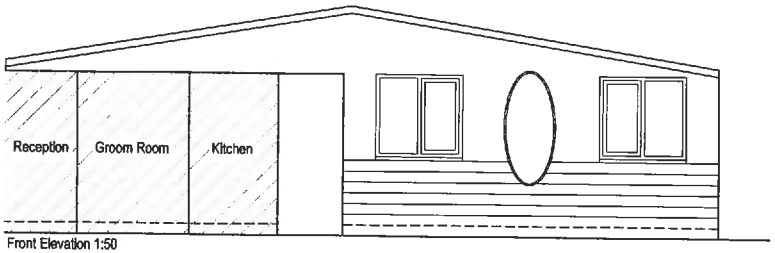
Clarks Hill Kennels and Cattery, Whitefield, Manchester M45 7TG



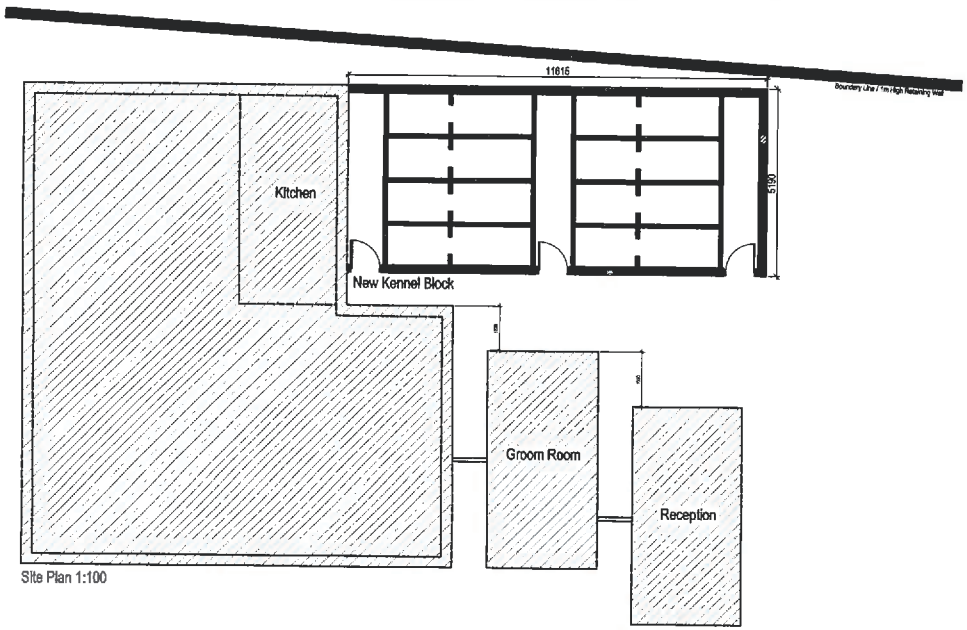
Side Elevation 1:50



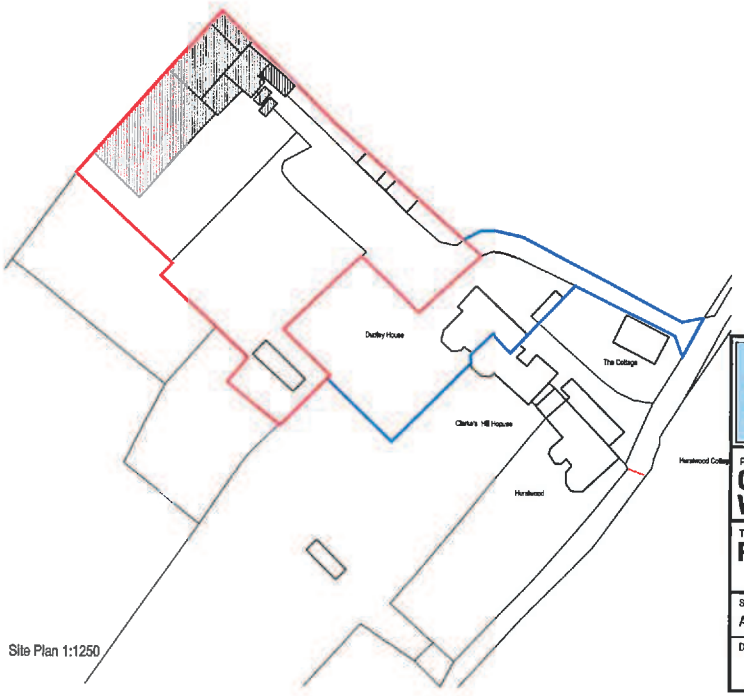
Floor Plan 1:50



Front Elevation 1:50



Site Plan 1:100



Site Plan 1:1250

bpd Architecture
chartered practice
Suite 5, Hoarle House, 5 East Terrace Bus. Park, Euxton Lane
Euxton, Chorley, Lancashire PR7 6TB
Tel: 01257 220510
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email: info@bpdarchitecture.co.uk

Project
Clarks Hill Kennels and Cattery
Whitefield Manchester M45 7TG

Title
Proposed Kennels

Scale @ A2	Date	Ref	Drawn
As Shown	April 2014	Job 456a	JSWR

Drg No **456a/CHK/PL** Rev

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REPORT FOR DECISION

Agenda Item	5

DECISION OF:	**PLANNING CONTROL COMMITTEE**
DATE:	**24th JUNE 2014**
SUBJECT:	**DELEGATED DECISIONS**
REPORT FROM:	**DEVELOPMENT MANAGER**
CONTACT OFFICER:	**JOHN CUMMINS**
TYPE OF DECISION:	**COUNCIL**
FREEDOM OF INFORMATION/STATUS:	This paper is within the public domain
SUMMARY:	The report lists: Recent Delegated planning decisions since the last PCC
OPTIONS & RECOMMENDED OPTION	The Committee is recommended to the note the report and appendices.

IMPLICATIONS:	
Corporate Aims/Policy Framework:	Do the proposals accord with the Policy Framework? Yes
Statement by the S151 Officer: Financial Implications and Risk Considerations:	Executive Director of Resources to advise regarding risk management
Statement by Executive Director of Resources:	N/A
Equality/Diversity implications:	No
Considered by Monitoring Officer:	N/A
Wards Affected:	All listed
Scrutiny Interest:	N/A

TRACKING/PROCESS **DIRECTOR:**

Chief Executive/ Strategic Leadership Team	Executive Member/Chair	Ward Members	Partners
Scrutiny Committee	Committee	Council	

1.0 BACKGROUND

This is a monthly report to the Planning Control Committee of the delegated planning decisions made by the officers of the Council.

2.0 CONCLUSION

That the item be noted.

List of Background Papers:-None

Contact Details:-

John Cummins
Development Manager
Planning Services, Department for Resources and Regulation
3 Knowsley Place
Bury BL9 0EJ

Tel: 0161 253 6089
Email: j.cummins@bury.gov.uk

Planning applications decided using Delegated Powers
Between 02/05/2014 and 15/06/2014

Ward: **Rochdale**

Application No.: 57575 **App. Type:** CON 05/06/2014 Raise No Objection
Location: Kingsway Business Park, John Boyd Dunlop Drive, Rochdale, OL16 4NG

Proposal: Consultation under Article16 of The Town and Country Planning (Development Management Procedure) (England) Order 2010 - outline application, with all matters reserved, for a mixed use business park comprising buildings within development plots as shown on the site location plan for General and Light industrial uses (Classes B1 and B2), Offices in the Use Class B1, Distribution and storage uses (Class B8), research and development uses (Class B1), car showrooms (sui generis use), hotels (Class C1), ancillary retail and leisure (Use Classes A1-A5 and D2), and residential use (Class C3)

Ward: **Bury East**

Application No.: 57312 **App. Type:** FUL 02/06/2014 Approve with Conditions
Location: Fairfield Hospital, Rochdale Old Road, Bury, BL9 7TD

Proposal: Flue installation to main boiler house and removal of existing free standing chimney from coal fired plant; small diameter flue installations to 3 no. remote standalone boiler rooms; convert existing timber store to boiler room

Application No.: 57318 **App. Type:** ADV 09/05/2014 Approve with Conditions
Location: 8 Tenterden Street, Bury, BL9 0EG

Proposal: Sign on 2 poles at front (Non illuminated)

Application No.: 57388 **App. Type:** FUL 22/05/2014 Approve with Conditions
Location: Ribblesdale House, 7 Market Place, Bury, BL9 0AH

Proposal: Change of use of first and second floors from medical centre (Class D1) to 8 no. flats (Class C3)

Application No.: 57414 **App. Type:** FUL 27/05/2014 Approve with Conditions
Location: 551 Rochdale Old Road, Bury, BL9 7TE

Proposal: First floor extension at rear

Application No.: 57425 **App. Type:** ADV 08/05/2014 Approve with Conditions
Location: 1 The Haymarket, Bury, BL9 0BX

Proposal: 1 no. internally illuminated fascia sign to Cross Street elevation.

Application No.: 57523 **App. Type:** ADV 03/06/2014 Approve with Conditions
Location: 55 The Rock, Bury, BL9 0JP

Proposal: 1 No. externally illuminated wrap-around fascia sign and 1 no. externally illuminated double sided projecting sign

Ward: **Bury East - Moorside**

Application No.: 57391 **App. Type:** FUL 16/05/2014 Approve with Conditions
Location: St John with St Mark C Of E Primary School, Athlone Avenue, Bury, BL9 5EE

Proposal: Single storey rear extension & relocated parking provisions to the rear.

Application No.: 57491 **App. Type:** FUL 29/05/2014 Approve with Conditions
Location: Britannia Mill, Cobden Street, Bury, BL9 6AW

Proposal: New mono-pitch roof and creation of first floor office space

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Application No.: 57538 **App. Type:** FUL 02/06/2014 Approve with Conditions
Location: 105 Walmersley Road, Bury, BL9 5AN

Proposal: Single storey rear extension (Resubmission of 56868).

Ward: **Bury East - Redvales**

Application No.: 56944 **App. Type:** FUL 08/05/2014 Refused
Location: The Trafalgar, Manchester Old Road, Bury, BL9 0TB

Proposal: Change of use from public house to 5 no. flats with first floor extensions to side and rear; new access from Baron Street for parking

---

Application No.: 57413 **App. Type:** FUL 09/05/2014 Approve with Conditions
Location: 32 Morley Street, Bury, BL9 9JQ

Proposal: Two storey extension to rear.

Application No.: 57458 **App. Type:** FUL 15/05/2014 Approve with Conditions
Location: Bury C of E High School, Haslam Brow, Bury, BL9 0TS

Proposal: Proposed single storey extension with new office and storage space.

Application No.: 57492 **App. Type:** FUL 04/06/2014 Refused
Location: 87 Radcliffe Road, Bury, BL9 9LD

Proposal: Two storey extension at side and rear

Application No.: 57519 **App. Type:** FUL 04/06/2014 Approve with Conditions
Location: 4 Fletcher Fold Road, Bury, BL9 9RX

Proposal: Two storey extension at rear

Application No.: 57541 **App. Type:** FUL 04/06/2014 Approve with Conditions
Location: 29 Valley Mill Lane, Bury, BL9 9BX

Proposal: Conservatory at rear

Application No.: 57563 **App. Type:** DEM 11/06/2014 Prior Approval Required and Granted
Location: Millennium Centre, Bury College, Market Street, Bury, BL9 0DB

Proposal: Prior notification of demolition of Peel Theatre, Sports Hall and T-Block situated on Bury College Millennium Campus

Ward: **Bury West - Church**

Application No.: 57352 **App. Type:** FUL 20/05/2014 Approve with Conditions
Location: Dearden Lodge, rear of Cherry Tree Lane, Off Wellington Street, Bury, BL8 2AY

Proposal: Replacement of existing fencing with new 2.4m high palladin fencing

---

Application No.: 57392 **App. Type:** FUL 12/05/2014 Approve with Conditions
Location: 1 Anderton Close, Bury, BL8 2HQ

Proposal: Erection of 1.8M high fence

Application No.: 57419 **App. Type:** FUL 06/05/2014 Approve with Conditions
Location: 10 Anderton Close, Bury, BL8 2HQ

Proposal: Two storey extension at front; Single storey extension at rear and pitched roof to existing garage

---

Application No.: 57452 **App. Type:** FUL 08/05/2014 Approve with Conditions
Location: 24 Euxton Close, Bury, BL8 2HY

Proposal: Single storey rear extension

Application No.: 57462 **App. Type:** FUL 08/05/2014 Approve with Conditions
Location: 32 Grange Road, Bury, BL8 2PE

Proposal: Single storey extension side/rear

Application No.: 57476 **App. Type:** FUL 21/05/2014 Approve with Conditions
Location: 2 Eccleston Close, Bury, BL8 2JF

Proposal: Two storey extension at side, part single storey extension/part two storey extension at rear and lean to roof to front with new bay window to lounge (resubmission)

Application No.: 57485 **App. Type:** FUL 28/05/2014 Approve with Conditions
Location: 2 Lodge Side, Bury, BL8 2SW

Proposal: Erection of fence/trellis on top of existing fence at side/rear to a maximum height of 3 metres

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Application No.: 57499 **App. Type:** LDCP 20/05/2014 Lawful Development
Location: 12 Clitheroe Drive, Bury, BL8 2JU

Proposal: Certificate of lawfulness for proposed single storey rear extension

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Application No.: 57553 **App. Type:** GPDE 12/05/2014 Refused
Location: 10 Rothbury Close, Bury, BL8 2TT

Proposal: Single storey extension at rear

Application No.: 57562 **App. Type:** FUL 12/06/2014 Approve with Conditions
Location: 12 Slaidburn Drive, Bury, BL8 3DG

Proposal: First floor extension and balcony structure at rear

Application No.: 57604 **App. Type:** GPDE 29/05/2014 Prior Approval Required and Refused
Location: 12 Wheelton Close, Bury, BL8 2HZ

Proposal: Prior notification of single storey conservatory extension at rear

Ward: **Bury West - Elton**

Application No.: 57163 **App. Type:** FUL 06/06/2014 Approve with Conditions
Location: Gable end of North Block, Dunsters Court, Bury, BL8 1PN

Proposal: Erection of bungalow

Application No.: 57341 **App. Type:** FUL 21/05/2014 Approve with Conditions
Location: 38 Rudgwick Drive, Bury, BL8 1YA

Proposal: First floor extension at front and side; Single storey extension at front; Single storey extension at rear

Application No.: 57403 **App. Type:** FUL 20/05/2014 Approve with Conditions
Location: 25 Swanage Close, Bury, BL8 1JT

Proposal: First floor extension at front, side and rear; Single storey extensions at side and rear; Front porch

Application No.: 57418 **App. Type:** FUL 21/05/2014 Approve with Conditions
Location: 1 Salthouse Close, Bury, BL8 1HD

Proposal: Part two storey/first floor/single storey extension at side; First floor extension at front; Single storey extension at front; Single storey extension at rear

Application No.: 57467 **App. Type:** FUL 02/06/2014 Approve with Conditions
Location: 245 Brandlesholme Road, Bury, BL8 1DH

Proposal: Two storey extension at side/rear and single storey rear extension; Widening of existing vehicular access

Application No.: 57534 **App. Type:** FUL 06/06/2014 Approve with Conditions
Location: 3 Thornham Close, Bury, BL8 1HH

Proposal: Two storey extension at side including conversion of garage

Application No.: 57539 **App. Type:** FUL 06/06/2014 Approve with Conditions
Location: 19 Sleaford Close, Bury, BL8 1XF

Proposal: Erection of single storey garage at side

Ward: **North Manor**

Application No.: 57089 **App. Type:** FUL 16/05/2014 Approve with Conditions
Location: Land at Hunt Fold House, off Hayfield Close, Greenmount, Bury, BL8 4HU

Proposal: Erection of 1 no. bungalow

Application No.: 57285 **App. Type:** LDCP 20/05/2014 Refused
Location: 8 India Street, Summerseat, Bury, BL9 5PW

Proposal: Certificate of lawfulness for proposed single storey rear extension

---

Application No.: 57287 **App. Type:** FUL 21/05/2014 Refused
Location: 1 Hazel Hall Cottages, Hazel Hall Lane, Ramsbottom, Bury, BL0 9UR

Proposal: Two storey side extension and single storey rear extension.

Application No.: 57370 **App. Type:** FUL 08/05/2014 Approve with Conditions
Location: 4 Mount Pleasant, Nangreaves, Bury, BL9 6SP

Proposal: Single storey rear extension

Application No.: 57385 **App. Type:** FUL 06/05/2014 Approve with Conditions
Location: 7 Hawkshaw Lane, Tottington, Bury, BL8 4JZ

Proposal: Re-roofing of garden outhouse with a combination of single and hip pitch roof

---

Application No.: 57387 **App. Type:** FUL 16/05/2014 Approve with Conditions
Location: 20 Higher Summerseat, Summerseat, Ramsbottom, Bury, BL0 9UG

Proposal: Single storey extension

Application No.: 57429 **App. Type:** FUL 12/05/2014 Approve with Conditions
Location: 17 Wood Road, Summerseat, Bury, BL9 5QA

Proposal: Two storey extension at front

Application No.: 57439 **App. Type:** FUL 16/05/2014 Approve with Conditions
Location: 10 Greenpark Close, Greenmount, Bury, BL8 4QB

Proposal: Single storey extension at front

Application No.: 57447 **App. Type:** FUL 13/05/2014 Approve with Conditions
Location: 41 Longsight Road, Ramsbottom, Bury, BL0 9SL

Proposal: Pitched roof dormer and rooflights to front roof slope

---

Application No.: 57500 **App. Type:** FUL 28/05/2014 Approve with Conditions
Location: 297 Holcombe Road, Greenmount, Bury, BL8 4BB

Proposal: Single storey extension at rear

Ward: **Prestwich - Holyrood**

Application No.: 57369 **App. Type:** FUL 08/05/2014 Approve with Conditions
Location: 16 Lilac Grove, Prestwich, Manchester, M25 3DT

Proposal: Two storey extension to side and extension to rear decking

Application No.: 57400 **App. Type:** FUL 08/05/2014 Approve with Conditions
Location: 159 Heywood Old Road, Rochdale, Manchester, M24 4QR

Proposal: Two storey extension to side and single storey extension to rear; Balcony to existing single storey extension at rear

---

Application No.: 57409 **App. Type:** FUL 16/05/2014 Approve with Conditions
Location: 43 Cuckoo Lane, Whitefield, Manchester, M45 6WD

Proposal: Two storey extension at side/rear (part retrospective)

Application No.: 57468 **App. Type:** GPDE 06/05/2014 Prior Approval Not required
Location: 54 Tamworth Avenue, Whitefield, Manchester, M45 6UA

Proposal: Single storey rear extension.

Application No.: 57478 **App. Type:** FUL 09/06/2014 Approve with Conditions
Location: 66 Simister Lane, Prestwich, Manchester, M25 2RZ

Proposal: Partial rebuild and two storey extension at side; Balcony at rear

---

Application No.: 57490 **App. Type:** LDCP 13/05/2014 Refused
Location: 18 Perrymead, Prestwich, Manchester, M25 2QJ

Proposal: Certificate of lawfulness for proposed single storey rear extension.

Application No.: 57547 **App. Type:** FUL 09/06/2014 Approve with Conditions
Location: 10 Sunnyfield Road, Prestwich, Manchester, M25 2RD

Proposal: Single storey extensions at side and rear

Application No.: 57566 **App. Type:** FUL 13/06/2014 Approve with Conditions
Location: 8 Barnard Avenue, Whitefield, Manchester, M45 6TY

Proposal: Erection of single storey detached garage

Application No.: 57588 **App. Type:** GPDE 12/06/2014 Prior Approval Not required
Location: 18 Perrymead, Prestwich, Manchester, M25 2QJ

Proposal: Single storey rear extension

Ward: **Prestwich - Sedgley**

Application No.: 57280 **App. Type:** FUL 09/05/2014 Approve with Conditions
Location: 40 Kings Road, Prestwich, Manchester, M25 0LE

Proposal: Raised decking area at rear with handrail and steps to garden level.

Application No.: 57375 **App. Type:** FUL 09/05/2014 Approve with Conditions
Location: 36 Tewkesbury Drive, Prestwich, Manchester, M25 0JN

Proposal: New gable roof and rear dormer extension; Two storey and single storey extensions to side and rear and front porch.

Application No.: 57376 **App. Type:** FUL 09/05/2014 Approve with Conditions
Location: 34 Tewkesbury Drive, Prestwich, Manchester, M25 0JN

Proposal: New gable roof and rear dormer extension.

Application No.: 57399 **App. Type:** FUL 19/05/2014 Approve with Conditions
Location: 74 Heywood Road, Prestwich, Manchester, M25 1FN

Proposal: Single storey rear extension

Application No.: 57426 **App. Type:** FUL 14/05/2014 Approve with Conditions
Location: 3 Marton Grange, Prestwich, Manchester, M25 0EL

Proposal: Single storey extension at side and rear

Application No.: 57434 **App. Type:** FUL 20/05/2014 Approve with Conditions
Location: St Hildas C of E Primary School, Whittaker Lane, Prestwich, Manchester, M25 1HA

Proposal: Two no. single storey side extensions

Application No.: 57455 **App. Type:** FUL 19/05/2014 Approve with Conditions
Location: 4 Hartley Avenue, Prestwich, Manchester, M25 0AT

Proposal: Single storey extension at side and rear

Application No.: 57466 **App. Type:** FUL 19/05/2014 Approve with Conditions
Location: 80 Downham Crescent, Prestwich, Manchester, M25 0BS

Proposal: Single storey extension at side and rear; Raised patio at rear with balustrade and steps to garden level

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Application No.: 57493 **App. Type:** FUL 16/05/2014 Refused
Location: 18 Hartley Avenue, Prestwich, Manchester, M25 0AT

Proposal: Two storey extension at side; dormer roof extension at side/rear

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Application No.: 57511 **App. Type:** LDCP 16/05/2014 Lawful Development
Location: 8 South Meade, Prestwich, Manchester, M25 0JL

Proposal: Lawful development certificate for proposed single storey side and rear extension

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Application No.: 57536 **App. Type:** TEL 05/06/2014 Prior Approval Not required
Location: 37 Kings Road, Prestwich, Manchester, M25 0LN

Proposal: Single storey extension at rear

Application No.: 57544 **App. Type:** FUL 06/06/2014 Approve with Conditions
Location: 83 Bury Old Road, Prestwich, Manchester, M25 0FG

Proposal: Single storey extension at side (resubmission)

Application No.: 57569 **App. Type:** GPDE 16/05/2014 Prior Approval Required and Refused
Location: 91 Bury Old Road, Prestwich, Manchester, M25 0FQ

Proposal: Single storey rear extension

Ward: **Prestwich - St Mary's**

Application No.: 57343 **App. Type:** FUL 16/05/2014 Approve with Conditions
Location: 80A Sandy Lane, Prestwich, Manchester, M25 9PS

Proposal: First floor extension at side/rear

Application No.: 57381 **App. Type:** FUL 08/05/2014 Approve with Conditions
Location: 7 Butt Hill Road, Prestwich, Manchester, M25 9NJ

Proposal: Part retrospective application to alter the roof following grant of planning permission 53776 for two storey side extension

---

Application No.: 57424 **App. Type:** FUL 12/05/2014 Approve with Conditions
Location: 123 Butterstile Lane, Prestwich, Manchester, M25 9UP

Proposal: Two storey extension at side; first floor extension at rear (Revised scheme)

Application No.: 57428 **App. Type:** FUL 13/06/2014 Approve with Conditions
Location: 457 Bury New Road, Prestwich, Manchester, M25 1AF

Proposal: Retrospective application for change of use from tanning salon (Sui Generis) to hairdressers (Class A1)

Application No.: 57435 **App. Type:** FUL 09/05/2014 Approve with Conditions
Location: Tesco Stores Ltd, Valley Park Road, Prestwich, Manchester, M25 3TG

Proposal: Extension of existing home shopping operation facility and relocation of existing plant

---

Application No.: 57436 **App. Type:** FUL 12/06/2014 Approve with Conditions
Location: 44 Prestwich Hills, Prestwich, Manchester, M25 9PY

Proposal: Two storey extension at side/rear and single storey front extension

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Application No.: 57437 **App. Type:** FUL 14/05/2014 Approve with Conditions
Location: 4 Hamilton Close, Prestwich, Manchester, M25 9JS

Proposal: Two storey extension at side

Application No.: 57472 **App. Type:** LDCP 13/05/2014 Lawful Development
Location: 12 Herbert Street, Prestwich, Manchester, M25 3HH

Proposal: Lawful development certificate for proposed single storey extension at rear (resubmission)

Application No.: 57506 **App. Type:** FUL 02/06/2014 Approve with Conditions
Location: 7 Ruskin Road, Prestwich, Manchester, M25 9QN

Proposal: Two storey/single storey extension at rear (resubmission)

Ward: **Radcliffe - East**

Application No.: 57068 **App. Type:** FUL 13/06/2014 Refused
Location: 72 Water Street, Radcliffe, Manchester, M26 4DF
Proposal: Change of use from former tanning studio to 2 no.self contained flats; Alterations to front and rear elevations

---

Application No.: 57384 **App. Type:** FUL 09/05/2014 Approve with Conditions
Location: 52 Starling Road, Radcliffe, Manchester, M26 4LN
Proposal: Single storey ground floor rear extension.

Application No.: 57398 **App. Type:** ADV 08/05/2014 Split Decision
Location: Academy, Eton Business Park, Eton Hill Road, Radcliffe, Manchester, M26 2ZS
Proposal: A; Retention of 3 no. non-illuminated sign boards (Signs 2,4,5); Resiting of 1 no. non-illuminated sign board (Sign 3)
B: Retention of 1 no. non-illuminated sign board (Sign 1)

Application No.: 57444 **App. Type:** FUL 20/05/2014 Approve with Conditions
Location: Radcliffe Tower, Church Street East, Radcliffe, Manchester, M26 2PT
Proposal: Erection of 2.4 metre high fence (revised scheme) and gates to alley at rear of 9-17 Sandford Street

---

Application No.: 57446 **App. Type:** FUL 06/06/2014 Approve with Conditions
Location: Former Bury Hospice, Dumers Lane, Radcliffe, Manchester, M26 2QE
Proposal: 1.8 Metre high fence behind existing wall to east elevation and to rear yard

---

Application No.: 57520 **App. Type:** GPDE 08/05/2014 Prior Approval Required and Refused
Location: 99 Bury Road, Radcliffe, Manchester, M26 2UT
Proposal: Prior Notification for a single storey extension at rear

---

Application No.: 57543 **App. Type:** ADV 04/06/2014 Approve with Conditions
Location: Albert Works, Water Street, Radcliffe, Manchester, M26 4DF
Proposal: Non illuminated free standing sign

Application No.: 57568 **App. Type:** GPDE 13/06/2014 Prior Approval Required and Refused
Location: 99 Bury Road, Radcliffe, Manchester, M26 2UT
Proposal: Single storey rear extension

Application No.: 57577 **App. Type:** LDCP 23/05/2014 Lawful Development
Location: Brooklea, 87 Higher Ainsworth Road, Radcliffe, Manchester, M26 4JJ
Proposal: Certificate of lawfulness for proposed single storey rear extension

Ward: **Radcliffe - North**

Application No.: 57357 **App. Type:** FUL 08/05/2014 Approve with Conditions
Location: 11 Cockey Moor Road, Radcliffe, Bury, BL8 2HD

Proposal: First floor extension to front & single and two storey extensions to rear.

Application No.: 57415 **App. Type:** FUL 11/06/2014 Approve with Conditions
Location: 45 Church Street, Ainsworth, Bolton, BL2 5RA

Proposal: Single storey extension at rear; conversion of loft to living accommodation, installation of velux windows and re-roof; rebuild of front elevation

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Application No.: 57432 **App. Type:** ADV 14/05/2014 Approve with Conditions
Location: The Sparking Clog, 24 Radcliffe Moor Road, Radcliffe, Manchester, M26 0WL

Proposal: 1 no. externally illuminated single post sign; 1 no. non illuminated individual letters; 1 no. externally illuminated individual letters 2 no. externally illuminated double sided twin post signs

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Application No.: 57442 **App. Type:** FUL 15/05/2014 Approve with Conditions
Location: 52 Clyde Road, Radcliffe, Manchester, M26 4PE

Proposal: Single storey extension at rear; Additional windows to suit revised internal layout

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Application No.: 57443 **App. Type:** FUL 21/05/2014 Approve with Conditions
Location: 32 Northlands, Radcliffe, Manchester, M26 4GB

Proposal: Single storey extension at side/rear

Application No.: 57449 **App. Type:** FUL 23/05/2014 Approve with Conditions
Location: Drumcree, Well Street, Ainsworth, Bolton, BL2 5SQ

Proposal: Part single storey / part two storey extension at side

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Application No.: 57480 **App. Type:** FUL 21/05/2014 Approve with Conditions
Location: Arthur Lane Nurseries, 1 Arthur Lane, Ainsworth, Bolton, BL2 5PW

Proposal: Single storey extensions to existing tea room/shop

Application No.: 57488 **App. Type:** FUL 29/05/2014 Approve with Conditions
Location: 2 Moss Shaw Way, Radcliffe, Manchester, M26 4QH

Proposal: Single storey extension at front and side

Application No.: 57514 **App. Type:** LDCP 20/05/2014 Lawful Development
Location: 15 The Crescent, Radcliffe, Manchester, M26 3LQ

Proposal: Certificate Of Lawfulness for proposed single story rear extension

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Application No.: 57560 **App. Type:** FUL 10/06/2014 Approve with Conditions
Location: 1 Browns Road, Bradley Fold, Bolton, BL2 6RQ

Proposal: Single storey extension at rear

Application No.: 57561 **App. Type:** FUL 11/06/2014 Approve with Conditions
Location: 31 Young Street, Radcliffe, Manchester, M26 4QG

Proposal: Single storey extension at rear

Ward: **Radcliffe - West**

Application No.: 57389 **App. Type:** FUL 28/05/2014 Approve with Conditions
Location: Yew Tree Farm, Ringley Road West, Radcliffe, Manchester, M26 1EB

Proposal: Replacement garage

Application No.: 57390 **App. Type:** FUL 28/05/2014 Approve with Conditions
Location: Yew Tree Farm, Ringley Road West, Radcliffe, Manchester, M26 1EB

Proposal: Amendments to outbuilding including reconstruction with lower roof/eaves height

Application No.: 57441 **App. Type:** TEL 21/05/2014 Prior Approval Required and Granted
Location: Oakhill Barn Farm, Prestolee Road, Radcliffe, M26 1FJ

Proposal: Prior notification for 15 metre tall steel monopole with 3 no. antennas to the top, 1 no equipment cabinet at the base surrounded by 1.8 metre high pallisade fencing.

Application No.: 57496 **App. Type:** FUL 27/05/2014 Approve with Conditions
Location: Asda Stores Ltd, Pilkington Way, Radcliffe, Manchester, M26 3DA

Proposal: Construction of seasonal canopy at entrance to store

Application No.: 57507 **App. Type:** FUL 21/05/2014 Approve with Conditions
Location: 7 Crossfield Drive, Radcliffe, Manchester, M26 3RX

Proposal: Two storey extension at side and single storey extension at front

Application No.: 57513 **App. Type:** FUL 27/05/2014 Approve with Conditions
Location: 91 Ainsworth Road, Radcliffe, Manchester, M26 4FA

Proposal: Loft Conversion

Application No.: 57533 **App. Type:** CON 20/05/2014 Raise Objections
Location: Land Adjacent 383 Ringley Road West, Outwood, Radcliffe, Manchester, M26 1EA

Proposal: Article 16 Consultation - 91893/14 Erection of one detached bungalow, retaining the existing stables as a detached garage.

Ward: **Ramsbottom + Tottington - Tottington**

Application No.: 57364 **App. Type:** DEM 02/05/2014 Prior Approval Required and Granted
Location: Beechwood Bungalow & Outbuildings, Land On The Rear Of 353 & 365 Bury Road, Tottington, Bury, BL8 3DS

Proposal: Prior notification of demolition of Beechwood Bungalow and outbuildings on land at the rear of 353 & 365 Bury Road Tottington.

Application No.: 57373 **App. Type:** FUL 08/05/2014 Approve with Conditions
Location: 64 Cotswold Crescent, Bury, BL8 1QP
Proposal: Erection of a front porch.

Application No.: 57393 **App. Type:** FUL 27/05/2014 Approve with Conditions
Location: 20 Sandybrook Close, Tottington, Bury, BL8 3LB
Proposal: Single storey extension at rear; Garage at rear

Application No.: 57420 **App. Type:** FUL 21/05/2014 Approve with Conditions
Location: 33A Sunny Bower Street, Tottington, Bury, BL8 3HL
Proposal: Single storey extension at side with first floor balcony above

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Application No.: 57430 **App. Type:** FUL 09/05/2014 Approve with Conditions
Location: Robin Hood PH, 19 Market Street, Tottington, Bury, BL8 4AA
Proposal: Installation of new sliding windows to existing flat roofed canopy of the front external drinking area

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Application No.: 57457 **App. Type:** FUL 21/05/2014 Approve with Conditions
Location: 52 Hawthorn Crescent, Tottington, Bury, BL8 3NG
Proposal: Two storey extension at side

Application No.: 57481 **App. Type:** FUL 22/05/2014 Refused
Location: 114 Booth Way, Tottington, Bury, BL8 3JT
Proposal: Single storey rear extension and two storey side extension (resubmission)

Application No.: 57521 **App. Type:** FUL 02/06/2014 Approve with Conditions
Location: 261 Bury Road, Tottington, Bury, BL8 3DY
Proposal: Single and two storey extensions at rear

Application No.: 57537 **App. Type:** LDCP 21/05/2014 Lawful Development
Location: 107 Turton Road, Tottington, Bury, BL8 4AQ
Proposal: Certificate of lawfulness for proposed loft conversion with rear dormer.

Application No.: 57546 **App. Type:** FUL 11/06/2014 Approve with Conditions
Location: Christ Church Primary School, Church Street, Walshaw, Bury, BL8 3AX
Proposal: Relocation of a new temporary portable building (for 5 years) to replace the existing out of hours childcare facility which will be removed (Retrospective)

Ward: **Ramsbottom and Tottington - Ramsbottom**

Application No.: 57162 **App. Type:** FUL 11/06/2014 Approve with Conditions
Location: Former Bank Lane Friendly Burial Society building, Spring Street, Shuttleworth, Ramsbottom, Bury, BL0 0DS
Proposal: Conversion of building and external alterations to form 2 no. dwellings

Application No.: 57338 **App. Type:** FUL 19/05/2014 Approve with Conditions
Location: 33 Marlborough Close, Ramsbottom, Bury, BL0 9YU

Proposal: First floor extension at side and conversion of garage

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Application No.: 57380 **App. Type:** FUL 08/05/2014 Approve with Conditions
Location: 94 Peel Brow, Ramsbottom, Bury, BL0 0AU

Proposal: Single storey extension at rear

Application No.: 57404 **App. Type:** FUL 06/05/2014 Approve with Conditions
Location: 16 Lilburn Close, Ramsbottom, Bury, BL0 9LY

Proposal: Loft conversion with dormers at front and rear

Application No.: 57453 **App. Type:** FUL 15/05/2014 Approve with Conditions
Location: 29 Sunny Bower Street, Tottington, Bury, BL8 3HL

Proposal: Pitched roof with installation of 3 roof lights.

Application No.: 57454 **App. Type:** FUL 20/05/2014 Refused
Location: 12 Geoffrey Street, Ramsbottom, Bury, BL0 9PQ

Proposal: Change of use from residential property (C3) to physiotherapy practice (D1)

Application No.: 57461 **App. Type:** GPDE 06/05/2014 Prior Approval Not required
Location: 9 Moray Close, Ramsbottom, Bury, BL0 9YS

Proposal: Single storey rear extension

Application No.: 57477 **App. Type:** FUL 21/05/2014 Approve with Conditions
Location: 200 Dundee Lane, Ramsbottom, Bury, BL0 9HF

Proposal: Single storey extension at side; Extension and pitched roof to existing garage

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Application No.: 57495 **App. Type:** FUL 27/05/2014 Approve with Conditions
Location: 180 Whittingham Drive, Ramsbottom, Bury, BL0 9NY

Proposal: Single storey extensions at side and rear

Application No.: 57509 **App. Type:** REG3 02/06/2014 Approve with Conditions
Location: St Andrews C of E Primary School, Bolton Street, Ramsbottom, Bury, BL0 9JD

Proposal: Single storey extension to existing kitchen

Ward: **Whitefield + Unsworth - Besses**

Application No.: 57324 **App. Type:** FUL 05/06/2014 Refused
Location: Land at rear of Victoria Lane/Stone Pale, Whitefield, Manchester, M45 6JG

Proposal: Retrospective application for siting of 4 no. storage containers

Application No.: 57359 **App. Type:** FUL 02/06/2014 Approve with Conditions
Location: 4 Charnley Street, Whitefield, Manchester, M45 6BG

Proposal: Change of use from hair treatment clinic to dwelling house (Class C3)

Application No.: 57394 **App. Type:** FUL 09/05/2014 Approve with Conditions
Location: 5 Brathay Close, Whitefield, Manchester, M45 8BE

Proposal: Two storey side extension

Application No.: 57427 **App. Type:** FUL 27/05/2014 Approve with Conditions
Location: 8 Conway Avenue, Whitefield, Manchester, M45 7AZ

Proposal: Two storey side extension

Application No.: 57501 **App. Type:** FUL 21/05/2014 Refused
Location: 27 Hazel Road, Whitefield, Manchester, M45 8EU

Proposal: New door and external staircase at rear (retrospective)

Ward: **Whitefield + Unsworth - Pilkington Park**

Application No.: 57306 **App. Type:** FUL 14/05/2014 Approve with Conditions
Location: Philips Drive Wastewater Pumping Station, Philips Drive, Whitefield

Proposal: Temporary construction compound to facilitate urgent repairs required to the wastewater detention tank on Park Lane

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Application No.: 57367 **App. Type:** FUL 09/05/2014 Approve with Conditions
Location: 40 Pine Avenue, Whitefield, Manchester, M45 7EQ

Proposal: Two storey extension to rear.

Application No.: 57368 **App. Type:** FUL 09/05/2014 Approve with Conditions
Location: 44 Ferndale Avenue, Whitefield, Manchester, M45 7QP

Proposal: Replacement roof including an increase in ridge height; dormer at side

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Application No.: 57465 **App. Type:** FUL 21/05/2014 Approve with Conditions
Location: 78 Ringley Road, Whitefield, Manchester, M45 7LN

Proposal: Single storey extension at rear with decking and steps with handrails down to garden level

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Application No.: 57497 **App. Type:** LDCP 15/05/2014 Lawful Development
Location: 31 Ringley Drive, Whitefield, Manchester, M45 7LX

Proposal: Certificate of lawfulness for proposed single storey rear extension

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Application No.: 57517 **App. Type:** FUL 04/06/2014 Refused
Location: 6 Parkstone Avenue, Whitefield, Manchester, M45 7QH

Proposal: Loft conversion and dormers to side elevations.

Application No.: 57531 **App. Type:** LDCP 21/05/2014 Lawful Development
Location: 9 Oak Avenue, Whitefield, Manchester, M45 7FN

Proposal: Lawful development certificate for proposed single storey extension at rear

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Application No.: 57573 **App. Type:** GPDE 12/06/2014 Prior Approval Not required
Location: 143 Park Lane, Whitefield, Manchester, M45 7GT

Proposal: Single storey extension at rear

Ward: **Whitefield + Unsworth - Unsworth**

Application No.: 57405 **App. Type:** FUL 02/05/2014 Approve with Conditions
Location: 30 Ennerdale Drive, Bury, BL9 8HU

Proposal: Two storey extension at side/rear

Application No.: 57416 **App. Type:** FUL 08/05/2014 Approve with Conditions
Location: 7 Colinwood Close, Bury, BL9 8HQ

Proposal: First floor extension at side

Application No.: 57469 **App. Type:** GPDE 06/05/2014 Prior Approval Not required
Location: 27 Southgate Road, Bury, BL9 8DZ

Proposal: Single storey rear extension

Application No.: 57548 **App. Type:** FUL 13/06/2014 Approve with Conditions
Location: 939 Manchester Road, Bury, BL9 8DN

Proposal: Single storey extension at rear; Single storey extension to garage at side

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Application No.: 57549 **App. Type:** FUL 04/06/2014 Approve with Conditions
Location: 72 Ajax Drive, Bury, BL9 8EF

Proposal: Pitched roof to existing flat roof extension at side; Single storey extension at side/front and bay window (resubmission)

Application No.: 57607 **App. Type:** GPDE 05/06/2014 Prior Approval Required and Refused
Location: 18 Wilton Drive, Bury, BL9 8BG

Proposal: Prior notification of single storey extension at rear

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Total Number of Applications Decided: **142**

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REPORT FOR DECISION

Agenda Item	6

DECISION OF:	**PLANNING CONTROL COMMITTEE**
DATE:	**24th JUNE 2014**
SUBJECT:	**PLANNING APPEALS**
REPORT FROM:	**DEVELOPMENT MANAGER**
CONTACT OFFICER:	**JOHN CUMMINS**
TYPE OF DECISION:	**COUNCIL**
FREEDOM OF INFORMATION/STATUS:	This paper is within the public domain
SUMMARY:	Planning Appeals: • Decided Enforcement Appeals: • None
OPTIONS & RECOMMENDED OPTION	The Committee is recommended to the note the report and appendices.

IMPLICATIONS:	
Corporate Aims/Policy Framework:	Do the proposals accord with the Policy Framework? Yes
Statement by the S151 Officer: Financial Implications and Risk Considerations:	Executive Director of Resources to advise regarding risk management
Statement by Executive Director of Resources:	N/A
Equality/Diversity implications:	No
Considered by Monitoring Officer:	N/A

Wards Affected:	All listed
Scrutiny Interest:	N/A

TRACKING/PROCESS **DIRECTOR:**

Chief Executive/ Strategic Leadership Team	Executive Member/Chair	Ward Members	Partners
Scrutiny Committee	Committee	Council	

1.0 BACKGROUND

This is a monthly report to the Committee of the Planning Appeals lodged against decisions of the authority and against Enforcement Notices served and those that have been subsequently determined by the Planning Inspectorate.

Attached to the report are the Inspectors Decisions and a verbal report will be presented to the Committee on the implications of the decisions on the Appeals that were upheld.

2.0 CONCLUSION

That the item be noted.

List of Background Papers:- Copy Appeal Decisions attached

Contact Details:-
John Cummins, Development Manager
Planning Services, Department for Resources and Regulation,
3 Knowsley Place ,Bury BL9 0EJ
Tel: 0161 253 6089
Email: j.cummins@bury.gov.uk

Planning Appeals Decided between 02/05/2014 and 15/06/2014

Application No.: 56668/FUL
Decision level: DEL
Recommended Decision: Refuse
Applicant: Overmode Ltd

Appeal Decision: Dismissed
Date: 28/05/2014
Appeal type: Written Representations

Location: 1 Glenmere Close, Prestwich, Manchester, M25 3BH

Proposal: Conversion of detached dwelling house into 4 no. apartments. Replacement of existing hip roof to mono-pitched roof to all elevations, demolition of existing garage, alterations to doorway of existing conservatory and creation of 4 no. car parking spaces (resubmission)

Application No.: 56892/ADV
Decision level: DEL
Recommended Decision: Refuse
Applicant: Mrs Leena Parekh

Appeal Decision: Dismissed
Date: 12/05/2014
Appeal type: Written Representations

Location: Post Office, 263 Dumers Lane, Radcliffe, Manchester, M26 2GN

Proposal: 2 No. externally illuminated fascia signs

Copies of the Appeal Decisions are attached below

The Planning Inspectorate

Appeal Decision

Site visit made on 28 April 2014

by S Ashworth BA (Hons) BPl MRTPI

an Inspector appointed by the Secretary of State for Communities and Local Government

Decision date: 28 May 2014

Appeal Ref: APP/T4210/A/14/2213859
1 Glenmere Close, Prestwich, Manchester M25 3BH

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a refusal to grant planning permission.
- The appeal is made by Mr Andreas Panteli against the decision of Bury Metropolitan Borough Council.
- The application Ref 56668, dated 6 November 2013, was refused by notice dated 6 January 2014.
- The development proposed is described as 'Conversion of detached house into 3 no. one bed apartments and 1 no. studio, together with external alterations including replacement of existing hip roof to mono-pitched roof to all elevations, demolition of existing garage, alterations to doorway of existing conservatory and creation of 4 car parking spaces (resubmission of application reference no. 56104)'.

Decision

1. The appeal is dismissed.

Preliminary Matter

2. I have considered the Planning Practice Guidance published on 6 March 2014. However, in the light of the facts of this case its content does not alter my conclusions on the main issues in this case.

Main Issues

3. The main issues are

- the effect of the proposed parking arrangements on highway safety and efficiency
- whether the proposal would provide a safe and convenient means of access to the adopted highway.

Reasons

Parking

4. The appeal relates to a detached dwelling, 1 Glenmere Close, which is one of a group of four secluded dwellings accessed off Bury New Road (A56) via a private drive. The drive, which is single track in width, runs through the forecourt of a petrol filling station. Public footpath No. 24 runs along the southern boundary of the site.

5. The site is situated close to Junction 17 of the M60 and the highway network in the vicinity is busy. While Glenmere Close is residential in character, the area surrounding it has a busy commercial character. The site lies adjacent to a Premier Inn to the south beyond which is Prestwich Hospital.

6. The proposal seeks to convert the building from a single dwelling to four flats, including a studio flat within the roofspace. The proposal also involves the alteration and extension of the building at first floor and roof levels. Externally an existing garage would be demolished and parking provision would be created for four vehicles within the curtilage of the dwelling.

7. Parking standards are set out in the Council's Development Control Policy Guidance Note 11 which was adopted as a Supplementary Planning Document (SPD) in 2007. For residential development the provision of 1 space per 1 bedroomed dwelling in 'high access' areas or 2 spaces per 1 bedroomed dwelling in 'low access' areas is recommended. The appeal site is close to bus stops on Bury New Road and just over 800m from a Metrolink Station. However, it is a considerable distance from a stretch of highway or a car park where public parking space might be available. Glenmere Close is restricted in terms of its width and offers no opportunity itself for visitor parking. In these circumstances the Council have reasonably suggested that the location falls between a high access and a low access area. On this basis the provision of six spaces for use by residents and visitors is required.

8. 1 Glenmere Close has only a limited amount of space available externally for parking and garden space. Four car parking spaces are identified within the site although two of these spaces would be tandem parking spaces and thereby not always readily accessible. As such this provision falls short of the standard set out in the SPD. The swept path analysis of the parking spaces in the appellant's Highway Statement seeks to demonstrate that it would be possible to manoeuvre into both of the tandem spaces no matter which were occupied. However, even if this were considered acceptable as a layout there is no provision for visitor space.

9. As a result of this substandard provision any residents or visitors vehicles that were unable to park within the curtilage of the dwelling would be likely to park on Glenmere Close given the significant distance to public parking space. Because of the restricted width of the access and limited room available for turning, such a situation would lead to inconvenience to proposed and existing residents and would be detrimental to highway safety.

10. The appellant has demonstrated on the submitted plan that there would be a passing place along the road. However, this space is immediately outside the entrance to No. 3 and a vehicle parked in this space would cause significant inconvenience to the occupiers of that property. Moreover it seems to me that service or delivery vehicles would be unable to negotiate past a parked car given the limited road width resulting in inconvenience and harm to highway and pedestrian safety.

11. The appellant points out that not all occupants may have access to a car. Be this as it may, the matter could not be controlled by planning condition. I accept that the use of the property as a single family dwelling would also generate activity and demand for car parking. Nevertheless, only 3 spaces for a 4-bedroomed dwelling area required under the provisions of the SPD and

tandem spaces are likely to be more workable by a family than by residents who are unconnected.

12. I therefore conclude on this first main issue that insufficient parking space is proposed contrary to the recommendations of the SPD and as a consequence the proposal would be detrimental to highway safety and efficiency contrary to Policies EN1/2, H2/1, H2/2, HT2/4. These policies seek to ensure, among other things, that proposals do not have an adverse effect on the character of the townscape, make a positive contribution to the form and quality of the surrounding area, provide an acceptable standard of layout with regard to car parking provision and access and require all applications to accord with the Council's parking standards.

Access

13. The petrol filling station, which also includes a shop and 'Subway' outlet, generates a significant amount of vehicular traffic. At the time of my site visit comings and goings were constant. Access to Glenmere Close from the A56 is through the petrol station via a one-way route which is marked on site. Vehicles exiting Glenmere Close pass through the filling station in front of the shop to reach the A56.

14. Given the lack of direct access onto the highway network, and taking account of evidence presented by existing residents of Glenmere Close, it seems to me that occasional obstructions that occur within the forecourt can affect the flow of traffic through the site resulting in inconvenience to the residents. However, the Highway Statement estimates that the proposal will generate only an additional 6 more vehicular movements per day. In contrast to the total number of movements through the petrol station over the course of the day, this increase would not be significant. It is therefore unlikely that the proposal would significantly worsen any congestion in and around the petrol station, result in a significant increase in queuing on the A56 or otherwise be detrimental to highway safety.

15. The access road is substandard in terms of its width and has a poor alignment and restricted visibility. However, it is a short stretch of road, vehicle speeds along the access are low and no evidence of any accidents has been presented to me. There is no reason to suggest that a small increase in traffic using the access would, in itself, lead to harm to highway safety although I am concerned about the effect of the proposed parking provision on safety as outlined above.

16. I am aware that a public footpath adjoins the site. However, I am not persuaded that the small increase in number of vehicles using the access would result in danger to pedestrians using the path.

17. I therefore conclude that the proposal would provide a safe means of access to the site in line with Policies H2/2, HT6/2 and HT2/4 of the adopted Bury UDP 1997. These policies seek, among other things to ensure that satisfactory provision is made for access.

Other Matters

18. Although it did not form a reason for refusal of permission, the Council have referred to the requirement for a contribution towards the provision of open space in the area under the terms of the Open Space, Sport and Recreation in

New Housing Development Supplementary Planning Document. There is no such proposal before me and the appellant has not indicated his willingness to enter into such an agreement. However, insufficient specific information has been supplied to enable me to assess whether such a contribution is necessary, directly related to the scheme or of a scale that could be considered fairly and reasonably related to the proposed development. Notwithstanding this, the appeal has been considered on its substantive merits upon which this matter has no direct bearing.

19. The proposal would add marginally to the supply of housing in the Borough in a sustainable location and would be economically beneficial. These are undoubtedly benefits of the scheme but they do not outweigh the harm that would be caused by the inadequate provision of parking space and its effect on the safe and efficient use of Glenmere Close.

Conclusion

20. For the reasons outlined above and taking into account all other matters raised, including matters raised by third parties, the appeal is dismissed.

S. Ashworth

INSPECTOR

Appeal Decision

Site visit made on 28 April 2014

by S Ashworth BA (Hons) BPl MRTPI

an Inspector appointed by the Secretary of State for Communities and Local Government

Decision date: 12 May 2014

Appeal Ref: APP/T4210/H/14/2214793
Post Office, 263 Dumers Lane, Radcliffe, Manchester M26 2GN

- The appeal is made under Regulation 17 of the Town and Country Planning (Control of Advertisements) (England) Regulations 2007 against a refusal to grant express consent.
- The appeal is made by Mrs Leena Parekh against the decision of Bury Metropolitan Borough Council.
- The application Ref 56892, dated 30 October 2013, was refused by notice dated 10 January 2014.
- The advertisement proposed is illuminated fascia board advertisement at front and side elevations

Decision

1. The appeal is dismissed.

Procedural Matters

2. The National Planning Policy Guidance came into force on 6 March 2014. Its contents do not have a bearing on matters relating to the determination of this appeal.

3. The signs are already in position and I have dealt with the appeal on this basis.

4. The Council describe the proposal as '2 No. externally illuminated fascia signs'. This appears to be a more accurate description of the development and I have dealt with the appeal on this basis with the plans and particulars before me.

Main Issue

5. The main issue in this case is the effect of the advertisements on the character and appearance of the area.

Reasons

6. The appeal site is an end of terrace property in use a post office /shop, situated at the junction of Dumers Lane and Whewell Avenue. The surrounding area is predominantly residential in character comprising mainly terraces of dwellings set back from the road behind small front gardens. There are a few non-residential uses within or at the end of terraces including a funeral directors on the opposite corner of Whewell Avenue.

7. The fascia signs are two boards of different appearance that, in effect, form a continuous sign wrapping around the corner of the building. The sign to the front elevation has a blue background with yellow and white text and a logo.

The sign to the side elevation has a white background with a red and white logo advertising the post office. Both signs are externally illuminated.

8. The signs are considerably larger than a traditional fascia sign, occupying the full width of the property at the front and wrapping round the corner of the building. At 1.3m deep, the sign to the front fills the space between the top of the shop window and the bottom of the first floor window and obscures a decorative band course feature. In addition the signs project from the face of the building forming a large, box-like structure. As such the signs are overly dominant, out of proportion and do not respect, and thereby detract from, the character and appearance of the building.

9. Whist it is clear that this has been a shop unit for some time, from the information submitted, it appears that the previous fascia sign sat within the shopfront and was thereby visually unassuming and reflected the domestic scale and appearance of the terrace as a whole. The incongruity and dominance of the signs that are the subject of the appeal, in contrast, are large and commercial and detract from the appearance and character of the terrace and wider street scene.

10. I have taken into consideration the appellants need to sustain an economically viable business and accept that investment has been made into the property. However this does not convince me that the sign is appropriate. Nor is there any evidence to suggest that the business will fail if the sign is required to be replaced.

11. I note that the sign has not generated objection from neighbouring residents although I am aware that the matter was brought to the attention of the Council by a complaint. The lack of objection does not signify that the proposal is acceptable. I am also aware that the appellant was not advised that consent for the signs would be required and whilst I have sympathy with the appellant, it is incumbent on me to determine the appeal on its own merits.

12. Some signage is necessary to draw attention to the business. However I conclude that the signs subject to the appeal are inappropriate and unacceptably affect the character and appearance of the area.

13. The Council has drawn my attention to policy EN1/9 of the adopted Bury Unitary Development Plan 1997, which was referred to in the reason for refusal. Whilst I have taken it into account as a material consideration, the powers to control advertisements under the regulations may be exercised only in the interests of amenity and public safety. Consequently in my determination of the appeal the Council's policies have not in themselves been decisive.

Conclusion

14. For the reasons above, I consider that the advertisements are materially detrimental to the interests of amenity and, having taken into account of all other matters raised I conclude that the appeal should fail.

S Ashworth

INSPECTOR

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REPORT FOR DECISION

Agenda Item	7

DECISION OF:	**PLANNING CONTROL COMMITTEE**
DATE:	**24 JUNE 2014**
SUBJECT:	**SECTION 106 OBLIGATIONS**
REPORT FROM:	**DEVELOPMENT MANAGER**
CONTACT OFFICER:	**PHILIPPA GIBBON**
TYPE OF DECISION:	**COUNCIL**
FREEDOM OF INFORMATION/STATUS:	This paper is within the public domain
SUMMARY:	The report outlines the contributions made by S106 obligations since 1 October 2013 and summarises agreements that are outstanding.
OPTIONS & RECOMMENDED OPTION	The Committee is recommended to note the report.

IMPLICATIONS:	
Corporate Aims/Policy Framework:	Do the proposals accord with the Policy Framework? N/A
Statement by the S151 Officer: Financial Implications and Risk Considerations:	Executive Director of Resources to advise regarding risk management N/A
Statement by Executive Director of Resources:	N/A
Equality/Diversity implications:	N/A
Considered by Monitoring Officer:	N/A
Wards Affected:	ALL
Scrutiny Interest:	N/A

TRACKING/PROCESS **DIRECTOR:**

Chief Executive/ Strategic Leadership Team	Executive Member/Chair	Ward Members	Partners
Scrutiny Committee	Committee	Council	

1.0 Background

1.1 Section 106 obligations are legal contracts between the Local Planning Authority and the developer and are essential to allow the granting of planning permission in certain circumstances. These obligations are then secured as a land charge on any successive land owner of the application site, should the site be sold on and developed by someone other than the applicant.

1.2 The details of the obligations are controlled by statute and must pass the following three tests if they are to be considered when determining an application for planning permission:
a) necessary to make the development acceptable in planning terms;
b) directly related to the development; and
c) fairly and reasonably related in scale and kind to the development.

1.3 Obligations often involve the payment of financial contributions, for example recreation contributions, compensation for loss of employment land and contributions towards ecological enhancements. On receipt by the Council, these contributions are effectively held on trust, to be spent in accordance with the terms of the Section 106 Agreement. Section 106 obligations may also include non-financial obligations such as provision of on-site artwork, affordable housing or the transfer of land.

1.4 This report outlines the contributions provided by Section 106 obligations in the 6 months since the previous report to PCC in November 2013 and identifies those Agreements where obligations are outstanding and those where triggers have not yet been reached.

2.0 Schemes Provided and Obligations Complied With

2.1 A list of schemes provided as a result of financial contributions is attached to this report at Appendix A, together with a list of contributions received and obligations complied with between 1st October 2013 and 31st March 2014 at Appendix B.

2.2 Table 1 below identifies contributions received in the six months from 1st October 2013 and 31st March 2014, and unspent contributions as at 31st March 2014.

2.3 Over the six month period from 1st October 2013 and 31st March 2014 a total of **£282,442.75** has been collected from 16 separate sites. The overall income and expenditure is broken down in Table 1 overleaf.

2.4 The total amount of s106 contributions held by the Council as of 31st March 2014 is also included in the table below, and currently stands at **£2,969,445.83**. It is important to note that a time lag between receipt and expenditure of contributions is to be expected, as funds have to be allocated to specific schemes, and in some cases contributions are for the long term maintenance of land that has been transferred to the Council.

2.5 Since 1st April 2014 a further £16,262.43 of recreation contributions has been received from two sites. These are excluded from the table below, but are detailed in Appendix B and will be added to the amount received and total balance in the next S106 monitoring report.

Table 1: S106 income, expenditure and unspent balance

Expenditure type	Contributions received 1st October 2013 and 31st March 2014	Total amount spent 1st October 2013 and 31st March 2014	Total value of unspent contributions as at 31st March 2014	Comments
Recreation enhancement	£55,992.75	£181,066.96	£502,524.05	£113,288.12 paid upfront and can't be allocated until commencement of development. £231,792.25 allocated, with work in progress to allocate the remaining unallocated contributions. The balance includes interest earned (£5,728.92 in 2013/14).
Recreation maintenance	-	-	£159,287.12	All allocated to maintenance of transferred land. The balance includes interest earned (£1,515.87 in 2013/14).
Local Nature Reserves	-	£12,292.99	£152,154.15	All allocated.
Roch Valley Greenway maintenance fund & repair and maintenance of goyt	-	-	£130,823.00	Awaiting transfer of land.
Shrewsbury House Woodland contribution	-	-	£3,000.00	To be used to improve and enhance existing woodland in the locality of Shrewsbury House, Prestwich
Public art	-	£14,000.00	£241,565.54	£40,000 allocated to Brandlesholme area using Olives Valley contribution and plans progressing to allocate a further £100,000, all ring fenced. The balance includes interest earned (£2,089.76 2013/14).
Employment enabling works	£65,000.00	£38,316.53	£842,455.72	£69,145.31 allocated, remainder ring fenced.

Affordable Housing	£141,450.00	-	£901,036.25	£617,000 allocated to bring empty properties back into use as affordable housing in Radcliffe, remainder ring fenced for AH.
Clerke Street study	-	-	£16,600.00	Contribution to a study to identify a reuse or redevelopment scheme for land at Clerke Street. A project group has been established to progress this study, and survey work has been commissioned.
Highways	£10,000.00		£10,000.00	Contribution towards vehicle activated signs at Fletcher Bank Quarry.
Public Realm	£10,000.00	-	£10,000.00	Contribution for public realm improvements to improve the linkages between Aldi and Prestwich town centre.
TOTAL	**£282,442.75**	**£245,676.48**	**£2,969,445.83**	

Please note that the figures in the table above represent a snap shot in time and may not be entirely consistent with previous reports as expenditure from S106 contributions is confirmed at financial year end and interest is added to the balance. Income figures are based on the six month period from 1st October 2013 and 31st March 2014, and total balances are as at 31st March 2014.

Recreation

2.6 In the six months from 1st October 2013 to 31st March 2014 £181,066.96 recreation contributions has been spent. This has gone towards improvements at a number of play areas, fencing at Broad Oak playing field and Radcliffe skate park and improvement work at Whaley Road / Fern Street Allotments, Clarence Park, Whitehead Garden, St Mary's flower park and the ball zone and tennis courts at Bolton Road Park, Radcliffe.

2.7 At Bolton Road West, Ramsbottom contributions have been used to fund improvements to the ball zone and play area, allotment paths and towards the changing pavilion extension, which was mainly funded through a grant obtained by Ramsbottom United Junior Football Club, with some S106 as match funding.

2.8 £59,500 of the S106 recreation expenditure has been used as match funding for part of the "I Will If You Will" project and has been used for works at the tennis courts at Manchester Road Park, Whitefield Park, Bolton Road Park, Clarence Park and Whitehead Park, as well as outdoor gyms at Clarence Park, Whitehead Park and Close Park.

2.9 In terms of future spending, funding has also been allocated to a number of projects across the Borough, including works to play areas, bowling facilities and allotments. The priority is to ensure that S106 recreation contributions are allocated within the area where the development took place. Potential project ideas are identified based on Green Space Strategy, the Play Strategy, local priorities, opportunities for maximising the money by attracting external funding, etc; Ward Councillors are consulted in writing, and feedback from them informs the final list of schemes.

2.10 In addition, a riverside park is also being provided on site as part of the mixed use residential and employment development of land at Dumers Lane and Morris Street, secured through a S106 Agreement.

Local Nature Reserves

2.11 From 1st October 2013 to 31st March 2014, £9,672.99 of S106 Local Nature Reserve funding has been used to support the employment of the Local Nature Reserves Officer as provided for through contributions from developments at Kirklees Bleachworks, Olives Paper Mill and Radcliffe Paper Mill. The LNR officer is undertaking projects in the Kirklees Valley LNR and at Chapelfield, Radcliffe.

2.12 In the Kirklees Valley, £220 of S106 contributions has gone towards funding the Woolfold Gap Project. £250.00 has been spent on timber to provide benches along the footpath. In terms of future spending plans, a preliminary reservoir assessment has been commissioned using contributions from Kirklees Bleachworks to assess the need and opportunities for future works to the reservoirs. £32,165.10 of S106 LNR funding has also been committed as match funding to secure a Forestry Commission Woodland Improvement Grant for the Kirklees Valley. The total value of the project is £120,000 and will incorporate access / footpath improvement works, entrance redesign, signage and treatment of Himalayan balsam and Japanese knotweed.

2.13 Plans are progressing to turn land at Chapelfield which belonged to the former Radcliffe Paper Mill into the Borough's newest Local Nature Reserve. The Chapelfield LNR project will be funded by s106 contributions from the former Radcliffe Paper Mill site. The Local Nature Reserves officer has led community task days with local volunteers, and £2,150 of S106 contributions have been used to install a pond dipping platform. The transfer a parcel of land on Crompton Close which will form an entrance to this side of the site is in progress and needs to be completed before the Local Nature Reserve can be formally declared. S106 contributions have been committed to entrance signage, benches and footpaths to improve access to the nature reserve.

Public Art

2.14 In relation to provision of public art projects, £14,000 has been spent on the Irwell Valley Sculpture Trail in the last six months. Early work is taking place to use S106 contributions to provide public art connected to the Wharfside / Bury Boot and Shoe development (a £35,000 public art contribution was received for this development) and the Olives Paper Mill Scheme (a £40,000 public art contribution was received for this site). The artwork could potentially be provided on Brandlesholme Road end of Kirklees Trail which is close to both of these sites.

Employment Enabling Works

2.15 The S106 contribution of £65,000 for Roach Packing, Scobell Street, Tottington was triggered by commencement of the development and has been paid.

2.16 A total of £201,282.00 of expenditure from the Employment Land Development Fund has been agreed by the Executive Director in consultation with the Environment and Economy Portfolio Holder, following recommendations from the Strategic Sites Officers Group with direction from the Strategic Sites Members Group. As of 31st March 2014, £132,136.69 of the allocated funds has been spent. £62,100 has been approved for promotion of Chamberhall, removal of Japanese Knotweed, tree thinning to assist with the formation of development plots and marketing of the site. £12,000 has been allocated to Townside for marketing and site investigation work. £127,182 spending has been approved for Bradley Fold, as a contribution to demolition of existing dilapidated buildings and site preparation to create development opportunities and for site investigations / feasibility work.

2.17 Of the agreed expenditure, £35,625.03 has been spent to date at Chamberhall on marketing and weed and tree eradication (£12,550 of this in the past 6 months). £2,300 has been spent to date at Townside on topographical and environmental surveys (£1,530 in the last 6 months). £94,211.66 has been spent at Bradley Fold on demolition and feasibility work (£24,236.53 in the past 6 months).

2.18 As part of the S106 agreement requirements, practical completion of the employment development on land at Dumers Lane and Morris Street, Radcliffe has also been achieved. This was required because the site falls within an Employment Generating Area, and ensured that the employment opportunities were delivered on a phased basis alongside the housing development.

Affordable Housing

2.19 Section 106 agreements have also required developers to make provision on site for affordable housing. As of 1st April 2014 167 affordable dwellings have been identified as completed as a result of planning policy requirements through S106 agreements since the adoption of SPG5 in 2004. To date, 132 of these have been sold, rented out or are under offer to people on the Affordable Housing Scheme. In addition, some of these properties have been subsequently re-sold, re-let or are under offer, again to households on the Affordable Housing Scheme.

2.20 In addition, St Vincent's Housing Association completed four affordable housing schemes in 2013/14 - 9 affordable units at Elton Square in Bury, 9 affordable units at Abingdon and Heathfield garage colonies in Whitefield, 4 affordable units at Taggwood/Hillside garage colonies in Ramsbottom and 10 affordable units on Otter Drive in Bury. A scheme at St. Mary's Court, Prestwich for 11 affordable units developed by Great Places Housing Association was also completed in 2013/14.

2.21 The planning agreements allow the affordable housing units to be sold on the open market in certain circumstances, subject to 25% of the sale proceeds being given to the Council to spend on affordable housing elsewhere. 34 properties to date have been sold this way, amounting to £901,036.25 in commuted sum payments being received for affordable housing. These contributions will be spent in accordance with Bury's Affordable Housing Strategy 2011-2016, which identifies a range of initiatives for expenditure. Spending of Affordable Housing contributions will be agreed by an officer group comprising of representatives from Planning and Housing Strategy, taking into account views of Portfolio Holders, and must be in accordance with the terms of each Section 106 Agreement. Cabinet has agreed to spend £617,000 of the monies received on bringing empty properties back into use as affordable

housing in the Radcliffe area. This is a pilot exercise, working with Registered Providers, and if successful will be rolled out across the Borough to help reduce the number of long term empty properties and provide additional affordable housing.

2.22 Since November 2013, a contribution has been received for a property on Stonemere Drive, and the Council has successfully recovered outstanding contributions for five properties at Wilton Park, Radcliffe after commencing legal action against the developer.

Other Contributions

2.23 £10,000 has been received from the Aldi development in Prestwich for public realm improvements for the purposes of improving linkages between the site and the town centre and to support the objectives of the 'Love Prestwich' town centre strategy. The intention is to use this contribution to support the wider Bury New Road highway improvement scheme.

2.24 £10,000 has also been received as a contribution towards the provision of vehicle activated signs on Manchester Road / Whalley Road, as required by the 2006 planning permission at Fletcher Bank Quarry.

3.0 Outstanding Obligations

3.1 A list of all outstanding obligations is attached to this report at Appendix C. These are divided into those where triggers have been reached (Appendix C – Part 1), identifying the actions that are being taken to recover overdue contributions and non-financial obligations; and those where triggers have not yet been reached, for example because development has not started or insufficient dwellings have been completed (Appendix C – Part 2).

Outstanding S106 obligations where triggers have been reached

3.2 In summary, 18 developments have been identified as having outstanding obligations that are now due. Of these, 13 require financial contributions, totalling £78,062.43 (compared to £236,170.70 outstanding in the November 2013 report). These contributions can be broken down as shown in the table below:

Requirement	Total amount negotiated
Recreation	£37,474.11
Public art	£11,000.00
Wildlife link maintenance contribution (due when the land is transferred)	£29,588.32
TOTAL	**£78,062.43**

3.3 Six of the recreation contributions have only very recently been identified as having commenced and will now be requested from the developers.

3.4 In addition, the provision of on-site public art is outstanding on two schemes, transfer of land from five schemes, and landscaping works and provision of paths are also due. The outstanding contributions and on-site provisions are being pursued initially by contacting the parties involved and, if necessary, debt recovery proceedings or court injunctions will be considered. Dealing with transfers of land required through a s106 can be a lengthy process, as outstanding issues may need to be resolved before the land can be transferred.

Section 106 Agreements not yet triggered

3.5 Appendix C Part 2 provides details of development sites where Section 106 obligations have been negotiated as part of the planning approval process, but the triggers have not yet been reached, for example because development has not yet commenced or insufficient dwellings have been completed.

3.6 The total sum of financial contributions required under these Agreements is around £1.86 million. It is important to note that these developments may not all proceed as planned and there is, therefore, no guarantee that these funds will ever be received. The terms of each Section 106 obligation will also specify how these funds can be spent. These contributions can be broken down as shown in the table below:

Requirement	Total amount negotiated
Recreation	£889,118.83
Transport	£283,700.00
Footpaths	£20,000.00
Canal restoration contribution	£120,000.00
Ecology	£57,000.00
Affordable Housing contribution	£346,000.00
Local heat network study contribution	£32,000.00
Education contribution	£110,285.00
TOTAL	**£1,858,103.83**

3.7 In relation to non-financial contributions, these agreements require the following:

- 72 affordable dwellings, plus a further 46 affordable dwellings on a housing association development;
- Leachate management, aftercare / restoration of tip and reinstatement of public access following restoration at Pilsworth;
- Riverside walkway at the East Lancashire Paper Mill site;
- Metrolink crossing at Townside, subject to obtaining necessary consents;
- Occupation restricted to persons over 55;
- Restoration of a footpath at Warwick Street, Prestwich;
- Relocation of Tetrosyl from Bevis Green to a site within the Borough, otherwise a financial contribution for loss of employment land will be payable;
- Restrictions on number of vehicles and fishing pegs at Elton Vale Road, Bury;
- Provision of a cycle path and implementation of an ecological management plan at Spen Moor, Bury;
- Phased / linked development of refurbishment of Shrewsbury House with the new build units.

3.8 We will continue to monitor these developments to ensure that we secure the payments / provisions as and when they are required by the Section 106 agreement.

4.0 Community Infrastructure Levy

4.1 At present, new restrictions on the use of Section 106 obligations which will prevent the pooling of more than 5 contributions for a project, or type of infrastructure will come into effect from 1 April 2015. This will particularly affect the current procedures for recreation and employment contributions, but does not apply to affordable housing contributions.

4.2 When the new restrictions come into effect, the current practice of specifying that the contribution is to be spent on recreation in the locality of the development, but determining the particular project that the money is spent on

when the money is received will no longer be possible. The Council will have to consider whether the way that Section 106 Agreements are drawn up can be amended to overcome this restriction by identifying precisely how the contribution will be spent when the Agreement is signed. There is no government guidance at this stage as to whether this approach would be permitted.

4.3 The current system of S106 contributions for off-site provision of infrastructure could be replaced by the Community Infrastructure Levy in future, however at this stage, the Council has not yet determined if it will introduce a CIL charge. The CIL charge is less flexible than the current S106 system, as once the charge has been set there is no scope to negotiate. The level at which the charge is set must be based on viability evidence and evidence of a shortfall in funding for infrastructure across the Borough. In any event, before a Community Infrastructure Levy can be adopted, the Council must have up-to-date planning policies in place. This is progressing through the Core Strategy, which has been submitted and will be subject to a Public Examination in June 2014.

5.0 Conclusion

5.1 Section 106 obligations have led to significant investment and improvement across the Borough, and the role of Planning in securing financial contributions and non-financial achievements should be noted.

5.2 The proactive approach to ensuring Section 106 obligations are complied with has resulted in success in recovering outstanding contributions, and enabled prompt identification when triggers have been reached on new developments. This approach will continue, and should ensure that developers deliver their obligations. Where necessary and appropriate, legal action will be taken to ensure compliance with Section 106 obligations.

List of Background Papers:-
Appendix A – Schemes provided via Section 106 commuted sums
Appendix B – Obligations complied with 1 October 2013 – 31 March 2014
Appendix C – Outstanding obligations

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APPENDIX A – SCHEMES PROVIDED VIA S106 COMMUTED SUMS

Type of contribution	Scheme provided / location	Money spent 1 October 2013 – 31 March 2014
Recreation	Broad Oak PF Fencing	£5,554.00
Recreation	Clarence Park Pavillion & Green	£5,000.00
Recreation	Ostrich Lane Play Area	£9,510.00
Recreation	Thatch Leach Lane Play Area	£12,759.00
Recreation	Whaley Rd/Fern St Allotments Improvements	£937.50
Recreation	Whitehead Garden Improvements Tottington	£2,420.00
Recreation	Dow Lane Play Area	£850.00
Recreation	Bolton Road West (Ramsbottom) – improvements to ball zone and play area, allotment paths and contribution towards changing pavilion extension	£24,707.02
Recreation	Bolton Road Park (Radcliffe) improvements to ball zone and tennis courts	£13,654.00
Recreation	Town Meadow PA & H & S repairs	£750.00
Recreation	Ramsbottom Play Area	£10,441.80
Recreation	Bright St PA safety surface & painting	£10,713.00
Recreation	Snape St PA safety surface & painting	£4,870.00
Recreation	Close Park PA safety surface & painting	£6,991.00
Recreation	Abden St PA safety surface	£2,733.00
Recreation	Radcliffe Skate Park fence	£1,984.00
Recreation	Coronation Park PA safety surface & fence	£7,408.00
Recreation	St Marys Flower Park	£284.64
Recreation	"I Will If You Will" match funding for: Manchester Rd Park Tennis Courts Whitefield Park Tennis Courts Bolton Rd Park Tennis Courts Clarence Park Tennis Courts and Outdoor Gym Whitehead Park Tennis Courts/Outdoor Gym Close Park Outdoor Gym	£59,500.00
Public art	Irwell Valley Sculpture Trail contribution	£14,000.00
Local Nature Reserves	Employment of Local Nature Reserves Officer	£9,672.99
Local Nature Reserves	Woolfold Gap Project	£220.00
Local Nature Reserves	Kirklees Valley LNR - benches	£250.00
Local Nature Reserves	Chapelfield LNR – pond dipping platform	£2,150.00
Employment	Chamberhall weed eradication	£560.00
Employment	Chamberhall topographical survey and desk study	£2,100.00
Employment	Chamberhall marketing	£9,890.00
Employment	Townside topographical survey and desk study	£1,530.00
Employment	Bradley Fold site investigation, fencing and demolition	£24,236.53
TOTAL		**£245,676.48**

APPENDIX B – OBLIGATIONS COMPLIED WITH 1 OCTOBER 2013 – 31 MARCH 2014

Application	Site	Description	Obligation complied with
36403, 37623	Victoria Works, off Market Street, Ramsbottom	Residential development – 12 apartments	£3,579.12 recreation contribution received 7/11/13.
43048	Fletcher Bank Quarry, Ramsbottom	Quarry extension, construction, demolition and excavation waste landfill operation; construction and demolition waste recycling facility, green waste composting facility.	£10,000 contribution towards the provision of vehicle activated signs on Manchester Road / Whalley Road received 7/11/13.
45007	Dunsters Court, Bury	Residential development – 22 apartments.	S106 requires a recreation contribution of £7,907.68. Instigation of debt recovery action has resulted in an instalment plan of £500 per month being agreed, including the Council's costs and an interest contribution. £7,000 received to date (£3,000 between 1/10/13 and 31/3/13).
46049	Former Walmersley Brewery, Walmersley Road, Bury	Part conversion / part demolition and new build to create 23 residential units.	£14,384.62 recreation contribution received 25/2/14.
46423	70 Stonemere Drive, Radcliffe (Chapelfield)	Residential development	£22,500 affordable housing contribution paid in lieu of affordable housing resale requirements.
51143, 52332	Land at Former Allen's Green, School Street, Radcliffe	Residential development – 28 dwellings	Affordable housing contribution of £118,950 plus legal costs received in lieu of on site provision following legal action.
51144	Land at Former Allens Green, Sion Street, Radcliffe	Residential development – 22 dwellings	
55543	Site of HPL Motors (Aldi), Bury New Road, Prestwich	Demolition of existing car showroom and erection of Class A1 discount foodstore.	£10,000 public realm contribution to improve linkages between the site and the town centre of Prestwich received 10/1/14.

Application	Site	Description	Obligation complied with
55584	Land at Dumers Lane and Morris Street, Radcliffe	Mixed use development comprising 11 x Class B1 (b), B1 (c) and B8 units totalling 3,368 sqm (GIA) of floorspace and 239 dwellings, riverside park and habitat creation scheme, associated land raising, access and estate roads, sub-station, landscaping and flood mitigation measures.	Practical completion of the employment units has been signed off. Riverside park details have been agreed and completed.
55683	Roach Packing, Scobell Street, Tottington	Residential development – 14 dwellings	£16,212.70 recreation contribution and £65,000 employment contribution received 21/2/14.
56630	79 Bury Road, Tottington	Change of use of part of existing care home to single dwelling house.	£3,421.33 recreation contribution paid upfront 10/10/13. Cannot be spent or committed until commencement.
56636	Bridge Inn, 409 Dumers Lane, Radcliffe	Change of use of first floor of public house to 2 flats, 1st floor extension.	£1,709.66 recreation contribution paid upfront 21/10/13. Cannot be spent or committed until commencement.
56818	15 Delph Lane, Ainsworth	Demolition of detached garage and erection of 1 detached dwelling.	£3,421.33 recreation contribution paid upfront 16/12/13. Cannot be spent or committed until commencement.
56884	398 Brandlesholme Road, Bury	Erection of 1 detached dwelling.	£3,421.33 recreation contribution paid upfront 31/1/14. Cannot be spent or committed until commencement.
56849	Land at Dorothy Street, Ramsbottom	Erection of 1 detached dwelling.	£3,421.33 recreation contribution paid upfront 25/2/14. Cannot be spent or committed until commencement.
57015	Thorn Lea, St Anne's Road, Prestwich	Erection of 1 detached dwelling.	£3,421.33 recreation contribution paid upfront 13/2/14. Cannot be spent or committed until commencement.

Contributions received after 31st March 2014 are not included in the total values received or unspent in Table 1 of the main report, to simplify the collation data from the Council's financial systems.

Contributions received after 31st March 2014

Application	Site	Description	Obligation complied with
57140	Bank Top Farm, Moorbottom Road, Holcombe, Bury, BL8 4NP	Conversion of barn to 1 no. dwelling (part retrospective)	£3,421.33 recreation contribution paid 22/4/14
57088	Land to the rear of 24-26 Moyse Avenue Tottington	Erection of 4 dwellings.	£12,841.10 recreation contribution paid upfront 13/5/14. Cannot be spent or committed until commencement.

APPENDIX C – OUTSTANDING OBLIGATIONS

Part 1: S106 obligations where triggers have been reached

Application	Site	Description	Outstanding Obligations	Action
36632, 40345	Land off Gigg Lane, Bury	152 dwellings	Transfer of land	The boundary of the land was incorrect on the original S106 agreement so the transfer of land was unsuccessful. Efforts to progress the transfer of land are ongoing.
38312, 39060, 49447, 53180, 53263	Land east of Brandlesholme Road and west of Woodhill Road, Bury	38312: 2 dwellings 39060: 5 detached houses 49447: 3 detached houses 53180: 2 detached dwellings 53263: Change of use from public open space to domestic garden.	The S106 requires the provision of recreational path / cycleway link, landscaping, transfer of wildlife corridor following completion of landscaping works, maintenance and ongoing access rights. The recreational path has been surfaced but the landscaping works have not been completed.	Ongoing dialogue with the developer.
38586, 40942	Former Bibby and Baron Premises, Dumers Lane, Bury	Residential and mixed use employment development	On site public art.	DoV is to be prepared which will result in a financial contribution of £8750 in lieu of on site provision.
40174	Former Garden Centre, Tottington Road, Bury (now known as Riverbank apartments), BL8 1JY	17 apartments	£5,563.76 recreation payment.	Developer is in liquidation. Need to investigate current ownership of the properties.
40190	Former Sainsbury's Site, Fairfax Road, Prestwich	Demolition of existing buildings and new build mixed use development comprising of retail, food and drink and leisure on the ground floor	£1,779.60 recreation payment (underpayment - £51,608.40 has been received, but £53,388 was due).	Previous letters have been ignored. Need to consider whether it is expedient to take legal action.
40350	Rear of Brookshaw Street, Bury (now known as Clarence Close)	19 dwellings	£5,390.84 recreation payment (2nd instalment).	Developer requested more time to investigate. Need to consider legal action.

Application	Site	Description	Outstanding Obligations	Action
40947	Manchester Maccabi AFC, Bury Old Road, Prestwich	Erection of sports clubhouse, 2 no. floodlit external all weather pitches, associated car parking, servicing and landscaping, ball stop fencing to grass pitches	£10,000 public art payment.	Payment remains outstanding.
43920	George Hotel, George Street, Prestwich (now known as Sedgley Gardens)	Retail development and 24 apartments	On site public art. £1,000 public art maintenance payment.	No art has been provided on site to date, however the developer has now had some discussions with the Council's arts officer regarding on site provision.
44967	Old Dunsters Farm, Hebburn Drive, Bury	Residential development – 22 no. apartments	£7,907.68 recreation payment due prior to occupation of the 11th unit. £7,000 received to date.	Instigation of debt recovery action has resulted in an instalment plan of £500 per month being agreed, including the Council's costs and an interest contribution. £7,000 received to date.
49210, 52612	Former railway track off Ainsworth Road, Radcliffe	Erection of 13 dwellings (Phase 1)	£16,688.90 wildlife link maintenance contribution, formation of wildlife link and transfer of land, construction of a cycleway. Due prior to occupation of 11 dwellings.	Development completed. Recreation contribution has been paid, negotiations are underway regarding transfer of land, subject to satisfactory completion of cycleway and landscaping works.
50315, 52764	Former railway track, Ainsworth Road, Radcliffe	Erection of 10 no. dwellings (Phase 2)	£12,899.42 wildlife link maintenance contribution and transfer of land within 6 months of completion, construction of a cycleway, public access along road in absence of adoption.	Development completed. Recreation contribution has been paid, negotiations are underway regarding transfer of land, subject to satisfactory completion of cycleway and landscaping works.

Application	Site	Description	Outstanding Obligations	Action
49667 54802	Olives Paper Mill, Tottington Road, Bury	Development of 90 residential units including landscaping	Transfer of recreation land due prior to occupation of the 45th dwelling. (Other obligations have been complied with or are not yet triggered). Payment of £25,000 brook link contribution when the Council has obtained the right to access the land on the northern side of the brook. Provision of Olive Bank and Brook Link. On site affordable housing – 18 units (in progress, financial contributions received in lieu of on site provision for 6 units)	A survey of the site has identified some issues which need to be resolved before the transfer of land is accepted. The Council are in negotiation with Persimmon to address the outstanding issues so that the transfer of land can proceed. The brook link contribution and provision of the Brook Link will be due when a formal right to access the land has been obtained.
52821, 55235	Land adjacent to 103 Walmersley Road, Bury	Erection of 11 no. flats in 3/4 storey block together with parking	£5,017.32 recreation payment due upon commencement.	Under construction. Contribution now due.
54993	7-9 Prestwich Park Road, Prestwich	Erection of one new dwelling.	£3,421.33 recreation contribution due on commencement.	Under construction. Contribution now due.
55429	Workshop adjacent to 40 Manchester Road, Ramsbottom, Bury, BL0 0DH	Change of use and extension and alterations to workshop (Class B1) to form dwelling (Class C3) - resubmission	£3,421.33 recreation contribution due on commencement.	Under construction. Contribution now due.
55512	Birtle Barn, School House Farm, Castle Hill Road, Bury	Conversion of an existing barn to two storey dwelling including erection of carport and store.	£3,421.33 recreation contribution due on commencement.	Under construction. Contribution now due.
55956	32 Ashbourne Grove. Whitefield, M45 7WL	Demolition of existing dwelling and erection of 2 no. detached dwellings (resubmission)	£3,421.33 recreation contribution due on commencement.	Under construction. Contribution now due.

Application	Site	Description	Outstanding Obligations	Action
55987	The Crown Hotel, 128 Rochdale Road, Bury, BL9 7AY	Ground floor retail unit extension into former public house; Two storey extension at rear and creation of four flats at ground/first & second floor levels.	£5,129.59 recreation contribution due on commencement.	Under construction. Contribution now due.

Part 2: S106 obligations not yet triggered

Application	Site	Description	Requirements	Current Status
39700, 53453	Pilsworth South Quarry	Extraction of sand, restoration to agriculture, woodland and amenity using controlled waste. Demolition of Hill Top and Captain's Farms and outline application for single two storey replacement dwelling.	£32,000 commuted sum to establish the feasibility of establishing a local heat network, due on commencement. Leachate management, aftercare / restoration of tip and reinstatement of public access following restoration.	Not commenced.
45274	Former P J Power Site, Millett Street, Bury, BL9 0JA	Demolition of offices & services yard; erection of 21 apartments in four storey block & new office accommodation within three storey block	£7,548.24 recreation payment due upon 1st occupation.	Material start made. Site is currently on the market.
45598, 55901	Former East Lancs Papermill Site, Cock Clod Street, Radcliffe (Radcliffe Riverside)	Hybrid outline application for mixed use development comprising Class B1, B2, B8, industry, residential development, water feature, open space and full application for secondary school and highway infrastructure. Application 55901 extends the time limit for the outline element and condition 2 of the original application.	£37,000 ecological payment, £20,000 environmental monitoring payment, £196,440 Metrolink payment, £10,000 Irwell Bridge payment due prior to commencement (excluding preparatory works). Transfer of riverside walkway prior to occupation of 30% of the dwellings, and payment of £10,000 maintenance sum. £120,000 canal restoration payment and £53,760 GMPTE car park improvement prior to occupation of 60% of the dwelling. All payments index linked.	Not commenced.
47200	Townside Fields, Bury	Mixed use development	Layout and maintain footpaths and to use best endeavours to provide Metrolink crossing.	Development commenced. Some elements completed.
49718, 53800	Park Hotel, Lowther Road, Prestwich	Three storey block of thirty apartments with car parking and associated works. 53800: application for extension of time.	£14,396.40 recreation payment due upon 1st occupation.	Not commenced.
49805 54303	Land between 78 Mile Lane and Mile Lane Health Centre	Outline application for sheltered accommodation for the elderly comprising of 14 units including wardens flat. 54303: application for extension of time.	Occupation restricted to persons over 55.	Not commenced.

Application	Site	Description	Requirements	Current Status
50058, 50948	Former Albert Inn, Ribble Drive, Whitefield, (Albert Place)	Erection of 6 retail units with 15 flats above; associated access, parking, servicing and landscaping.	£6,176.40 recreation payment due upon the sale of the 3rd market unit. On site affordable housing – 7 dwellings.	Development nearing completion, none sold to date. Developer in receivership.
50775 54550	Former Thrush Hotel, Thrush Drive, Bury, BL9 6JD	14 no. dwellings with associated car parking and landscaping.	£13,674.08 recreation payment due in 3 phases, upon 1st occupation of each block.	Not commenced.
51623	Former Elton Vale Works, Elton Vale Road, Bury	Residential development – 16 dwellings.	Affordable housing contribution due if the total sales price of all dwellings is greater than the anticipated aggregate gross development value. Ongoing requirement regarding reservoir maintenance.	Development completed – contribution dependent on total sales value.
53231	Holcombe Brook Tennis Club	Erection of 55 sheltered flats for the elderly.	£346,000 affordable housing contribution (plus additional index linked contribution) payable in instalments. First instalment due on occupation of the 13th dwelling.	Not commenced.
53353	Whitefield House, Pinfold Lane, Whitefield	60-bed care home within ancillary clinic / rehab facilities, car parking and landscaping.	£50,000 recreation contribution due upon commencement.	Not commenced.
53562	12-22 Warwick Street, Prestwich	Demolition of existing building and erection of 4 no. 2-bed houses, 4 no. 3-bed houses and 4 no. 2-bed houses.	£8,322.93 recreation payment due upon 1st occupation. Restoration of footpath.	Site cleared, development not commenced.
53629	York Street Mill, York Street, Bury	Conversion, extension and refurbishment existing mill building to create 24 apartment dwellings.	£10,946.88 recreation payment due prior to commencement. On site affordable housing – 6 dwellings.	Not commenced.
53762	Bevis Green Works (Tetrosyl), Mill Road, Bury, BL9 6RE	Outline residential development at Bevis Green (275 dwellings) with associated access, car parking, landscaping, and recreational open space shown illustratively.	Relocation of Tetrosyl to a site within the Borough, otherwise a financial contribution for loss of employment will be due if the site is to be redeveloped for residential.	Not commenced.

Application	Site	Description	Requirements	Current Status
54148	Land at James Street / Johnson Street, Radcliffe	Residential development – 90 dwellings.	£94,273 recreation contribution payable in 2 instalments, on substantial completion of the 30th and 70th dwellings. 1st instalment paid, 2nd instalment not yet due. 6 affordable units on site, with potential for an overage payment dependent upon actual Gross Development Value.	Under construction. 55 dwellings completed. First instalment of £47,136.50 received 11/3/13.
54717	Land at Elton Vale Road, Bury, BL8 2RZ	Residential development - 4 no. dwellings, 1 no. water bailiffs cottage and 2 no. units for temporary accommodation for fishing lodges	Restricted to 15 parked vehicles, 45 fishing pegs, advise fisheries users that they must not park in Elton Vale Road or Foulds Avenue, keep records of lettings for fishing lodges.	Under construction.
54804	Land to rear of 60 Sandy Lane, The Downs, Prestwich, Manchester, M25 9NB	Erection of 1 no. dwelling with detached garage	£3,421.33 recreation contribution due on commencement.	Not commenced.
54838	Land at 49 Rainsough Brow, Prestwich	Proposed 3 storey building consisting of 200sqm retail space at ground floor and 6 no. apartments at first and second floor level.	£10,259.18 due for recreation prior to or upon commencement.	Not commenced.
54975	Halter Inn Works, Holcombe Brook, Ramsbottom	Demolition of existing industrial buildings and erection of 3 detached dwellings.	£10,264 recreation contribution due on commencement.	Not commenced.
55003	Land at Spen Moor, Bury and Bloton Road, Radcliffe, M26 0JZ	Outline - Residential development of 191 dwellings, creation of ecological enhancement ponds and access off Bury and Bolton Road	£67,594 education contribution due prior to occupation. Provision of cycle path. Implement ecological management plan.	Not commenced.
55170	118 Rectory Lane, Prestwich, M25 1DJ	Mixed use development comprising of 2 storey building with a ground floor retail unit (Class A1) and 3 no. flats (Class C3) at first floor with associated car parking and service yard facility	£5,129.59 recreation contribution due on commencement.	Not commenced.
55175	The Rowans, 120 Tottington Road, Bury, BL8 1LR	Erection of two dwellings.	£6,420.55 recreation contribution due on commencement.	Not commenced.
55198	Land adjacent to 1 Ribchester Drive, Bury	Residential development of 5 no. 3-storey townhouses.	£14,431.44 recreation contribution due on commencement.	Not commenced.

Application	Site	Description	Requirements	Current Status
55301	Tonge Fold, Hawkshaw Lane, Hawkshaw, Bury, BL8 4LD	Division of 1 dwelling into 2 dwellings; Single storey extension at rear	£2,886.29 recreation contribution due on commencement	Not commenced.
55312	Former Elton Cop Dye Works, Walshaw Road, Bury, BL8 1NG	Residential development comprising of 111 dwellings, access and associated works	£288,600 employment contribution paid. Other obligations not yet triggered: £348,617.36 recreation contribution due in 2 installments prior to completion of the 60th and 90th units, 25% on site affordable housing (28 units), £33,500 highways contribution due on completion of the 50th unit.	The site is now under construction and the employment contribution was received on 10/5/13. Other triggers not yet reached (41 dwellings completed of April 2014).
55574	Former Red Bank Health Centre, Unsworth Street, Radcliffe	Demolition of existing health centre and erection of 11 2-storey residential houses.	£32,397.14 recreation contribution due in 3 installments: £11,000 on commencement, £11,000 on occupation of the 5th unit and £10,397.14 on occupation of the 8th unit.	Not commenced.
55580	194 Hornby Street, Bury, BL9 5BA	Change of use from offices (Class B2) to 2 no. flats (Class C3)	£3,419.73 recreation contribution due on commencement.	Not commenced.
55583	Land off Morris Street, Radcliffe, Manchester, M26 2HF	Erection of 14 no. three-storey dwellings with raised gardens, including extension to Morris Street and associated pedestrian footpaths.	£41,703.97 recreation contribution due on commencement, but only if the riverside park assoc with 55584 has not been landscaped, laid out and made available for use by the public.	Not commenced, but the riverside park has been provided.
55584	Land at Dumers Lane and Morris Street, Radcliffe	Mixed use development comprising 11 x Class B1 (b), B1 (c) and B8 units totalling 3,368 sqm (GIA) of floorspace and 239 dwellings, riverside park and habitat creation scheme, associated land raising, access and estate roads, sub-station, landscaping and flood mitigation measures.	Phased completion of employment units (in progress), 25 units on-site affordable housing and affordable housing overage clause, on site recreation (riverside park).	Under construction. Practical completion of employment units signed off and riverside park provided.

Application	Site	Description	Requirements	Current Status
55608	Old Bartles Farmhouse, Watling Street, Affetside, Bury	Conversion of building to dwelling and rebuild of garage on footprint of cart store; erection of stables to replace existing chicken shed	£3,421.33 recreation contribution due on commencement.	Not commenced.
55610	Huntley House, Chesham Fold Road, Bury	Erection of 4 no. dwellings (resubmission)	£12,841.10 recreation contribution due prior to commencement.	Not commenced.
55741	Thurston Fold Farm, Castle Road, Bury, BL9 8QS	Change of use and extension of existing barn building to 5 no. self contained dwellings together with removal of existing double-height garage and reinstatement of windows and erection of new porch to existing farmhouse (resubmission)	£14,431.44 recreation contribution due on commencement.	Not commenced.
55815	Woolpack Hotel, 5 Stand Lane, Radcliffe, Manchester, M26 1NW	Conversion, alteration & extension of existing public house and hotel to form 14 no. 1 & 2 bedroom apartments and associated works (resubmission of 55299)	£11,969.04 recreation contribution due on 1st occupation. Overage clause to require an additional contribution up to £11,969.04 depending on overall GDV.	Under construction. None completed.
55858	Shrewsbury House, Lowther Road, Prestwich, Manchester, M25 9QG	Refurbishment and extension of Shrewsbury House and construction of 4 no. detached dwellings with access and associated works.	£13,685.33 recreation (Paid), £3,000 woodland contribution (Paid), phased / linked development of refurbishment of Shrewsbury House with the new build units.	Under construction. None completed.
55915	Site of former Cussons Sons & Co Ltd, Kersal Vale Road, Prestwich, M7 0GL	Outline - residential development of 122 houses including means of access from Kersal Vale Road	£42,691 education contribution due on occupation of the 60th unit.	Not commenced.
55938	Ramsbottom Cottage Hospital, Nuttall Lane, Ramsbottom, Bury, BL0 9JZ	Demolition of existing buildings and erection of 13 no. dwellings	£44,477.33 recreation contribution due prior to commencement.	Not commenced.
56201	Bankside Mill, Chapelfield, Radcliffe, M26 1JH	Demolition of existing mill and offices and erection of 14 no. dwellings with associated site access, parking and landscape works (resubmission of 55923)	£45,365.96 recreation contribution due prior to commencement.	Not commenced.

Application	Site	Description	Requirements	Current Status
56276	Masons Arms, 241 Walmersley Old Road, Bury, BL9 6RU	Change of use from Public House to dwelling and 4no. new dwellings (Re submission)	£12,080.19 recreation contribution due on commencement.	Not commenced.
56511	Black Moss Farm, Bolton Road, Radcliffe, Manchester, M26 3QG	Application to extend the time limit for implementation planning permission 52224 for demolition of storage/workshop buildings, erection of block of 7 terraced houses and associated parking area	£20,204.01 recreation contribution due on commencement.	Not commenced.
56874	Land at Hazel Street/Bolton Road West, Ramsbottom, Bury, BL0 9PT	Residential development – 46 dwellings.	All units to be affordable housing.	Under construction. None completed.
56781	Land at 1 Woodhill Drive, Prestwich, Manchester M25 0BD	Erection of 1 detached dwelling.	£3,421.33 recreation contribution due on commencement.	Not commenced.
56891	Clough Saw Mill, Gardner Road, Prestwich	Demolition of existing building and erection of 17 dwellings.	£54,024.82 recreation contribution due on commencement.	Site cleared and ready for development.
56925	Plot No. 2 Ringley Chase, Whitefield, Manchester, M45 7UA	Erection of detached dormer bungalow with existing hard standing for car parking and maintaining the existing vehicular access to the site with associated landscaping.	£3421.33 recreation contribution due on commencement.	Not commenced.
56965	Former Chapel, Chapel Road, Prestwich, Manchester, M25 9SS	Demolition of existing chapel and erection of 4 no. dwellings and creation of 4 no. parking spaces.	£11,545.15 recreation contribution due on commencement.	Not commenced.
57089	Land at Hunt Fold House, off Hayfield Close,Greenmount, Bury BL8 4HU	Erection of 1 no. bungalow	£3421.33 recreation contribution due on commencement	Not commenced.
57104	Units 1-4, Westgate Avenue, Ramsbottom, BL0 9SS	Demolition of existing buildings and construction of 6 semi-detached houses and 2 detached houses.	£26,104.32 recreation contribution due on commencement.	Not commenced.

Application	Site	Description	Requirements	Current Status
57170	Land between 16 & 18 Ribble Drive, Whitefield, Manchester, M45 8WJ	Erection of 2 semi-detached dwellings (resubmission of 56495)	£6,420.55 recreation contribution due on commencement	Not commenced.
57317	Land adjacent to Hardman Fold Farm, Hardman Street, Radcliffe, Manchester, M26 4GY	Erection of 1 no. detached dwelling	£3421.33 recreation contribution due prior to or upon commencement	Not commenced.
57340	Land at rear of 62 Peveril Close, Whitefield, Manchester, M45 6NR	Erection of detached dwelling	£3421.33 recreation contribution due on commencement	Not commenced.
57388	Ribblesdale House, 7 Market Place, Bury, BL9 0AH	Change of use of first and second floors from medical centre (Class D1) to 8 no. flats (Class C3)	£13,678.90 recreation contribution due on commencement	Not commenced.

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REPORT FOR DECISION

Bury COUNCIL

Agenda Item	8

MEETING:	**PLANNING CONTROL COMMITTEE**
DATE:	**24th JUNE 2014**
SUBJECT:	**VILLAGE GREEN APPLICATION AT CHURCH FIELDS, RAMSBOTTOM**
REPORT FROM:	**HEAD OF PLANNING POLICY AND PROJECTS (RESOURCES AND REGULATION)**
CONTACT OFFICER:	**CHRIS WILKINSON**
TYPE OF DECISION:	**COUNCIL**
FREEDOM OF INFORMATION/STATUS:	This report is within the public domain

SUMMARY:

Bury Council is the Registration Authority for Town or Village Greens in the Borough. In April 2013 it received an application to register land known as 'Church Fields', east of Bolton Street in Ramsbottom as a Town or Village Green. Following a formal consultation period a Public Inquiry into the application was held in March 2014 by an independent Inspector. The Inquiry Inspector's report has now been received. Committee is requested to consider the Inspector's findings and determine the application.

OPTIONS & RECOMMENDED OPTION

Option 1 (Recommended)
Accept the Inspector's recommendation and reject the application to register Church Fields, Ramsbottom as a Town or Village Green.

Option 2 (Not recommended)
Reject the Inspector's recommendation and approve the application to register the land at Church Fields, Ramsbottom as a Town or Village Green.

IMPLICATIONS:

Corporate Aims/Policy Framework:	N/A
Statement by the S151 Officer: Financial Implications and Risk Considerations:	The land in question is in private ownership; there are no financial implications for the Council.
Statement by Executive Director of Resources and Regulation:	There are no wider resource implications arising from the report.
Equality/Diversity implications:	None.
Considered by Monitoring Officer:	'Village Green' is a legal status for land and Metropolitan Boroughs are Registration Authorities for processing applications for this status. There are regulations on procedures for dealing with applications.
Wards Affected:	North Manor
Scrutiny Interest:	N/A

TRACKING/PROCESS **DIRECTOR: Graham Atkinson**

Chief Executive/ Management Board	Cabinet Member/Chair	Ward Members	Partners
Scrutiny Commission	Committee	Council	
	24.6.14		

1.0 BACKGROUND

1.1 Town and village greens are defined as areas of land where local people have for many years indulged in lawful sports and pastimes, which might include organised or informal games, picnics, fêtes, dog walking and similar activities. A Green can be in private ownership and maintained by the landowner but many Greens are owned or maintained by Councils.

1.2 Section 15 of the 2006 Commons Act enables anyone to apply for land to be registered as a Green if it has been used by a significant number of local people 'as of right' (i.e. without permission, force or secrecy) for lawful sports and pastimes for at least twenty years. Applications are made to the commons Registration Authority. If registered, Greens are

then protected through the 1857 Inclosure Act and the 1876 Commons Act. A Registration Authority is required to keep a register of Town or Village Greens in its area. At present there are none registered within the Council's area.

2.0 THE APPLICATION FOR CHURCH FIELDS, RAMSBOTTOM

2.1 Bury Council is the Commons Registration Authority for Town or Village Greens in the Borough. In April 2013 it received an application to register land known as Church Fields, off Bolton Street in Ramsbottom, as a Town or Village Green. The land is shown edged in red on the plan at Appendix 1 and is in private ownership.

2.2 Following a formal consultation period, the landowner objected to the registration on the basis that the statutory criteria had not been met. A Public Inquiry into the application was held on 4-6 March 2014 at Ramsbottom Civic Hall and concluded on 31 March at Bury Town Hall by an independent Inspector. The Inquiry Inspector's report has now been received and is attached at Appendix 2.

2.3 Registration Authorities have to assess whether a *significant number….of inhabitants of a locality….have indulged in lawful sports or pastimes…as of right….on the application land….for at least twenty years*. It also has to consider any date of cessation, periods of interruption and relevant planning permissions.

Inspector's findings

2.4 The Inquiry Inspector's report on the application and evidence runs to fifty pages. His overall conclusion and recommendation is that the application doesn't adequately identify a qualifying neighbourhood and doesn't sufficiently demonstrate use of the application land by people of the neighbourhood other than of the public footpath and permissive path across it. He therefore recommends that the application be rejected by the Registration Authority.

2.5 In arriving at this position he looked at written and oral evidence of use of the site over time and attempts by the landowner to manage or prevent use. His two main findings were firstly that he didn't think the town of Ramsbottom could be defined as a neighbourhood, being instead, a collection of neighbourhoods. Secondly, apart from sledging, a very occasional or transitory use, he didn't think there was much evidence of people using a substantial proportion of the application land.

3.0 CONCLUSION

3.1 'Town or Village Green' is a legal status for land and the Council is the Registration Authority for this purpose. Having received an application, carried out consultation, convened a Public Inquiry and received the Inquiry Inspector's report and recommendation, the Council must now determine the application.

List of Background Papers:-

Evans, A (1.6.2014) Report on application to register Church Fields, Ramsbottom, as a Town or Village Green - Attached

Further information

DEFRA (2006) Commons Act 2006 Factsheet 5: Town and Village Greens
DEFRA (2013) Guidance Notes for the completion of an Application for the Registration of land as a Town or Village Green outside the pioneer implementation areas
DEFRA (2013) Interim Guidance to Commons Registration Authorities on Section 15C of the Commons Act 2006

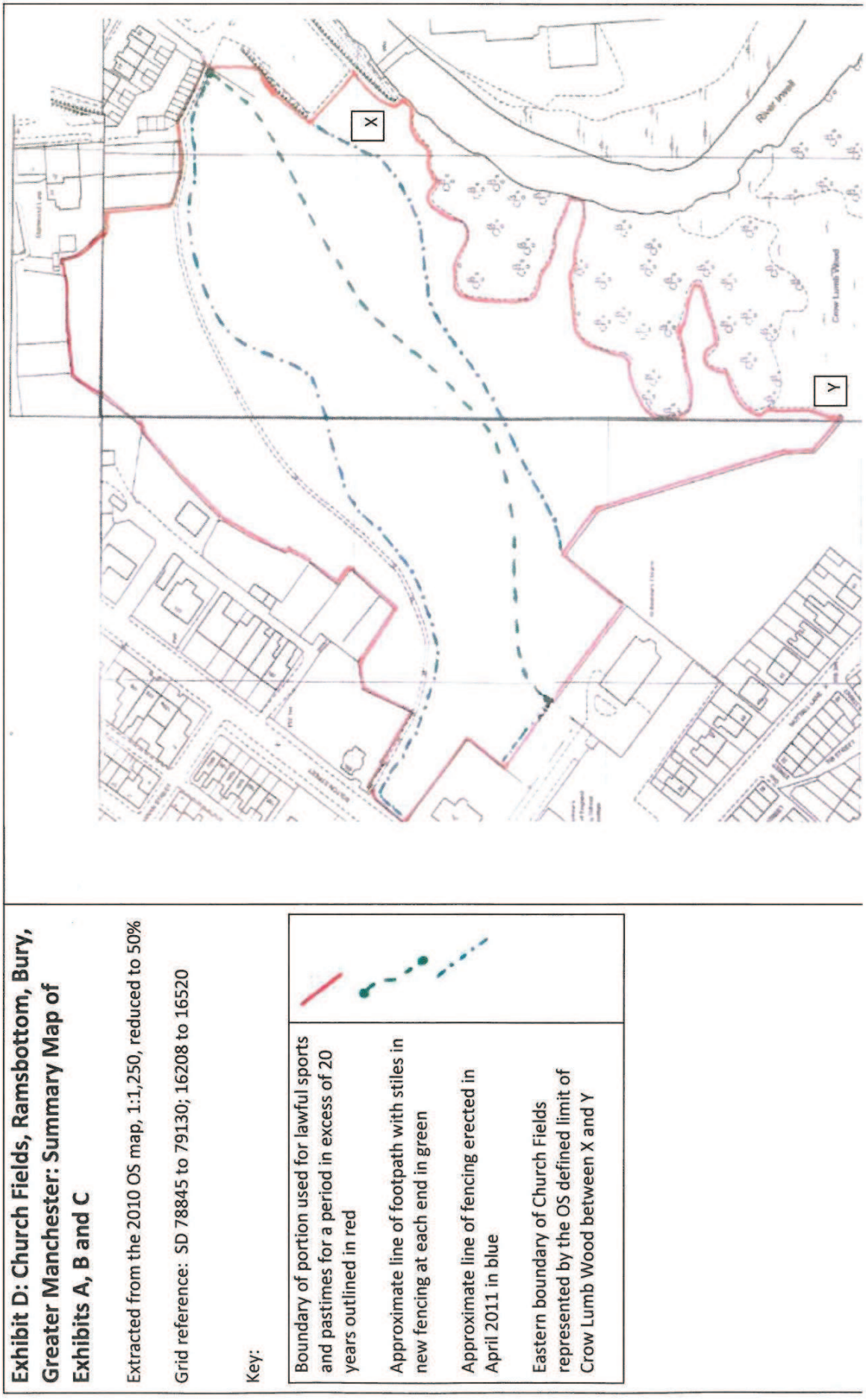
Website:-
https://www.gov.uk/town-and-village-greens-how-to-register

Contact Details:-

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Duke Street
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Appendix 1 – VILLAGE GREEN APPLICATION SITE PLAN.



APPLICATION TO REGISTER CHURCH FIELDS, RAMSBOTTOM AS A TOWN OR VILLAGE GREEN

REPORT

By
Alan Evans
Kings Chambers
36 Young Street
Manchester
M3 3FT

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Recommendation: the Application should be rejected.

(1) INTRODUCTION

1. I am instructed in this case by Bury Metropolitan Borough Council in its capacity as registration authority for town or village greens ("the Registration Authority") in order to assist it in determining an application to register land known as Church Fields, Ramsbottom ("the Application Land") as a town or village green ("the Application").

2. The Application was made by the Ramsbottom Heritage Society ("the Applicant") on 12th March 2013.

3. My instructions were to hold a public inquiry to hear the evidence and submissions both for and against the Application and, after holding the inquiry, to prepare a written report to the Registration Authority containing my recommendation for the determination of the Application.

4. The inquiry was held at Ramsbottom Civic Hall on 4th-6th March 2014 and at the Town Hall, Bury on 31st March 2014.

5. At the inquiry the Applicant was represented by Mr Andrew Todd and the objector, Peel Investments (North) Limited ("Peel"), by Mr Giles Cannock of counsel. I thank Mr Todd and Mr Cannock for their assistance at the inquiry. I also thank the Registration Authority and, in particular, Mrs Vivienne Walker, for arranging the inquiry and providing all necessary administrative support.

6. I visited the Application Land and walked over it before the inquiry began and made further visits to it during the course of the inquiry. I have also walked extensively around the vicinity of the Application Land and have driven more widely around the area relied upon as the qualifying neighbourhood. With the agreement of the parties I did not hold an accompanied site visit.

(2) THE APPLICATION

7. In this section of the report I provide a broad overview of the Application and the course taken by the process up until the inquiry. I do not seek to summarise here in any detail the contents of the material generated at the various stages but have read it all, carefully considered it and had regard thereto in coming to my conclusions.

8. The Application sought the Registration of the Application Land under section 15(1) of the Commons Act 2006 ("the 2006 Act") on the basis that section 15(3) applied.

9. Section 15(3) of the 2006 Act applies where –
   (a) a significant number of the inhabitants of any locality, or of any neighbourhood within a locality, indulged as of right in lawful sports and pastimes on the land for a period of at least 20 years;
   (b) they ceased to do so before the time of the application but after the commencement of this section; and
   (c) the application is made within the period of two years beginning with the cessation referred to in paragraph (b).[1]

10. The cessation of qualifying use was identified to have taken place on or about 25th April 2011 at which point post and wire fencing was erected on the Application Land.

11. In answer to the question on the application form (form 44) which sought details of the locality or neighbourhood within a locality in respect of which the application was made the answer originally given was that *"Church Fields relates to Ramsbottom Electoral Ward, and particularly to the nucleus of terraced streets within, and to the south west of, the town centre, which before 1974 was in Central Ward."* A map supplied in an appendix identified the 1864-1974 boundary of Central Ward.

[1] The "grace" period of two years was reduced to one year by section 14 of the Growth and Infrastructure Act 2013 by an amendment which became effective on 1st October 2013: see article 6 of the Growth and Infrastructure Act 2013 (Commencement No. 2 and Transitional and Saving Provisions) Order 2013/1488. Under article 8(2) the coming into force of section 14 of the 2013 Act has no effect in relation to any cessation which occured before 1st October 2013.

12. The Application was supported by 29 completed evidence questionnaires gathered in 2012 (and addendum questionnaires gathered in early 2013 from 16 of the respondents in relation to the issue of signage), an additional 8 letters (each from a person who had completed an evidence questionnaire), an analysis of the evidence questionnaires and letters in support and a justification for the Application.

13. As landowner, Peel objected to the Application through its solicitors, Gordons, on 6th June 2013 ("the Objection"). The Objection relied on a number of grounds and was accompanied by several appendices which included various plans and a witness statement from James Linton of 217 Nuttall Lane which spoke, amongst other things, of horses having been grazed on the Application Land up until 2004 in a rotational fashion controlled by the roping off of particular areas and the placement of signs indicating "please do not feed the horses" and "no trespassing". The Objection also pointed out that a small part of the Application Land (south east of St Andrew's Church) was owned by Bury Council and that the Ramsbottom Electoral Ward had only come into existence in 2004 and had not therefore been in existence for the whole of a 20 year period pre-dating the Application.

14. On 14th January 2014 the Registration Authority issued directions for the holding of the inquiry.

15. By a document dated 31st January 2014 the Applicant replied to the Objection in a detailed submission document ("the Submission") which was then served on Peel to comply with the Registration Authority's direction in respect of the service of any further documentation. The Submission was accompanied by a number of exhibits and appendices which included some 118 further evidence questionnaires gathered in 2013 after the Objection as well as more than 20 letters of support (some supplementing questionnaires and some freestanding).

16. The Submission also put forward two amendments to the Application as it had been originally submitted. First, the area of the Application Land was revised by the exclusion of an area occupied by woodland (part of Crow Lumb Wood) which had formed (broadly speaking) the south eastern part of the Application Land as originally shown on the Application plans. By this revision the south eastern boundary of the

Application Land was made to lie coterminous with the southern fence line erected in April 2011 and to correspond effectively with the woodland edge. It was explained that the intention had always been to register only the grassland area of the Application Land and that the original sinuous south eastern boundary of the Application Land had been sourced from the woodland edge shown on a 2010 Ordnance Survey map which, it was now considered, did not reflect the reality on the ground. The revision also had the effect of removing from the Application Land the small part in Bury Council's ownership. Secondly, the Submission amended the case made in respect of locality/neighbourhood and explained that the Application was to be considered as one made on the basis of "limb (ii)" (that is, a neighbourhood within a locality as opposed to simply a locality), the neighbourhood being an area identified as the Ramsbottom Town Centre neighbourhood ("the Claimed Neighbourhood") within the locality of the Ramsbottom Electoral Ward. It was also mooted that there might be a case for regarding the Broad Hey Estate as a separate neighbourhood. Mr Cannock did not object to the amendments and I am satisfied that there is no reason why the Application should not be considered as so amended. I approach it on that basis and recommend that the Registration Authority do likewise.

17. In preparation for the inquiry Peel submitted a ring binder of evidence containing, inter alia, a number of further witness statements additional to the one from Mr Linton which had formed part of the Objection.

(3) PROCEDURAL ISSUES

18. Mr Todd complained in his opening remarks that he considered that the conduct of Gordons in the build up to the inquiry, including late service of further witness statements on 28th February 2014 (and, in particular, a third witness statement from Mr Linton), had occasioned prejudice to the Applicant's case. Mr Cannock explained that Peel had been confronted in the Submission with a case which was different in significant respects from that originally made and a large body of fresh evidence not previously seen. The decision could simply have been made to deal with the matters which Mr Linton had raised in his third witness statement by way of oral examination of Mr Linton without any advance notice of what he was to say. It was considered fairer to the Applicant to put something in writing first. I think that it is important to

note that, beyond raising the complaint, Mr Todd did not request me to do anything in response thereto, whether by way of granting him more time, an adjournment or dealing with the matter in some other way. It does not seem to me therefore that this complaint leads anywhere. In his closing submission Mr Todd also complained that there had been inadequate time to cross-examine Mr Linton with the consequence that the cross-examination had had to be rushed and was not able to test significant elements of Mr Linton's evidence. I am not able to accept this. Mr Linton was cross-examined for some three hours by Mr Todd in great detail, with considerable thoroughness and no little skill. At the point at which Mr Todd indicated that he would conclude his questioning I specifically invited him to continue further if he wished. Time was available to do so. Mr Todd declined. I do not consider that there are any justifiable grounds to complain of procedural unfairness.

(4) THE APPLICATION LAND

19. The Application Land is an area of about 6.5 acres in extent[2] which lies to the south of the town centre of Ramsbottom. On its south western side it is bounded by St Andrew's Church (from which is derived the name Church Fields) and the access drive to the Church from Bolton Street (although a narrow plot of Church owned land lies immediately between the access drive and the Application Land). Further to the south west is Nuttall Lane. To the north west of the Application Land lies Bolton Street. Grants Lane runs in from the north off Kay Brow towards the eastern end of the Application Land which, at its easternmost point, extends to the westernmost continuation of the road from Railway Street. To the south east of the Application Land lies Crow Lumb Wood which slopes down to the east to the River Irwell. The Application Land is quite steeply sloping with a general direction of fall towards the bottom of the Irwell Valley from south west to north east.

20. The present and former access points to the Application Land are and were as follows. First, there is access from the access drive to the Church across a plot of hardstanding (in the Church's ownership) to a post and wire fence on the boundary of the Application Land in which there is a stile. The post and wire fence and the stile were

[2] Measurement sourced from the plan accompanying Mr Cannock's closing submissions.

erected in April 2011 and did not exist prior thereto. Previously access at this point was across a trampled down chain link fence on the boundary of the Church's land (as referred to subsequently in the account of the evidence given at the inquiry).

21. Secondly, there is access from a narrow frontage strip of the Application Land on Bolton Street where a paved footpath which is a definitive public right of way – Footpath 81 – leaves Bolton Street via some steps to run across the Application Land. The only access point here at present is on Footpath 81 because a fence (again erected in April 2011) prevents access from the rest of the frontage strip. Previously it was possible to enter the Application Land not just via Footpath 81 but also by stepping across the remains of a former wall running along the back of the Bolton Street footway. (Again this point is referred to subsequently in the account of the evidence given at the inquiry). Footpath 81 runs in a generally easterly direction, downhill to the eastern extremity of the Application Land to meet the road coming in from Railway Street. In its western section Footpath 81 runs in a marked valley feature with quite steep slopes down from land to the north and to the south. Before the erection of a fence in 2011 Footpath 81 was not segregated from the rest of the Application Land at all. The present position is that so much of the Application Land as is to the north of Footpath 81 remains undivided from Footpath 81 but the greater part of the Application Land to its south is separated therefrom by a fence which runs across the top of the cross fall down to Footpath 81 and, further east, directly alongside Footpath 81 itself.

22. Thirdly, there is access to the Application Land via an unmade path which leads off the footpath from Rose Hill (which is located of Bolton Street) to Grants Lane.

23. Fourthly, there is access to Footpath 81 on the Application Land directly off the southern end of Grants Lane. Presently the fence immediately alongside Footpath 81 prevents further access on to the Application Land beyond Footpath 81. Before the fence was erected in April 2011 there was unimpeded access across Footpath 81 to the rest of the Application Land at this point.

24. Fifthly, at the eastern most extremity of the Application Land where it meets the road running in from Railway Street, there is a post and wire fence with a stile providing

access. Before the fence was erected in April 2011 there was unrestricted access to the Application Land from this point.

25. A trodden route exists between the stile at the top of the Application Land near St Andrew's Church described in paragraph 20 above and the stile at the bottom described in the preceding paragraph. In December 2012[3] signs were erected next to the stiles indicating that the route was a permissive path only and that access to any other land was prohibited. It is convenient to call this route the Permissive Path to give it a shorthand title and distinguish it from Footpath 81.

26. There is now a good deal of tree and vegetation cover on the Application Land although there are also more open grassy slopes, particularly in its higher reaches. It does not appear to be in dispute that it has been more open in the past. It is common ground that some grazing has taken place on the Application Land in the area enclosed by the fences since their erection in 2011.

(5) THE EVIDENCE IN SUPPORT OF THE APPLICATION

27. This section of the report contains a summary of the oral evidence which I heard at the inquiry in support of the Application. I do not consider it necessary to summarise the written evidence, all of which is available to the Registration Authority and all of which I have taken into account. The summary of the oral evidence is precisely that. It does not purport to be a verbatim or full record of everything which was said.

28. **Linda de Ruitjer** of 5 Earl Road, Ramsbottom said that she had lived at that address since 1998 but, from 1994-1998, had lived at 40 Nuttall Lane. Mrs de Ruitjer particularly gave evidence in respect of the period 1994-1998 saying that she walked on the Application Land daily during that period with her dog, entering the Application Land from the access drive to St Andrew's Church where she was able to stride over the trodden down remains of a green chain link fence. She said she followed her dog down the slope all over the grass but agreed that her evidence questionnaire referred to her having marked on the accompanying map the path she

[3] The date is taken from paragraph 2.8 of the Objection.

had always used (the Permissive Path). She saw other walkers and dogs and the Application Land was used as a through route from one part of the town to another. She had not seen any horses, or evidence of them, on the Application Land. She was an active member of the Ramsbottom Heritage Society. Ramsbottom had a close sense of community. Prior to the inquiry she had not seen the boundaries of the claimed neighbourhood identified on any plan.

29. **David Carroll** of 14 Bolton Road West, Ramsbottom said that he had lived at that address since 2001 and had lived at 27 Grants Lane from 1987-1994. Until the 1970s/1980s there had been kissing gates at the Bolton Street and Grants Lane entries to the Application Land and, at this time, there had been the odd horse on the Application Land but there were never any horses after that or any ropes. The wall at Bolton Street had been damaged by a vehicle over 20 years ago and was never properly rebuilt. When he lived at Grants Lane, he walked a dog on the Application Land between 1989 and 1993. There was no fencing preventing access from Grants Lane. He also walked a dog on the Application Land from 2001-2004 when living at Bolton Street West, accessing it over a trampled down chain link fence alongside the access drive to St Andrew's Church. There had been nothing to stop access here in the period 1991-2011. He followed his dog everywhere on the Application Land but had not regularly gone on the area to the north of the paved path. When he lived at Grants Lane the residents there had had a bonfire and fireworks on the Application Land on bonfire night. He could also remember sledging on the Application Land from this time. He had trained on the Application Land when he had played for Ramsbottom United up until about 1991.

30. **Michael Bray** of 17 Barwood Lea, Grants Lane, Ramsbottom said that he had lived at that address since 2003. He had walked a dog on the Application Land since then, there never having been anything to stop access before April 2011, following the dog all over the Application Land. There were lots of small paths on the Application Land between the two main paths (which were visible from aerial photographs). He had seen walkers, dog walkers and cyclists on the Application Land but had never seen any horses there (or evidence of them) or areas roped off for grazing. People generally followed trodden paths but dogs did not. He had satisfied himself that there were no horses on the Application Land before buying his house because one of his

reasons for purchasing it was for its access to a dog walking area. There had been an extensive area of Japanese knotweed infestation on the Application Land next to his house which had been removed about a year to 18 months before the fences went up.

31. **Carole Crompton** said that she had lived at 62 Stanley Street, Ramsbottom since 1981 and that from the late 1980s until about 2003 she had frequently gone on to the Application Land, via the steps from Bolton Street, with her three sons when they were younger and before they old enough to go out on their own. They had all gone to St Andrew's Primary School, the eldest having started there in 1988 and the youngest having finished there in 2004. The Application Land was a great place for running, cycling and roly-polying. They had also sledged there on many occasions. There had not been any fences, ropes or signs. There had not been any horses either. Mrs Crompton was scared of horses, would have noticed their presence and would have stayed clear. She, and her sons, would have obeyed any signs. The neighbourhood was bound together by the people she knew, the people she worked with, the school and the skating events she had organised to raise money for a skate board ramp in Ramsbottom. The people of Ramsbottom, and Ramsbottom, were her neighbourhood. She had not seen a map of the Claimed Neighbourhood before.

32. **Kenneth Alan Crompton** (the husband of the previous witness) said that he had lived at 62 Stanley Street since 1981. He had gone on to the Application Land daily with his children from after his first son was born in 1983 to the late 1990s, accessing it by stepping over the low wall (which was only a foot or so high) at Bolton Street alongside the steps. The children played roly-poly on the grass slopes. They flew kites at the top of the Application Land. As his sons got older Mr Crompton took them to the Application Land to ride their BMX bikes on the Permissive Path. Paths made by walkers, dog walkers and cyclists led down to the paved path and there were other side tracks as well. Mr Crompton often saw dog walkers all over the Application Land. He had also seen blackberry picking there. The area was very popular for sledging. Mr Crompton also used the Application Land as a route to the town centre. He had gone off the two paths. He had never seen horses on the Application Land, roped off grazing plots or "no trespassing" signs. There used to be a public footpath sign at the end of Railway Street but this was taken down at the same time as the fences went up in 2011.

33. **Marcia Fletcher** of 91 Bolton Street, Ramsbottom said that she had lived at that address since 1976, had been a dog owner for most of the time from then (but had not had a dog in the period 1997-2004) and had walked very frequently and regularly on the Application Land with or without dogs over the whole period. She could roam freely there or follow the wanderings of her dogs or grandchildren. She would walk everywhere. Lots of people used the Application Land as a short cut and others went on the field. People sledged on the slopes when there was snow. Until 2011 she had never seen any fences, stiles or gates and there had been no prohibitory notices. The wall at Bolton Street had been partly demolished by a vehicle some 25-30 years ago. There was nothing to block entry from the access drive to St Andrew's Church where there had been a chain link fence which was down so low it could be stepped over. In the past the Application Land had been more open than it was now. For a while, she thought in the early 1980s, there had been 3 horses tethered on the Application Land but they were not there long. There had been no horses after that until recently following the erection of the fences in 2011. There had been no evidence of horses and she would not have gone on the Application Land with a dog had there been horses. She never saw any roped enclosures. When the fences were erected in 2011 a public footpath sign which had stood where Footpath 81 and the Permissive Path meet and which had pointed, wrongly, up the Permissive Path, was lowered on to the grass before later disappearing. There had been some fly tipping on the lower part of the Application Land. There had been Japanese knotweed near Mr Bray's house. It had been there in 2004 and might have gone by 2008. Mrs Fletcher agreed that, when she had completed her evidence questionnaire in June 2012, she had had in mind something very much smaller than the neighbourhood now relied on by the Applicant. When it was put to her that her evidence on the extent of use of the Application Land was inconsistent with her e-mailed letter to Mr Todd of 1st March 2013 in which she had said that her walking on the Application Land had been "a very pleasant short cut to the shops from the upper part of Bolton Street", that "almost always there would be other people using the paths, both the flagged one and the unmade one" and that "she had never been asked to leave the unmade path, nor had anyone told me I ought not to be using it" Mrs Fletcher said that it was not a case of inconsistency but that she should have said more in her e-mail. She was concerned that regular use of the Permissive Path would stop and that the potential for a right of way to be established would be lost with consequent loss of access to the Application Land.

34. **Martin Kay** of 76 Nuttall Lane, Ramsbottom said that he had lived at that address for 27 years. His wife had played on the Application Land as a child in the 1970s and his family had walked dogs on the Application Land for over 40 years, utilising a number of entrances. Very rarely did they stick to any paths. There was a well-defined line along the Permissive Path route but there were many other offshoots from it. There was a great deal of dog walking on the Application Land. Children's war games had been played to the north of Footpath 81 and, in this area at the bottom of the Application Land, tadpoling had taken place. The condition of the part of the Application Land to the north of the Footpath 81 had remained broadly the same over the last 20 years. He had not seen horses grazing on the Application Land or any signs requesting that the horses be not fed or indicating "no trespassing". A neighbourhood was based on a number of factors such as community, social connection and common institutions (including churches, schools and sports clubs). The Ramsbottom neighbourhood was separate from surrounding neighbourhoods. Mr Kay had had no input into the boundary of the neighbourhood relied on by the Applicant.

35. **Andrew Todd** said that he had lived at 2 Major Street, Ramsbottom since 2007 and, prior to that, at three other town centre addresses. He had moved to Ramsbottom in 1977 and had walked down the path or across the Application Land very occasionally at this time. In 1987, after the East Lancashire Railway opened, Mr Todd went to the Application Land more often to take photographs of trains and landscape views. He used the Application Land particularly regularly after his family moved to 183 Bolton Street in 1993. He regularly took his children sledging there. As they got older his children used the Application Land on their own. Mr Todd had also often walked down Footpath 81 to the station. His evidence questionnaire referred to use of the Application Land several times a year. He could never recall having seen horses or roped off grazing plots on the Application Land but had seen horses on the land near Mr Linton's house.

36. Mr Todd said that he was the President of the Ramsbottom Heritage Society, which had a constitution and membership. He did not think there was any formally minuted decision in relation to the Application but he, Mr Todd, acted under the authority of a letter from the Chairman. The law in relation to locality and neighbourhood had not been understood initially. The Ramsbottom Electoral Ward had been chosen because

the locality had to be an administrative area. The red line boundary of the Application Land had been chosen before witness evidence was gathered but had later been revised. Initially it did include some land in the ownership of Bury Council. It was not possible with the original evidence questionnaires to separate out pre-1991 use. The answer he had given to question 6 ("what locality or neighbourhood within the locality do you believe the right to use Church Fields belongs (eg a particular housing estate or a particular Parish or District)?) in his evidence questionnaire – "the people of Ramsbottom" – had not identified a locality or neighbourhood. He had not understood the subtleties nor had others. Some had not identified any geographical area in answering the question. The neighbourhood was fluid and dynamic, changing year by year. It was fair to say that Mr Kelsey must have had a smaller area in mind than the neighbourhood now relied on because he had only ticked boxes for two facilities in answer to question 7 (asking about the identification of recognisable facilities available to inhabitants of the locality) on the evidence questionnaire he had filled in. Newer development south west of Dundee Lane and Nuttall Lane had not been included in the original qualifying area when the Application was made as part of what was then referred to as the Town Centre (page 5 of the justification for the Application). It was, however, now included as part of the Ramsbottom Town Centre neighbourhood which was relied on. A large number of people from the area now included used the Application Land. It was an element of the approach adopted to draw a line to encompass the addresses of respondents to the 2013 evidence questionnaires. The boundary of the neighbourhood on Bolton Road West went across a line of terraces. The boundary on Chapel Lane and the Rake marked the distinction between Tanners and the village of Holcombe. At Stubbins Lane the boundary followed the local authority boundary. To the east the river was followed as the boundary.

37. In response to further questions about the 2012 evidence questionnaires, Mr Todd agreed that, in answer to question 8, Neville Greenhalgh had said in his evidence questionnaire that there were no public rights of way crossing the Application Land. Gwenda Newton had said that it was not known whether there public rights of way. Mr Todd conceded that there were holes in the original evidence questionnaires which was why there was a second evidence gathering exercise. Question 10 on the evidence questionnaire ("how often did you use the land (apart from any public rights of

way)?") was asked in an open fashion and allowed particularisation of uses at different periods. James Isherwood's reference in his evidence questionnaire to playing school football had been to a part of Church Fields which had later been sold off and was not included in the Application. Christine Brennan had likewise referred to an area outside the Application Land in her evidence questionnaire when mentioning the St Andrew's sports day which was where there was now a football pitch for juniors. This had not been included in the analysis and there had been many activities on the Application Land. Doris Hibbert in her evidence questionnaire had not answered question 10 in terms of specifying how often she had used the Application Land. Mr Todd accepted that there were problems and limitations with the 2012 evidence questionnaires but he did not agree that they were entitled to no weight.

38. The later evidence in 2013 was a response to Peel's objection and tailored to its evidence. Mr Todd considered that the 2013 evidence questionnaire was unbiased. People were not given an opportunity to mark or say what the neighbourhood was. So far as concerned the cover sheet for the 2013 evidence questionnaires, someone reading that might think that, unless he replied, some form of development of the Application Land might take place but the cover sheet required the answers to be honest and independent. It was not until the Objection that it had been realised that evidence of walking off the paths was needed.

(6) THE EVIDENCE IN SUPPORT OF PEEL'S OBJECTION

39. This section of the report seeks to provide a summary of the oral evidence I heard at the inquiry in support of Peel's objection to the Application.

40. **Agnes Mary Price** said that she lived at 69 Meadow Way, Tottington, Bury. She had worked, four days a week, at Horse Bits in Bridge Street, Ramsbottom for a period of 12 years from 1993 to 2005. She recalled when driving to and from work along Bolton Street seeing one or two horses on the Application Land and people sometimes feeding them over the wall. The wall was not very high. There was a bit of post and rail fencing in place but it had a gap and did not go all the way. She had not referred to a wall in her statement because she had not recalled it at the time. The horses could

have been tethered which she was not able to see. She had been on the Application Land with her husband in about 2003 when he had visited to take a photograph of the mill which he wanted for the purposes of making a model. She had seen two horses on that occasion. Her husband had stood in horse droppings. The ground was muddy where people fed the horses near the wall. She did not know the Linton family.

41. **Mark David Trippier** of 36 Brandlesholme Road, Greenmount, Bury said that he had always lived in and around Ramsbottom, including at Tanners Barn on Tanner Croft from 1994-2000. He had often driven past the Application Land on Bolton Street in the period 1994-2001 as part of his job and had seen horses, he would say two, with (according to his witness statement) their heads hanging over the wall there. He agreed, however, that the wall was deteriorating and that it was only approximately 18 inches high. There might have been makeshift fencing, which would have been needed if horses were to be kept there, but he had no clear recollection of this. He did not think his witness statement conveyed the impression of a substantial wall. He had seen the horses being fed in this location by the public. He had also seen a notice here over the period 1991-2004 saying "please don't feed the horses" but could not otherwise describe it in terms of size or colour. If there was no other land available, there was no choice about where to graze. He was, and had been from 1994-2001, a horse owner himself and knew that the Lintons had grazing rights on the Application Land. He had inquired of Margaret Evans (a land agent for Peel) about the availability of the Application Land for grazing but had always been told that it was already let. He had had no need for grazing in 2004 because he had let his horses go at this time and did not now have horses in Ramsbottom any more. The Application Land was all right for grazing. When he lived at Tanners Barn he would often walk along Footpath 81 on the Application Land and frequently went to the Major public house. He later agreed that this path would not be used to go to the Major from his house but could be used to go to the Railway public house. He recalled seeing horses on a couple of occasions on such walks. He had seen water buckets at the top and bottom of the Application Land and bits of white tape. Mr Trippier said that he would not say that he had any connections with Peel.

42. **James Linton** of 217 Nuttall Lane, Ramsbottom (who provided three witness statements) said that his parents purchased that property in 1981 (when Mr Linton

was four) from John Whittaker, the chairman of the Peel Group. Prior thereto in 1979 his parents had had an oral agreement with Mr Whittaker to graze the Application Land and look after other land including that neighbouring the Application Land. His father was a friend of Mr Whittaker's but Mr Linton had no relationship with him. He was not giving evidence because of any close relationship with Peel. In 1988 the agreement was effectively formalised as a grazing licence. He had never had the agreement but rent had been paid on a yearly basis. The Application Land was used for grazing purposes as part of these arrangements from 1997-2004. From around 2004 onwards, when stock numbers were lower, 6 acres only (to the rear of 217 Nuttall Lane) were taken on licence and grazing on the Application Land ceased. That part of the Application Land north of Footpath 81 was not part of Mr Linton's responsibility.

43. The grazing of horses and ponies on the Application Land took place in the spring and summer, from March to October, from 1977-2004. Grazing was not confined to the top corner and was not periodic only. The grazing was carried out rotationally by roping areas off from posts or pins and/or forming corrals in this fashion. Someone using the Permissive Path could walk round a corral. Tethering was also used. An electric fence had been used at one point. The horses were not mistreated. Over different periods different methods were used. Tethering was in the earlier period, roping in the later. A horse could get over ropes but most did not want to. The animals were brought back to the stables at 217 Nuttall Lane every evening at about 6-7pm but, later on, at 3-4pm and the posts/pins and ropes removed. The posts/pins were driven in with a sledgehammer and waggled out. The horses were brought on to and taken off the Application Land at the bottom along Nuttall Lane, Nuttall Road, via Nuttall Park, through a low tunnel under the railway, which some horses did not like, and across the river. Up to nine horses were grazed on the Application Land but it would not be normal to take all nine up there rather than three or four. It depended on how much help was available. The reference in his first witness statement to 12 horses being on the Application Land at one point would have included some belonging to his mother's friends. Water was brought to the Application Land and put in troughs and, later, buckets. Riding lessons took place on the Application Land. Signs were placed next to Footpath 81 and, in later years, on the corrals stating "please do not feed the horses" and "no trespassing" or "private keep out". If damaged or stolen, the

signs would be replaced. The Application Land was regularly inspected and litter removed. Both the Application Land and the land next to 217 Nuttall Lane were used for grazing. The grazing location was varied according to which areas of grass were most suitable and the Application Land was used whenever it could be in the spring and summer. 150 days' use of the Application Land in a year for grazing sounded too high but Mr Linton did not like to put a figure on it. The horses kept the vegetation down on the Application Land. Paths on the Application Land had been formed by horses. The Applicant's photographs did not show any horses because horses were not there when the photographs were taken.

44. Mr Linton recalled helping his father repair the Bolton Street wall when it was damaged by traffic accidents but this was when he was a small child in the 1980s. This was before the damage caused by the accident described by Mr Carroll when the wall was almost completely knocked down although it was not as low in 1991 as it is now. Sometimes horses had been taken on to the Application Land in that way. There had been a small piece of dilapidated fence here when he was very young. Tethering had been used to stop the horses getting out but they would be kept well back from Bolton Street, 5-10 metres. If horses had been hanging their heads over the wall here that would have been in the very early days outside the relevant period. There was not really any fencing at the Railway Street end of the Application Land in 1991, being at most a dilapidated line which was trodden into the ground. It did not impede access at all. He recalled a hole having been cut in the chain link fence on the boundary with St Andrew's Church and (even though it was the Church's fence) putting barbed wire there, which was removed. The repairs took place a couple of times which he could not really date but he thought would have been in his late childhood to early teenage years. It was not worth the time and effort to continue to attend to it. The fence became trampled into the ground. Mr Linton had not seen people straying off the public footpath on to the Application Land more generally. Friends of his family and people he knew from school were given permission to use the Application Land. He objected to damage being caused to the Application Land such as digging a hole for a bike jump. This was an infrequent occurrence and he had ejected maybe 20 people for causing damage in the whole of his life.

45. Mr Linton had had bonfires on the bottom part of the Application Land. People knew that it had been organised by him and his family. His father had done this before 1991.

(7) EVIDENCE GIVEN BY MEMBERS OF THE PUBLIC

46. **Heather Davenport** of 39 Garnett Street, Ramsbottom said she had lived away from Ramsbottom from 1990-2010 but that she had used the Application Land for sledging in the past as had her father.

47. **Michelle Bajda** of 16 Ada Street, Ramsbottom said that she had played on the Application Land as a child with friends but they knew they were trespassing and should not have been on there. She could recollect a trampled down fence and, when she was younger, of having crawled through a gap. She could not recollect horses on the Application Land but did have some recollection of having seen a horse's head near Bolton Street.

48. **Richard Hall** of 30 Garnett Street, Ramsbottom said that he had lived at that address since 1964 and, before that, at 28 Garnett Street from 1956-1964. He had walked across the Application Land to Peel Brow County Secondary School when a boy, taking access down the steps from Bolton Street. He had left school in 1960. He had also walked down Footpath 81 to Nuttall Park and, sometimes, over the Application Land into the woods at the back coming out by the bridge. There had also always been a stile allowing entry on to the Application Land from the access drive to St Andrew's Church. There had certainly been horses on the Application Land because he had frequently seen three or four congregate at the top end near Bolton Street. This had been in the last 20 years if not the last 10. There had been a fence here which later disappeared. This had been within the 20 year period relevant to the Application and had not been at an earlier time.

49. **Laurence Phelan** of 12 Marlborough Close, Ramsbottom said that he had previously lived off St Andrew's Close and that there had always been horses behind there but he could not recall any on the Application Land. He had played there, had cycled from the top to the bottom, had camped at the bottom and had been to the Grants Lane

bonfire. His wife used to gallop a horse up the Application Land over 15 years ago. She possibly knew the Lintons. From 1986-2002 he used to walk across the Application Land to work, accessing it via the school football field and then climbing through a little hole on to the Application Land.

50. **Lorna McIntosh** of 45 Grants Lane, Ramsbottom said that she had lived there since 1975. All the Grants Lane residents had for many years held a bonfire on the Application Land around every 5th November until about 1991-1992. No permission was obtained. The residents had once cleared up the Application Land using a skip for rubbish. Her husband had cleared up aluminium cans there. The knotweed which had been referred to was removed in 2008 but children had played in it when it was there. From 1975-1995 Mrs McIntosh had gone brambling on the Application Land. There were brambles near Crow Lumb Wood and some on the Bolton Street side.

51. **Ian Ashworth** of 31 Whittingham Drive, Ramsbottom said that he had used the Application Land for a variety of activities, including dog walking, cycling and sledging. He had served as church warden at St Andrew's Church (which he had started attending in 1991) from 2004-2010. The green chain link fence along the access drive to the church was on the Church's land and did not mark the boundary with Peel's land. That was where the new fence was with the stile in it. There had been no fence on that line before 2011. No repairs had been made to the green chain link fence in his tenure. There was a gateway at the Church end of the chain link fence which had served former tennis courts which had existed well before his time. He could never remember a gate. He had become concerned about access being taken across the Church's land by quad bikes, motor bikes and horses. Some horse riders had gone through the churchyard. To try to stop access across the Church's land he had put a wooden sign on the gate post which said "private no public access". At the top of the access drive there were three signs saying "private road no access". He had not seen horses or ponies on the Application Land. The Jennifer Ashworth who had filled in an evidence questionnaire in 2013 which had stated that she had "seen ponies grazing on land" and listed as an activity "walking on path as short cut to centre" was his daughter.

(8) THE SUBMISSIONS ON BEHALF OF PEEL

52. A detailed written closing submission was made by Mr Cannock on behalf of Peel. It would burden this report disproportionately to set this out at length here and I intend therefore simply to summarise its main lines of argument. As a matter of general approach Mr Cannock submitted that the relevant period for consideration was 25th April 1991 to 25th April 2011 and that evidence of use of the Application Land before 25th April 1991 was irrelevant.

53. As to uses of the Application Land, Mr Cannock submitted that, as a matter of principle, use of Footpath 81 was by right and not as of right and that any use of the Application Land by people using Footpath 81 had to be discounted from the evidence of qualifying use. Moreover, transitory and infrequent uses, in which he included blackberry picking and sledging, would not suggest to a landowner that a right was being asserted.

54. In relation to the 2012 evidence questionnaires submitted in support of the Application, Mr Cannock submitted that, while the questions had been posed in an open fashion, other failings in the questionnaire and in the responses thereto meant that this tranche of evidence could, in fact, command no weight. The issues identified by Mr Cannock included an inability to discern the periods during which use took place, the absence of adequate identification of a locality or neighbourhood, lack of clarity in relation to public rights of way and absence of detail as to where uses took place on the Application Land. Mr Cannock reminded me that Mr Todd had accepted that there were "holes" in the original evidence questionnaires.

55. In relation to the 2013 evidence questionnaires Mr Cannock submitted that these too should be given no weight because their format and content had been tailored to the Objection and because they had been accompanied by a cover sheet which had introduced an unacceptable bias into the process by alerting respondents to the answers needed to defeat the Objection and raising the possibility that this might be the last chance to protect against future development. He also submitted that question 6 on the 2013 evidence questionnaire was biased because it did not simply ask the respondent to identify lawful sports and pastimes but to include walking the two paths

and to specify if he ever went off the path. Moreover, given that the cover sheet had referred throughout to "Ramsbottom", it was hardly surprising that many respondents gave "Ramsbottom" as an answer to question 11 in respect of the locality or neighbourhood which it was believed had the right to use the Application Land.

56. Mr Cannock next made a number of submissions in relation to the live evidence at the inquiry in support of the Application. These included the following. First, the evidence of some witnesses had specifically changed from the evidence provided by their 2012 evidence questionnaires in order to support the case that needed to be made. This was exemplified by the evidence of Mrs de Ruijter and Mrs Fletcher. Mrs de Ruijter's evidence to the inquiry about following her dog around down the slope all over the grass was inconsistent with her 2012 evidence questionnaire which had referred to having always used the Permissive Path. Mrs Fletcher's evidence at the inquiry about waking everywhere was likewise inconsistent with what she had said in her e-mail to Mr Todd of 1st March 2013.

57. Secondly, the live witnesses had only used the Application Land for limited periods during the relevant 20 year period.

58. Thirdly, Mr Linton's evidence as to the grazing of horses on the Application Land, the management of that grazing by ropes and the erection of associated signs was to be accepted and therefore rendered unreliable evidence in support of the Application which was inconsistent with it. If users of the Application Land had not seen horses, ropes and signs they must have either stuck to Footpath 81 and/or had not used the Application Land with a degree of regularity which allowed them to see the tenant's activities and which would therefore suggest to the reasonable landowner (or the reasonable tenant on his behalf) that a right was being asserted. It was further submitted that any access to the roped off areas would be forcible, that their presence would interrupt use and that use in contravention of the signs would also be contentious and not as of right and/or not continuous.

59. Fourthly, the live evidence in support of the Application and the 2013 questionnaires were contradicted by other evidence in relation to the issue of use as of right. In this respect Mr Cannock submitted that the evidence of Michelle Bajda and Laurence

Phelan cast doubt on whether claimed use took place as of right. He also submitted that, in the light of the evidence of Mr Ashworth, there had been some forcible entry from the access drive to St Andrew's Church which could not be disaggregated from the other evidence.

60. Fifthly, the bonfire which had been referred to in the live evidence took place with the permission of Mr Linton's family and, according to Mrs McIntosh, it had ceased to be held by 1992 in any event.

61. Sixthly, the live evidence barely touched on some parts of the Application Land, in particular that area north of Footpath 81 and, on the opposite side, the slopes down to that footpath from the rest of the Application Land.

62. In relation to the issue of locality/neighbourhood, Mr Cannock argued that the Applicant's case had changed beyond all recognition which, in itself, significantly undermined the credibility of the case presented. Part 6 of the Application form had stated that "*Church Fields relates to Ramsbottom Electoral Ward, and particularly to the nucleus of terraced streets within, and to the south west of, the town centre, which before 1974 was in Central Ward.*" This was further explained in the justification for the application (exhibit E of the supporting material) under the heading "community" in the following terms: *"the Community which has used Church Fields is primarily an area of stone terraced houses, built in the late 19th Century. Local people refer to this core area as the Town Centre to distinguish it from the newer development to the south-west of Dundee Lane and Nuttall Lane. From the formation of Ramsbottom Local Board in 1864 until the abolition of Ramsbottom Urban District Council in 1974, this core area was largely in Central Ward (Appendix A). Very few of these Victorian terraced houses had any garden, and the presence of a large open space within 5 minutes walk at most has made Church Fields an attraction to residents of all ages."*

63. It was submitted that it was clear from the above: that the Applicant was relying on the "community" as the relevant locality/neighbourhood; that the community was geographically small - an area of stone terraced houses; that the area was known as the town centre; that the area could and should be distinguished from the area of

newer development off Dundee Lane and Nuttall Lane; and that the area of the community was not Ramsbottom. The respondents to the 2012 evidence questionnaires had been given the opportunity to set out for themselves what they considered their community to be but their answers had varied dramatically, suggesting that they did not have a clear understanding of what their community comprised, either geographically or in terms of facilities. In the Objection Peel pointed out that this locality/neighbourhood had not existed for the relevant 20 year period. There was no answer to this point and the Applicant had therefore contrived a totally different case.

64. There were, however, six reasons why the Claimed Neighbourhood could not be considered to be a qualifying neighbourhood for the purposes of the legislation. First, the variety of the 2012 evidence questionnaire responses did not support the contention that there was a distinct and identifiable community which could be a neighbourhood.

65. Secondly, those responses did not support the contention that the relevant community/neighbourhood was the Claimed Neighbourhood now relied upon. No single respondent identified the Claimed Neighbourhood.

66. Thirdly, the Application had referred quite clearly to a distinct community in terms of the area of stone terraces (the Town Centre). That area specifically excluded the areas of newer housing now included in the Claimed Neighbourhood boundary. The Applicant's current case was irreconcilably different from the earlier case. Given such a conflict, it could not be concluded that there was a neighbourhood with the required degree of cohesiveness otherwise local residents and the Applicant would have been able to identify it in the Application.

67. Fourthly, no witness who gave oral evidence had ever before seen the boundary of the Claimed Neighbourhood identified anywhere as such.

68. Fifthly, Mr Todd had repeatedly said that the concept of neighbourhood was flexible and fluid and one on which people would not be able to agree. As such the Claimed

Neighbourhood could not conceivably be *"a distinct and identifiable community, such as might reasonably lay claim to a town or village green"*.[4] On Mr Todd's analysis, the Claimed Neighbourhood was not distinct and identifiable otherwise local residents could agree on it and recognise it.

69. Sixthly, the boundary of the Claimed Neighbourhood was arbitrary. It excluded Peel Brow and land to the east of the town centre, when this was reasonably considered to be part of Ramsbottom Town Centre (up to the motorway). The boundary also cut arbitrarily through a row of terraced houses in the area between Bolton Street and Bolton Road West.

70. In all the circumstances therefore the evidence, as distinct from the submissions of Mr Todd, did not support the Applicant's revised case. The Claimed Neighbourhood (i) had an arbitrary boundary, (ii) failed, on the basis of the evidence, to reflect a distinct and identifiable community and (iii) had been drawn simply to include the respondents to the evidence questionnaires.

(9) THE APPLICANT'S SUBMISSIONS

71. A detailed written closing submission was also made by Mr Todd on behalf of the Applicant. Again, it would add unnecessarily to this report were I to set this out in great detail here so, as with Mr Cannock's submission, I aim simply to summarise its main lines of argument. Mr Todd submitted that there was nothing untoward in the fact that the Applicant's witnesses had had sight of Mr Linton's first witness statement. Given the novelty of the claims in that statement, sight of it simply focused the witnesses on the key issues which had dominated the inquiry. The approach was precisely the same as that adopted by Peel with regard to the Applicant's evidence. Further, Mr Linton had produced a witness statement after sight of the Submission which shifted his position in a number of ways. The evidence of the

[4] Per Carnwath J in *R v Suffolk County Council, ex p Steed* (1996) 71 P & CR 463 at 477.

Applicant's witnesses was not a reflection of the words and sentiments of Mr Todd but was given in their own words and embodied their own sentiments. Evidence of the absence of any "whipping" came in the shape of the contribution from Mr Hall, the membership secretary of the Applicant, although it was suggested that the content of the contribution was mistaken. The probity of the Applicant's witness statements was apparent in the fact that all presented themselves to give oral evidence and to be cross-examined. Each witness spoke with conviction and sincerity. The contrast with the non-appearance of most of Peel's witnesses could not have been greater. Peel's witness statements were formulaic and not written in the witness's own words. There had been no opportunity to cross-examine most of the witnesses.

72. The three witnesses that did actually appear were unconvincing. Mr Todd made a number of detailed points in relation to each witness. Again, I do not seek to rehearse all of these here but try to give a flavour of matters. In relation to Mr Trippier, Mr Todd argued, for example, that: the witness's account in his witness statement of seeing horses with their heads hanging over the wall at Bolton Street did not match his oral evidence which had accepted that the wall was low; he was unable to describe the sign he had seen; and his choice of route to the public houses he frequented was implausible. In relation to Mrs Price Mr Todd argued, for example, that: the account in her witness statement of fencing at Bolton Street changed in evidence to a low wall; and her claim to have seen horses close to the road was at odds with Mr Linton's subsequent oral evidence that his alleged tethering and corralling kept his horses at least 5-10 metres away from Bolton Street.

73. In relation to Mr Linton, his evidence contained notable inconsistencies and shifts of position. Some of the matters relied on by Mr Todd in this connection were:
    - horse restraint arrangements – a shift from roped off enclosures to roping, tethering and corrals with a change from three specific roped off plots to variably sized enclosures; Mr Linton's claim in his oral evidence that one system evolved into the other was not consistent with the specificity of his first witness statement;
    - watering arrangements – a shift from two troughs to buckets

- signage – a shift from the locations specified in his first witness statement to often being attached to the corral ropes
- the Bolton Street Wall – a shift from a portrait in his first witness statement of fixing this on several occasions to a concession that it was later almost completely knocked down.

74. The most glaring point was the inconsistency of Mr Linton's evidence that there had been an extensive grazing use of the Application Land with the fact that this had furnished virtually no evidence visible to the surrounding community. Crucially, there was virtually no local recollection of horses on the Application Land in the period relevant to the Application. There was also absent from local memory recollection of, inter alia, the horse movements Mr Linton had described to and from the Application Land, the use of roped off grazing plots, corrals or tethers, watering facilities, horse manure, signs (whether in permanent positions or hanging off ropes) and Linton family bonfires. Mr Linton had been the mouthpiece for an improbable set of claims. It was suggested that Peel had leverage over the family. The absence of Mr Linton's parents to give oral evidence to the inquiry was mystifying given their centrality to Peel's case. The details of the elusive 1979 agreement with Mr Whittaker had not been able to be explored. There was an absence of any relevant documentation. Mrs Linton's written statement was, in any event, inconsistent in many respects with the Applicant's evidence such as her account of placing straw based horse manure on the Application Land, her evidence that she asked people to leave, her claim that sledging took place with the Lintons' permission and her statement that Linton family bonfires were held on the Application Land near Railway Street up until 2005.

75. Mr Todd then addressed the ingredients of the statutory test. He submitted that the requirement for a significant number of inhabitants had been made out in that the Application Land had been *"in general use by the local community for informal recreation, rather than occasional use by individuals as trespassers"* as referred to in *Alfred McAlpine Homes Ltd v Staffordshire County Council*.[5]

[5] [2002] EWHC 76 (Admin) at paragraph 71.

76. In respect of the requirement to demonstrate a locality or neighbourhood within a locality, the case was put as one under limb (ii) (a neighbourhood within a locality) and the Ramsbottom Electoral Ward was an appropriate locality. Its reduced area after 2004 still contained the whole of the Claimed Neighbourhood. *Leeds Group plc v Leeds City Council*[6] was relied on to support the Claimed Neighbourhood. Sullivan J's approach to the issue of neighbourhood in *Cheltenham Builders Ltd v South Gloucestershire District Council*[7] was restrictive but the Claimed Neighbourhood in any event had a *"sufficient degree of cohesiveness"*[8] to satisfy the test there set out. It was amply capable of meaningful description, had a pre-existing cohesiveness and was anything other than arbitrary in topographical terms. It was suggested that Sullivan J's restrictive approach had been rejected by Lord Hoffman in *Oxfordshire County Council v Oxford City Council*[9] in his observation that *'"any neighbourhood within a locality' is obviously drafted with a deliberate degree of imprecision which contrasts with the insistence of the old law upon a locality defined by legally significant boundaries."*[10] This had been cited by Judge Behrens in *Leeds Group plc*[11] while Judge Waksman QC in *Oxfordshire and Buckinghamshire Mental Health NHS Foundation Trust v Oxfordshire County Council*[12] had noted that neighbourhood was *"on any view a more fluid concept"* than locality.[13] The statutory definition could also be satisfied if there was more than one neighbourhood as confirmed in *Leeds Group plc* by Judge Behrens and upheld in the Court of Appeal.[14] In relation to the fact that the Claimed Neighbourhood boundary with Hazelhurst passed through a terrace of houses on Bolton Road West, a similar situation in which two houses in the qualifying neighbourhood lay outside the relevant locality was accepted as de minimis in *Leeds Group plc*.

[6] [2010] EWHC 810 (Ch).
[7] [2003] EWHC 2803 (Admin).
[8] At paragraph 85.
[9] [2006] UKHL 25.
[10] At paragraph 27.
[11] At paragraph 103.
[12] [2010] EWHC 530 Admin.
[13] At paragraph 69.
[14] *Leeds Group plc v Leeds City Council* [2010] EWCA Civ 1438.

77. The strength, cohesiveness and community spirit of the Claimed Neighbourhood was well illustrated by the campaign to secure the Application Land for future generations as a facility which had been freely accessible to past generations. The evidence showed that local residents' perception of their neighbourhood (referred to by Mr Todd as their "cognitive neighbourhood") varied with age and lifestyle.

78. Use of the Application Land was without force, without secrecy and without permission. As to signs, Mr Linton's evidence had had difficulty in specifying the locations of the various signs of which nobody other than his fellow Peel witnesses could claim any recollection. Mr Trippier, Kieran Flatley and Daniel Phelan each claimed to have seen signs at the top and bottom ends of Footpath 81 but these locations for signs were inconsistent with where Mr Linton had said they were. Witnesses such as Mrs Crompton had said that they would not have felt it right to be on the Application Land had there been prohibitory signs. Mr Linton's claim in his first witness statement to have maintained a chain link fence on the boundary of St Andrew's Church with barbed wire up until 2004 was mistaken as to the boundary of the Peel land as Mr Ashworth had pointed out. Mr Ashworth's sign had not resulted in the prevention of walkers gaining access to the Application Land. Given the repeated references to the green chain link fence, walkers had probably cut a corner rather than gone as far as the gate opening as they approached from Bolton Street. Mr Linton eventually admitted that there had been no impediment to access to the Application Land at the Railway Street end despite the implication in his first witness statement to the contrary.

79. As to lawful sports and pastimes on the Application Land, there had been demonstrated a wide range of qualifying uses. Topography and vegetation had not impeded recreational use. It was not the case that only the paths were used for walking and dog walking. The whole area had been used with different parts used for different activities. Mr Linton's account was the only substantive evidence of grazing of the Application Land that Peel had produced and was unreliable. His evidence simply did not tally with communal memory. The transfer of horses to the Application Land and their maintenance there was impracticable. It was not contended that absolutely no grazing ever occurred on the Application Land but that rather it was so infrequent that it failed to register with the local community. Such grazing was

compatible with village green rights as demonstrated by *Laing Homes Ltd v Buckinghamshire County Council*.[15] The qualifying uses had gone on for at least 20 years and the Application was made within the necessary two year period from cessation of qualifying use.

(10) ANALYSIS AND FACT FINDING

(a) Neighbourhood within a locality

80. I turn first to deal with the issue of neighbourhood within a locality. The Application is advanced on this limb (ii) basis with the relevant qualifying area – the Claimed Neighbourhood as I have styled it - being the Ramsbottom Town Centre neighbourhood within the locality of the Ramsbottom Electoral Ward. I do not see why the Ramsbottom Electoral Ward should not be an appropriate locality for the purposes of the limb (ii) case which is now put forward. There was no argument to the contrary by Mr Cannock. The Submission explains that the Ramsbottom Electoral Ward in its present form did not come into being until 2004, as the Objection had suggested. Prior to that date the ward had been larger and had extended further south. In 2004 a new ward (North Manor) was created which was an amalgamation of the southern portion of the 1974 Ramsbottom Electoral Ward and the northern portion of the 1974 Tottington Ward. There is no material to contradict this and I accept it. The Claimed Neighbourhood is contained entirely within the post-2004 Ramsbottom Electoral Ward and was therefore entirely within the pre-2004 Ramsbottom Electoral Ward as well. The Claimed Neighbourhood has thus always been wholly in Ramsbottom Electoral Ward. The fact that that ward has reduced in size within the last 20 years appears to me to be of no significance for the purposes of the limb (ii) case which is now pursued. Again, Mr Cannock did not seek to argue otherwise.

81. I turn therefore to consider the Claimed Neighbourhood. "Neighbourhood" is undefined in the 2006 Act as was also the case under section 22 of the Commons Registration Act 1965 as amended by section 98 of the Countryside and Rights of Way Act 2000. There is, however, a body of relevant case law. In a well-known

[15] [2003] EWHC 1578 (Admin) at paragraph 60.

passage in *Cheltenham Builders Ltd v South Gloucestershire District Council*[16] Sullivan J said that *"[i]t is common ground that a neighbourhood need not be a recognised administrative unit. A housing estate might well be described in ordinary language as a neighbourhood. For the reasons set out above under 'locality', I do not accept the defendant's submission that a neighbourhood is any area of land that an applicant for registration chooses to delineate upon a plan. The registration authority has to be satisfied that the area alleged to be a neighbourhood has a sufficient degree of cohesiveness, otherwise the word 'neighbourhood' would be stripped of any real meaning. If Parliament had wished to enable the inhabitants of <u>any</u> area (as defined on a plan accompanying the application) to apply to register land as a village green, it would have said so."*[17]

82. Lord Hoffman in *Oxfordshire County Council v Oxford City Council*[18] pointed out that the expression *"any neighbourhood within a locality"* was *"obviously drafted with a deliberate degree of imprecision which contrasts with the insistence of the old law upon a locality defined by legally significant boundaries."*[19] Having made that point, Lord Hoffman expressed disagreement with the view which Sullivan J had taken in *Cheltenham Builders* that a neighbourhood had to be wholly within a single locality. However, Lord Hoffman did not otherwise criticise aspects of Sullivan J's approach in *Cheltenham Builders* to the issue of neighbourhood and I do not consider that it is correct that the passage set out in the preceding paragraph was in any way disapproved.

83. In *Oxfordshire and Buckinghamshire Mental Health NHS Foundation Trust v Oxfordshire County Council*[20] HHJ Waksman QC said that *"[t]he area from which users must come now includes a neighbourhood as well as a locality. On any view that makes qualification much easier because it was accepted that a locality had to be some form of administrative unit, like a town or parish or ward. Neighbourhood is on any view a more fluid concept and connotes an area that may be much smaller than a*

[16] [2003] EWHC 2803 (Admin).
[17] At paragraph 85.
[18] [2006] UKHL 25.
[19] At paragraph 27.
[20] [2010] EWHC 530 (Admin).

locality."[21] In the same case HHJ Waksman QC also made the following observations: "*[w]hile Lord Hoffman said that the expression* [sc., neighbourhood within a locality] *was drafted with deliberate imprecision, that was to be contrasted with the locality whose boundaries had to be legally significant – see paragraph 27 of his judgment in Oxfordshire (supra). He was not saying that a neighbourhood need have no boundaries at all. The factors to be considered when determining whether a purported neighbourhood qualifies are undoubtedly looser and more varied than those relating to locality … but, as Sullivan J stated in R (Cheltenham Builders Ltd) v South Gloucestershire Council [2004] JPL 975 at paragraph 85, a neighbourhood must have a sufficient degree of (pre-existing) cohesiveness. To qualify therefore, it must be capable of meaningful description in some way."*[22]

84. In *Leeds Group plc v Leeds City Council*[23] HHJ Behrens said that *"I shall not myself attempt a definition of the word 'neighbourhood'. It is, as the inspector said, an ordinary English word and I have set out part of the Oxford English Dictionary definition.* [Sc., "A district or portion of a town; a small but relatively self-contained sector of a larger urban area; the nearby or surrounding area, the vicinity"]. *I take into account the guidance given by Lord Hoffman in paragraph 27 of the judgment in the Oxfordshire case. The word neighbourhood is deliberately imprecise. As a number of judges have said it was the clear intention of Parliament to make easier the registration of Class C TVGs. In my view Sullivan J's references to cohesiveness have to be read in the light of these considerations."*[24] HHJ Behrens also quoted, with apparent approval, the words of the inspector in the case who had said that it seemed to him *"that the 'cohesiveness' point cannot in reality mean much more, in an urban context, than that a neighbourhood would normally be an area where people might reasonably regard themselves as living in the same portion or district of the town, as opposed (say) to a disparate collection of pieces of residential development which had been 'cobbled together' just for the purposes of making a town or village green claim."*[25]

[21] At paragraph 69.
[22] At paragraph 79.
[23] [2010] EWHC 810 (Ch).
[24] At paragraph 103.
[25] At paragraphs 36 and 99.

85. In relation to the question of the need for a neighbourhood to have boundaries, I have already quoted in paragraph 83 above the observation of HHJ Waksman QC in *Oxfordshire and Buckinghamshire Mental Health NHS Foundation Trust* that Lord Hoffman in *Oxfordshire County Council* was *"not saying that a neighbourhood need have no boundaries at all."* In *Leeds Group plc* HHJ Behrens said, in relation to the issue of boundaries, *"I agree with Miss Ellis QC that boundaries of districts are often not logical and that it is not necessary to look too hard for reasons for the boundaries."*[26]

86. When the latter case reached the Court of Appeal the issue in relation to neighbourhood that was considered was whether HHJ Behrens was right to uphold the inspector's view that neighbourhood did not have to be limited to a single neighbourhood and could include two or more neighbourhoods. The Court of Appeal upheld the judge on this point (by a majority).[27] It is also to be noted that, in the course of so doing, Sullivan and Arden LJJ endorsed[28] Lord Hoffman's dicta in *Oxfordshire County Council* in relation to the "*deliberate degree of imprecision"* in the drafting of the expression *"any neighbourhood within a locality"*. All the judges in the Court of Appeal also recognised that Parliament's intention in enacting the neighbourhood amendment (which was originally introduced by section 98 of the Countryside and Rights of Way Act 2000) was to make easier the task of those seeking to register new greens and to avoid technicality by loosening the links with historic forms of greens.[29] In *Adamson v Paddico (267) Limited*[30] Sullivan LJ stated again that in *Oxfordshire County Council "Lord Hoffman clearly considered that the new 'neighbourhood' limb had materially relaxed the previous restrictions relating to 'locality'"*.[31]

87. In the light of all the above I approach matters by having at the forefront of my mind that a claim to register a new green on a limb (ii) basis should proceed on the basis

[26] At paragraph 105.
[27] Sullivan and Arden LJJ, Tomlinson LJ dissenting.
[28] At paragraphs 26 and 52.
[29] At, for example, paragraphs 24, 25, 26, 44 and 52.
[30] [2012] EWCA Civ 262.
[31] At paragraph 27. The issue of locality and neighbourhood was not dealt with when this case reached the Supreme Court, [2014] UKSC 7.

that there is a deliberate degree of imprecision in the term neighbourhood, that it is not appropriate for a claim to be defeated on the basis of technicalities and that Parliament's intention was to ease the task of applicants. Having said all that I am not persuaded that the Claimed Neighbourhood qualifies as such. It seems to me that the fundamental issue is not a technical one but that the Claimed Neighbourhood departs too far from the ordinary meaning of the word "neighbourhood" to be regarded as a qualifying neighbourhood. I have noted in paragraph 83 above that HHJ Behrens in *Leeds Group plc* cited a dictionary definition of neighbourhood as *"a district or portion of a town; a small but relatively self-contained sector of a larger urban area; the nearby or surrounding area, the vicinity"* and that the inspector in that case had expressed the view that *"the 'cohesiveness' point cannot in reality mean much more, in an urban context, than that a neighbourhood would normally be an area where people might reasonably regard themselves as living in the same portion or district of the town"*. In this case the Claimed Neighbourhood does not seem to me to consist of a portion or district of the town of Ramsbottom but rather an amalgam of several different portions and districts. It also does not seem to me, for example, that a person living in the south of the Claimed Neighbourhood on Bolton Road West would reasonably regard himself as living in the same portion or district of the town of Ramsbottom as someone living on the other side of the town centre in the north of the Claimed Neighbourhood on Stubbins Lane even though each would reasonably regard themselves as living in Ramsbottom.

88. While there is no statutory restriction on the size of a neighbourhood, to mind there comes a point at which an area simply becomes too big to be sensibly regarded as such. In *Leeds Group plc* one aspect of the dictionary definition that HHJ Behrens quoted referred to *"a small but relatively self-contained sector of a larger urban area"* and HHJ Waksman QC in *Oxfordshire and Buckinghamshire Mental Health NHS Foundation Trust* indicated that "neighbourhood" *connotes an area that may be much smaller than a locality"*. It seems to me that in this case the Claimed Neighbourhood is simply too big and contains too much of the town of Ramsbottom to be appropriately regarded as a qualifying neighbourhood. It is not a small but relatively self-contained sector of a larger urban area but the greater part thereof.

89. The Submission justifies the Claimed Neighbourhood by reference to four factors: topographical unity; location in the context of surrounding neighbourhoods; organic historical growth; and coherence. I am not persuaded by this analysis. I would not ascribe any particular weight to the issue of topographical unity in this case given that both topographical features and administrative divisions are utilised to make up the overall boundary of the Clamed Neighbourhood. As to separation of an area from other areas which are said to be neighbourhoods, that does not of itself mean that the area so separated is itself a neighbourhood even if the others are. The organic historical growth which is relied upon identifies a stone built core to the town of Ramsbottom which was extended by similar stone built development before the Great War followed by substantial developments later on in the twentieth century taking the form of council housing at Tagg Wood and at Peel Brow (the latter not forming part of the Claimed Neighbourhood) in the 1930s-1950s, private housing on Carr Bank in the 1960s-1970s, private housing on the Broad Hey estate in the 1960s-1980s and building of brick terraced and semi-detached houses on Dundee Lane and Earl Street/Victoria Street in the 1930s. It seems to me that this serves to highlight the amalgam of several different portions of Ramsbottom which make up the Claimed Neighbourhood. This factor also dilutes the coherence (which I take to be no different from the "cohesiveness" identified in case law) of the Claimed Neighbourhood although I should also say that, while a neighbourhood should have a sufficient degree of pre-existing cohesiveness, it does not seem to me that a demonstration that an area is cohesive in terms of (say) community facilities and events proves that it is a neighbourhood if the area is not otherwise properly described as such as a matter of ordinary language, which I consider to be the case here.

90. The Submission apart, I also accept a number of Mr Cannock's arguments as to evidential deficiencies in the case put forward in relation to the Claimed Neighbourhood. I agree that the variation in the answers to questions 6 and 7 on the 2012 evidence questionnaires provides little basis for the Claimed Neighbourhood. I also agree that the divergence between the way in which the Application was originally pursued by reference to a core area of stone terraced houses built in the late nineteenth century, referred to by local people as the town centre to distinguish it from the newer development to the south west of Dundee Lane and Nuttall Lane, sits very uncomfortably with the Claimed Neighbourhood presently relied upon which

incorporates the distinguished areas. Mr Todd's response when this point was put to him, which was to suggest that, at least in part, the Claimed Neighbourhood had been extended to encompass the addresses of respondents to the 2013 evidence questionnaires, seems to embody the kind of approach deprecated by HHJ Behrens in *Leeds Group plc* as one *"trying to pull itself up by its own bootstraps"*.[32]

91. I derive little assistance from the fact that, in relation to the 2013 evidence questionnaires, many respondents gave "Ramsbottom" as an answer to question 11 in respect of the locality or neighbourhood which it was believed had the right to use the Application Land given that, as Mr Cannock argued, this was hardly surprising in the light of the cover sheet having referred throughout to "Ramsbottom". I further consider that Mr Cannock was right to point out that Mr Todd's emphasis on the fluid and dynamic nature of the relevant neighbourhood in this case undermines the case for the Claimed Neighbourhood in illustrating the uncertainty that must inevitably therefore attach to it. It also seems to me that Mr Todd's own point made in closing submissions that the evidence showed that local residents' perception of their neighbourhood (their "cognitive neighbourhood") varied with age and lifestyle has the same effect. I finally agree with Mr Cannock that the fact that the Claimed Neighbourhood boundary with Hazelhurst passes through a terrace of houses on Bolton Road West exhibits arbitrariness. It seems to me that the response given by Mr Todd that the situation compares with that in *Leeds Group plc* in which the fact that two houses in the qualifying neighbourhood lay outside the relevant locality was accepted as de minimis is not quite the same. I do not consider that this point would have been determinative taken alone given the degree of imprecision that attends the notion of neighbourhood and the need to avoid an over-fastidious approach to the issue of boundaries. It is, however, another factor in the cumulative picture of shortcomings in relation to the Claimed Neighbourhood. I do not think it necessary to reach any view on the exclusion of Peel Brow from the Claimed Neighbourhood.

92. I do not consider that the Application should be approached on the basis that the Broad Hey estate and the rest of the Claimed Neighbourhood should be treated as two separate neighbourhoods. I do not have the evidential material to reach a conclusion

[32] At paragraph 106.

on whether the Broad Hey estate is a separate neighbourhood. It is suggested tentatively in the Submission that it might be but it is not identified as such by any respondent in the 2012 and 2013 evidence questionnaire series and no witness spoke to this issue. I do not consider that the Claimed Neighbourhood minus the Broad Hey estate amounts to a qualifying neighbourhood either. Beyond that, it is certainly not for me or the Registration Authority to consider whether what I have described as the several different portions of Ramsbottom which make up the Claimed Neighbourhood could themselves be categorised as "mini-neighbourhoods" in any other fashion apart from a sub-division between the Broad Hey estate and the rest of the Claimed Neighbourhood. The case is not put on this basis (but on the basis that there are no such further potential neighbourhoods) and the evidence is not directed to it.

93. In all the circumstances I conclude that the Application fails for want of identification of an appropriate qualifying neighbourhood.

94. While the above is sufficient to reach a conclusion in relation to the way in which I recommend to the Registration Authority that the Application is determined it is nevertheless right that I should go on to consider other aspects of the case given the evidence and submissions I heard.

(b) <u>General matters of approach to use evidence</u>

95. I turn next to consider some general matters of approach to the use evidence. The first of these, as raised in Mr Cannock's submissions, is the appropriate period for consideration of the use evidence. While it is correct that there must be a demonstration of qualifying use in this case in the period 1991-2011, I cannot agree with the particular submission of Mr Cannock that evidence of use of the Application Land before 25th April 1991 is irrelevant. It is clear from section 15(3) of the 2006 Act that, in the case of an application where this is the relevant provision, the cessation of the qualifying use period cannot have occurred more than two years before the application is made so that if an application is made in 2013 there must be a qualifying use period up until 2011. It follows that, as the qualifying use period must be of at least 20 years, qualifying use must be shown between 1991 and 2011.

An application which failed to demonstrate qualifying use between 1991 and 2011 would therefore fail. That is the minimum necessary. However, that is not the same as saying that pre-1991 use is irrelevant. The qualifying use period must be at least 20 years. It can be more. And there is no reason why evidence of use of land before 1991 in a qualifying fashion could not, for example, corroborate evidence of use of the land in a qualifying fashion after this time. Having said all that, as qualifying use must be demonstrated between 1991 and 2011 a particular focus on that period is therefore only to be expected.

96. The second matter is the approach to transitory uses. I also part company from Mr Cannock here in relation to his suggested approach, as I understood it, to transitory uses. Such uses do not fail to amount to qualifying uses because they are transitory. It well may be that an application could not be sustained on the basis of transitory uses alone but, if such uses qualify as lawful sports and pastimes, there is no reason to discount them from the overall picture of recreational use of a claimed green.

97. Thirdly, I deal with the approach to written evidence. In approaching all written evidence in this case I proceed generally on the basis of treating it with caution because it has not been subject to cross-examination but I do consider whether it is consistent with and supportive of oral evidence.[33] Turning to specific aspects of the written evidence, I place very little weight on the 2012 evidence questionnaires. This is not just because the respondents have (in the main) not been subject to cross-examination but also because I consider that it was a significant failing of the questionnaires that they did not seek to ask the respondents to identify when the Application Land was used. I also remind myself that Mr Todd himself conceded that there were "holes" in the 2012 evidence questionnaires.

98. As to the 2013 questionnaires, I do not see that there is anything problematic in principle with the fact that their format and content was, as the Submission made plain,[34] tailored to the Objection. It is an inevitable consequence of a process such as this that a response to an objection will concern itself with answering that objection

[33] Cf. *Alfred McAlpine Homes Ltd v Staffordshire County Council* [2002] EWHC 76 (Admin) at paragraph 75.
[34] Paragraph 4.

and obtaining any extra evidence needed to do so. While I have already accepted in paragraph 91 above that the cover sheet may well have influenced the answer "Ramsbottom" given by many to question 11 on the questionnaire, I take the view more generally that the criticisms made by Mr Cannock of the cover sheet are somewhat overstated. Mr Cannock's criticisms were directed to the independence of the answers which were forthcoming in the questionnaires in the light of the cover sheet. It does not seem to me that an answer to a question necessarily ceases to be the product of the independent recollection of the witness simply because the witness is able to understand from the cover sheet that a particular answer would support the case sought to be advanced whereas a different answer would not. It is also of note that the cover sheet asked for answers to be given independently and honestly and that this was backed up by a declaration of truth on the evidence questionnaires themselves in similar terms. I also do not think that I can infer that the answers in the evidence questionnaires are irredeemably tainted simply because of the fact that the cover sheet raised the possibility that this might be the last chance to protect against future development but I do accept that it is possible that this factor may have had some influence on the answers given by some. And I do not think that it is right to say that question 6 of the questionnaire was inherently biased in asking the witness to specify whether he ever went off the path. Being invited to give an answer to a specific question is not the same as being influenced to answer it in particular way. A witness should have appreciated from the cover sheet and the evidence questionnaire as a whole that he should not say that he did walk off the path if that was not the case. Ultimately, however, I am in general not able to give any more than limited weight to the 2013 evidence questionnaires in themselves, including answers in relation to use off the path, given that the vast majority of the respondents have not been able to be cross-examined.

99. For the same reason – absence of ability to test evidence by cross examination - I place only limited weight on the letters in support of the Application and the statements of those witnesses for Peel who were not called to give evidence.

(c) Use of the Application Land for grazing

100. I turn next to a central factual issue in the case in relation to the use of the Application Land for grazing. There is a stark factual divide between the Applicant's evidence and Peel's evidence on this question. None of the witnesses called to give oral evidence in support of the Application saw horses on the Application Land (or any evidence of their presence) from 1991 (the beginning of the 20 year period counting back from 2011) to 2004 (when grazing is said to have ceased). Subject to very limited exceptions, the written evidence in support of the Application gathered from 2013 onwards (the evidence questionnaires and the letters of support) paints an extremely strong picture of an absence of grazing on the Application Land over any part of the 20 year period from 1991-2011 and is consistent with the oral evidence in support of the Application. For his part Mr Todd did not put the case on the basis that there was no grazing whatsoever on the Application Land during this period but that it was so infrequent that it had not registered with the local community. The gist of Mr Linton's evidence on the other hand was that extensive use was made of the Application Land for grazing up to 2004 through the months from March to October albeit that he did not quantify the number of days during which such use took place save to say that 150 days (a figure found in the written witness statement of Keiran Flatley) was too high. The written witness statements produced on behalf of Peel are broadly supportive of Mr Linton's evidence but there is far from complete consistency on all points.

101. Overall I consider, and find accordingly, that while there was some occasional use of the Application Land for grazing in the March to October period in the 1990s and early 2000s, it was, indeed, infrequent very much as Mr Todd suggested. I accept the evidence of the Applicant's witnesses who gave oral evidence that they did not see horses on the Application Land at this time or evidence of their presence. I do not consider that they were not giving honest evidence about this or that they were mistaken in this respect. Had there been more frequent grazing I find it hard to see how it would have escaped the attention of these users unless they themselves were much less frequent users of the Application Land than their evidence suggested or the horses were hidden from view. I discount the first alternative because I do not consider there was any exaggeration by the witnesses of their frequency of use and I

discount the second because it seems to me that this would only have been likely if use had been entirely confined to Footpath 81 (which it was not) and, even from here, horses at the lower end of the Application Land would have been visible anyway. While I have pointed out above that I am in general able to give only limited weight to the written evidence in support of the Application, I do regard the overall picture which emerges from that evidence with near unanimity – an absence of grazing on the Application Land over any part of the 20 year period from 1991-2011 – as a matter of some significance. The written evidence is consistent with the oral evidence in this respect and it is hard to see how the wide range of users of the Application Land represented by this body of material would not have seen horses grazing there had that been a frequent practice.

102. I am not able to accept Mr Linton's evidence to the effect that the Application Land was used frequently for grazing over the period from 1991-2004. This evidence does not fit with the evidence I have already accepted and, to the extent that it sought to portray more than occasional use of the Application Land for grazing over this period, I consider that it was exaggerated. I found aspects of Mr Linton's evidence to be unsatisfactory.

103. Mr Linton's first witness statement seems to me to have been misleading or inaccurate in a number of respects in relation to the boundaries of the Application Land. His first witness statement had said that repairs were carried out to the chain link fence on the boundary with St Andrew's Church[35] with barbed wire up until 2004 but in his third witness statement it was accepted that the fence was often trampled into the ground and, under cross-examination, the repair he had spoken of was dated to his late childhood and early teenage years, which barely extends to the start of the 20 year period from 1991-2011 rather than 2004. Mr Linton's first witness statement had also said that there was a barbed wire fence at the bottom of the Application Land near to Railway Street and neighbouring the TNT car park in that location which he recalled to have been in position up until 2001 but in examination in chief and cross-examination Mr Linton accepted that any such fence was very dilapidated and had not impeded access at all. The additional stock proof fence at the Bolton Street frontage

[35] The chain link fence was not actually on the boundary of Peel's land with that of St Andrew's Church, as Mr Ashworth explained.

of the Application Land which Mr Linton had referred to in his first witness statement became, under cross-examination, nothing more than a memory of a small piece of dilapidated fence when he was very young and the method of restraining horses was said in oral evidence to be tethering which kept the horses well back, 5-10 metres, from Bolton Street. It provides no basis for confidence in a witness's evidence when he has put his name to a statement which is not reliable.

104. I also found Mr Linton's evidence to be characterised by several further shifts of ground. The horse restraint measures which had started off in the first witness statement as specific roped off plots became, over the course of his witness statements and oral evidence, a mixture of differing arrangements involving not just such specific plots but also tethering and roped corrals. The watering arrangements for the horses on the Application Land were described in Mr Linton's first witness statement as troughs. In his third witness statement this changed to the placement of buckets. Mr Linton's first witness statement had said that signs were located alongside Footpath 81 in particular locations. In his third witness statement it was said, however, that the signs were often attached to the corral ropes. The wording of the signs was said in the first witness statement to be "please do not feed the horses, no trespassing". In cross examination this became "private keep out, don't feed the horses". The protean character of the evidence undermines its reliability.

105. I further consider that the inherent probabilities of the matter point against a frequent use of the Application Land for grazing. The length and nature of the journey to get to the Application Land from 217 Nuttall Lane (including negotiating the low railway tunnel which some horses did not like) and the need to reverse the journey in the afternoon or evening seem to me to militate against the likelihood of this being a frequent undertaking. Added to the overall burden of the operation would have been the need to transport ropes, posts/pins and a sledgehammer to the Application Site as well as water for the horses to drink. I do not consider that the fact that some photographs of parts of the Application Land dating from the 1990s appear to show quite short grass enables any confident judgment to be made that there must have been frequent grazing.

106. In coming to my views above I have considered all sources of evidence which might bear on the question. The limited weight I give to the written statements of those of Peel's witnesses who did not give oral evidence was not sufficient to lead to me to different conclusions. As to the oral evidence, I did not find Mr Trippier's evidence helpful. He seemed to me give his evidence in a defensive and argumentative fashion. His evidence about horses heads hanging over the wall does not match the facts in relation to the state of the Bolton Street wall, which I find, in the light of the evidence provided by the Applicant's witnesses, to have been very low from at least the early 1990s. His resort, under cross examination, to the possibility of a makeshift fence and his failure to accept that his witness statement had created the wrong impression about the wall was not convincing. I also note the contradiction with Mr Linton's evidence that he kept horses well back from this area. Mrs Price's evidence of seeing horses being fed over the Bolton Street wall also seems to me not to be consistent with the state of the wall at the relevant time. Her further account of there being some post and rail fencing in place here as well does not fit with any of the evidence (which I accept on this point) of the Applicant's witnesses (who described only a wall so low it could be easily stepped over) in relation to the time Mrs Price was describing nor, indeed, with Mr Linton's evidence and appears to describe more the situation after 2011. Notwithstanding that Mrs Price dated her recollections by reference to the time she worked at Horse Bits, I think that there is some confusion in her account of matters. A "one off" observation of horses on the main body of the Application Land is not inconsistent with an occasional and infrequent use. Ms Bajda's recollection of having seen a horse's head near Bolton Street was vague and does not assist. I am not able to accept Mr Hall's evidence that the horses he saw near Bolton Street were within the 20 year period from 1991 to 2011. It seems to me that Mr Hall was plainly mistaken in relation to another aspect of his evidence when he described the continuous existence of a stile providing entry to the Application Land from the access drive to St Andrew's Church. The stile, however, had only been in existence since 2011 when erected by Peel as part of the fencing works then undertaken. Mr Hall's evidence in relation to a fence at Bolton Street is also out of step with the evidence I heard from the Applicant's witnesses. I think that the chances are that Mr Hall is conflating more recent periods after the erection of the fencing and the stile in 2011 and grazing after this time with past periods.

(d) Use of the Application Land for lawful sports and pastimes

107. I turn at this point to my assessment of the evidence of use of the Application Land for lawful sports and pastimes. In approaching this assessment I first remind myself of a number of substantive principles which need to be borne in mind as established in case law. First, the requisite use which is required to be shown is, as Lord Hope indicated in *Lewis v Redcar and Cleveland Borough Council,*[36] "*use for at least 20 years of such amount and in such manner as would reasonably be regarded as being the assertion of a public right*."[37] Secondly, as Sullivan J stated in *Cheltenham Builders*, applicants for registration have to "*demonstrate that the whole, and not merely a part or parts, of the site had probably been used for lawful sports and pastimes for not less than 20 years. A common sense approach is required when considering whether the whole of a site was so used. A registration authority would not expect to see evidence of use of every square foot of a site, but it would have to be persuaded that for all practical purposes it could sensibly be said that the whole of the site had been so used for 20 years*."[38] Thirdly, in accordance with the observations and guidance of Sullivan J in *Laing Homes Limited v Buckinghamshire County Council*[39] and of Lightman J in *Oxfordshire County Council v Oxford City Council*[40] at first instance, it is necessary to consider the use of paths on the Application Land, the extent to which there has been use of the Application Land not confined to paths and the question of whether use of paths would appear to the reasonable landowner to be referable to their use as such or to be use for more general recreational purposes which would sustain a claim to a new green. In *Oxfordshire County Council* Lightman J indicated that, if the position was ambiguous, the inference should generally be drawn of exercise of the less onerous right (the public right of way) rather than the more onerous (the right to use as a green).[41]

108. The use of paths on the Application Land seems to me to be of particular significance in the present case. The Application Land is crossed by Footpath 81

[36] [2010] UKSC 11.
[37] At paragraph 67. See also paragraph 75.
[38] At paragraph 29.
[39] [2003] EWHC 1578 Admin at paragraphs 98-110.
[40] [2004] EWHC 12 (Ch) at paragraphs 96-105.
[41] At paragraph 102.

which is a public right of way and clearly a well used route. Use of Footpath 81 has been "by right" and any such use must be discounted from consideration. I also find that the Permissive Path always marked a clearly defined route across the Application Land (acknowledged to be a well defined line by Mr Kay) over the period from 1991-2011 and that this too was well used over that period. It seems to me that use of the Permissive Path across the Application Land including connection thereto from the top and bottom of Footpath 81 would have appeared to the reasonable landowner as referable to a right of way type use rather than a right to use as a village green. Such a use would not sustain the Application. I am not persuaded by the evidence that there has been sufficient other use of the Application Land off Footpath 81 and the Permissive Path for the Application to succeed.

109. While I have not accepted Mr Cannock's submission that the cover sheet for the 2013 evidence questionnaires introduced such bias that no weight at all could attach to the answers, I consider that there is force in Mr Cannock's submission that there has, in fact, been a shift in the position of two of the Applicant's witnesses between earlier points and the evidence later prepared for and given at the inquiry in respect of non-path use. Mrs de Ruijter's 2012 evidence questionnaire gives a clear impression of use of the Permissive Path which is not consistent with her later evidence of following her dog down the slope all over the grass. Mrs Fletcher's e-mail to Mr Todd of 1st March 2013 provides a very clear picture of use by herself of the Permissive Path ("I have never been asked to leave the unmade path") which was at odds with her later evidence of roaming everywhere or wandering freely. I did not find convincing her response there was not inconsistency but that she should have said more in her e-mail. These inconsistencies impair the reliability of the evidence I heard from these witnesses on this matter at the inquiry. Mrs Fletcher's e-mail also provides a clear description of the extent of use of Footpath 81 and the Permissive Path - "almost always there would be people using the paths, both the flagged one and the unmade one". Mrs Fletcher's concern about loss of regular use of the Permissive Path points up the extent of use made of this particular route.

110. It is of course not the position that all users of the Application Land south of Footpath 81 would have stuck to the Permissive Path. Some would undoubtedly have deviated therefrom at times and perhaps it was the habit of some more often to

wander more generally. It is true also that it was not just Mrs de Ruijter and Mrs Fletcher, of the witnesses who gave oral evidence, who said that their walking was not confined to the Permissive Path while the 2013 evidence questionnaires are suggestive of a body of off path use (of an extent and frequency which it is difficult to evaluate) as well as path only use. That latter evidence has not been able to be tested by cross-examination and can only be accorded limited weight as I have already explained. Overall I find that very much the predominant use of the Application Land south of Footpath 81 has been on the Permissive Path and I do not consider the evidence is sufficient to discharge the onus of showing that it would have appeared to a reasonable landowner that a right to general recreational use was being asserted over all the Application Land south of Footpath 81 as distinct from the assertion of a right to use the Permissive Path. The aerial photographs, while possibly showing other tracks, appear to me to confirm the dominance of the general line of the Permissive Path while other non-aerial photographs dating from 1984, 1992 and 1995 and 1998 also show the distinct nature of this line.

111. In coming to my conclusions I have taken into account all uses which have been referred to in the evidence. For example, I have no doubt that all of the grass slopes of the Application Land south of Footpath 81 have been a popular and well-used sledging venue in snowy conditions and I cannot accept that this is an activity which has been carried on only with the permission of the Lintons. It is also the case that I do not discount this as a non-qualifying use in the way that Mr Cannock urged me to do. The view I reach, however, is that taking evidence of such transitory uses into account (rather than discounting them), the totality of the evidence is nevertheless not enough to show an overall picture of general recreational use of these areas of the Application Land.

112. I agree with Mr Cannock's submission that the live evidence barely touched on some parts of the Application Land, in particular that area north of Footpath 81 and, on the opposite side, the cross fall slopes down to that footpath from the rest of the Application Land. The evidence overall is again insufficient to sustain the claim to register these areas of the Application Land.

113. Accordingly, I consider that the Application fails on the basis of an insufficiency of use evidence apart from evidence of use of Footpath 81 and the Permissive Path.

(e) Use "as of right"

114. For the sake of completeness it is right that I should also go on to consider matters which were raised in connection with the issue of whether use was "as of right". No issue arises in respect of entry on to the Application Land from any of its main entrances by direct physical force save in respect of access to the Application Land off the access drive to St Andrew's Church. The evidence suggests, and I so find, that the access drive was bounded on its east side by a chain link fence at least during the period 1991-2011. As Mr Ashworth explained, this did not form the boundary between the Church's land and the Application Land which was further to the east but not marked by any physical barrier until the fence was erected in 2011. Had there been forcible entry through the chain link fence it seems to me that this would amount to forcible entry on to the Application Land also notwithstanding that some of the Church's land had to be crossed before the Application Land was reached. It would be wholly unrealistic to conclude that there was forcible entry only on to the Church's land in the postulated circumstances. It also seems to me that some force was used at some stage in the past given the accounts in the evidence of the chain link fence being trampled into the ground. However, there is no evidence that any gap in the chain link fence was ever repaired by the Church and the evidence of Mr Linton (which is not supported by any other evidence in this respect) dates barbed wire repair of this feature to, at the very latest, the beginning of the period from 1991-2011. Overall I find that any force used to gain access across or through the chain link fence occurred before the 1991-2011 period, that there was no continued opposition to access from this quarter manifested in any repairs in that period and that access was over all that time freely available without the need to use force.

115. I have already found that the grazing of horses on the Application Land during the period from 1991-2011 was only occasional and infrequent. I accept that, when this occurred, it would have given rise to the need to restrain the horses' movement by tethering or the formation of a roped enclosure. Entry into a roped enclosure by

climbing over, under or through ropes would be forcible albeit that, if such did occur, it could have happened on only those infrequent occasions when the roping practices were employed on the Application Land. However, there is no evidence that such forcible entry into roped off areas ever did occur and I reject the suggestion that there is a body of forcible use of the Application Land by forced entry into roped enclosures. I also consider that the occasional use of roped enclosures on the Application Site to contain horses would not have been sufficient to amount to an interruption which would defeat a claim to register a new green. Although this is not something which relates to the question of forcible use, I mention it here as the most convenient point at which to deal with this particular matter.

116. I turn to the issue of signs. Use of land contrary to a prohibition on that use made clear in an appropriate sign (or signs) will be contentious and thereby forcible. In *Betterment Properties (Weymouth) Ltd v Dorset County Council*[42] the principle was clearly expressed by the Court of Appeal in the following terms: *"if the landowner displays his opposition to the use of his land by erecting a suitably worded sign which is visible to and is actually seen by the local inhabitants then their subsequent use of the land will not be peaceable. It is not necessary for Betterment to show that they used force or committed acts of damage to gain entry to the land. In the face of the signs it will be obvious that their acts of trespass are not acquiesced in."*[43] A number of principles which apply in considering signs or notices were set out in *Oxfordshire & Buckinghamshire Mental Health NHS Foundation Trust v Oxfordshire County Council*[44] of which the fundamental one is *"what the notice conveyed to the user. If the user knew or ought to have known that the owner was objecting to and contesting his use of the land, the notice is effective to render it contentious"*.[45]

117. Turning to the facts, I have already indicated in paragraph 104 above that one of the features of Mr Linton's evidence that I found unreliable was the shifting account provided in relation to signs. The limited weight which I place on Peel's

[42] [2012] EWCA Civ 250.
[43] At paragraph 38 per Patten LJ. The passage cited above is not affected by the subsequent decision of the Supreme Court in the case, [2014] UKSC 7.
[44] [2010] EWHC 530 (Admin).
[45] At paragraph 22.

written evidence is diminished further in relation to the issue of signs because, as Mr Todd pointed out, Kieran Flatley and Daniel Phelan each claimed to have seen signs at the top and bottom ends of Footpath 81 which did not correspond with any of the locations where Mr Linton had said they were. The evidence on behalf of Peel in relation to signs leaves a confused and inconsistent overall impression. None of the witnesses who gave oral evidence in support of the Application recalled any prohibitory signs as referred to by Mr Linton and, while I accord limited weight to the written evidence in support of the Application, it is consistent with the oral evidence I heard from the Applicant's witnesses on this point and presents (both in the 16 addendum questionnaires from early 2013 and in the later 2013 questionnaires) a unanimous picture of the absence of any prohibitory signs. If there had been signs visible to users of Footpath 81 I think it is highly unlikely that no one in this significant body of evidence would not have recalled or referred to the same. I find that there were no prohibitory signs during the period 1991-2011.

118. As to Mr Ashworth's sign on the gatepost on the end of the Church access drive, while I have no difficulty in accepting that Mr Ashworth did erect such a sign in the terms he described ("private no public access") I find that those who went on to the Application Land from the access drive to the Church would, as Mr Todd suggested, have probably cut a corner by crossing the trampled down chain link fence rather than going as far as the gate opening as they approached from Bolton Street so that the sign would not have been seen. To my mind "private road no access" signs at the Bolton Street entrance to the access drive to the Church would have conveyed a prohibition on vehicular and not pedestrian access.

119. It follows from all the above that, had my conclusions been otherwise in relation to the issues of neighbourhood and sufficiency of use, I would not have considered that the Application should be rejected on the basis of failure to demonstrate that use was not "as of right". I should perhaps add that Ms Bajda's evidence of having, as a child, crawled through a gap to get on to the Application Land and having known that she was trespassing is too generalised to carry any weight in my consideration of matters while Mr Phelan's account of access from the direction of the playing fields by climbing through a little hole stands on its own as a

description of an entry point to the Application Land and so does not affect my conclusions.

(11) OVERALL CONCLUSION AND RECOMMENDATION

120. The Application fails for want of identification of an appropriate qualifying neighbourhood and on the basis of an insufficiency of use evidence apart from evidence of use of Footpath 81 and the Permissive Path. I recommend accordingly to the Registration Authority that it should be rejected.

Kings Chambers
36 Young Street
Manchester M3 3FT

Alan Evans
1st June 2014

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REPORT FOR DECISION

Bury COUNCIL

Agenda Item	9

DECISION OF:	**PLANNING CONTROL COMMITTEE**
DATE:	**24th JUNE 2014**
SUBJECT:	**ARTICLE 4 DIRECTION PROPOSAL – HOLCOMBE CONSERVATION AREA**
REPORT FROM:	**CHIEF PLANNING OFFICER**
CONTACT OFFICER:	**DAVID MARNO – DEVELOPMENT MANAGER**
TYPE OF DECISION:	**COUNCIL (NON KEY DECISION)**
FREEDOM OF INFORMATION/STATUS:	This paper is within the public domain
SUMMARY:	This Report seeks authorisation for the making of an Article 4 Direction to give greater planning controls over development in the Holcombe Conservation Area. The effect of an Article 4 Direction is that planning permission is required for certain types of minor development that would otherwise not have required planning permission as a result of being permitted development. No fees are payable for planning applications arising as a result of the removal of permitted development rights.
OPTIONS & RECOMMENDED OPTION	1) To authorise the making of a non-immediate direction under Article 4 of the Town and Country Planning (General Permitted Development) Order 1995 (as amended) to remove the permitted development rights outlined in **Appendix 1** of this report in relation to the Holcombe Brook Conservation Area which is identified edged red on the plan attached at **Appendix 2.** 2) Take no action.

	3) Amend the proposals. Option 1 is recommended to enable the Council to comply with its statutory duty to prepare proposals for the preservation and enhancement for conservation areas and to follow the recommendation of the Holcombe Conservation Area Appraisal.

IMPLICATIONS:	
Corporate Aims/Policy Framework:	Do the proposals accord with the Policy Framework? Yes
Statement by the S151 Officer: Financial Implications and Risk Considerations:	There is a potential risk of claims for compensation but this will be mitigated by allowing an adequate notice period of 12 months before the direction comes into effect. (see para 12/13 of the report).
Statement by Executive Director of Resources:	Approval of the recommendation to remove permitted development rights in the conservation area will result in no additional expenditure or income for the Council. Any subsequent planning applications will be processed by and enforcement action taken by staff who are funded from existing revenue budgets.
Equality/Diversity implications:	No
Considered by Monitoring Officer:	Yes Comments For all article 4 directions the legal requirement is that the local planning authority is satisfied that it is expedient that development that would normally benefit from permitted development rights should not be carried out unless permission is granted for it on an application.
Wards Affected:	North Manor

Scrutiny Interest:	N/A

TRACKING/PROCESS **DIRECTOR:**

Chief Executive/ Strategic Leadership Team	Exective Member/Chair	Ward Members	Partners
Scrutiny Committee	Committee	Council	

Background

1. A Conservation Area is defined as an area of special architectural or historic interest, the character and appearance of which it is desirable to preserve or enhance. Designation of a Conservation Area increases control over minor development and protects trees within its boundaries.

2. Holcombe Village and its surroundings were designated a Conservation Area by Lancashire County Council and Ramsbottom Urban District Council in 1970. The designation was confirmed in 1974, following the reorganisation of Local Government and the creation of Bury Metropolitan Borough Council. The Conservation Area was extended in 1978. Part of the Area lies within Holcombe Moor which is owned by the National Trust and the Metropolitan Borough of Bury.

3. In May 2010, the Council as part of its duty under the Town & Country Planning (Listed Buildings and Conservation Areas) Act 1990 undertook an assessment of the Holcombe Conservation Area. This work was carried out on behalf of the Council by a Conservation Consultant 'Kathryn Sather & Associates" who produced the Holcombe Conservation Area Appraisal which is published on the Council's website. The recommendations of the Appraisal and proposed elements to accept or not were reported to the Planning Control Committee 20 December 2011.

4. The consultant's report comprised an assessment of the historic fabric and history of the area and to record and define the area and in accordance with s71 of the Act, the legislation requires that a Local Planning Authority to formulate and publish proposals for the preservation and enhancement of Conservation Areas. In order to understand the importance of the area, the consultant set about the process through research, area visits and local consultation.

5. Within the report, chapter 6 suggested boundary changes to the Conservation Area to include areas of farmland to the north. However, in the report to the Planning Control Committee on 20 December 2011, this option was considered not to be of merit but instead, an area to the south-west to include Hollingrove to the west of Redisher Woods was considered to be of greater historical conservation merit much of which is still evident today. This area was subsequently included.

6. The report also included a number of management objectives in the form of suggested actions to assist in the control of development to assist in the preservation or enhancement of the Conservation Area.

The recommendations accepted by the Committee included the making of an Article 4 Direction.

Article 4 Directions

7. The Town and Country Planning (General Permitted Development) Order 1995 as amended sets out classes of development for which a grant of planning permission is automatically given. These are known as permitted development rights.

8. Article 4 (1) of the Order provides that directions may be given by a local planning authority when it is considered expedient that permitted development should not be carried out unless planning permission is granted for it. They are used to restricts the scope of permitted development rights either in relation to a particular area or site, or a particular type of development anywhere in the authority's area. Where an article 4 direction is in effect, a planning application is required for development that would otherwise have been permitted development. Article 4 directions are used to control works that could threaten the character of an area of acknowledged importance, such as a Conservation Area.

9. Article 4 directions can increase the public protection of designated and non-designated heritage assets and their settings. They are not necessary for works to listed buildings and scheduled monuments as listed building consent and scheduled monument consent would cover all potentially harmful works that would otherwise be permitted development under the planning regime.

10. However, Article 4 directions assist in the protection of all other heritage assets (particularly Conservation Areas) and help the protection of the setting of all heritage assets, including listed buildings. An article 4 direction does not prevent the development to which it applies, but instead requires that planning permission is first obtained from the local planning authority for that development.

11. The use of Article 4 directions should be limited to situations where this is necessary to protect local amenity or the wellbeing of the area amenity or the wellbeing of the area[1]. In deciding whether an Article 4 direction might be appropriate, one of the factors local planning authorities may want to consider whether the exercise of permitted development rights would undermine the visual amenity of the area or damage the historic environment[2].

[1] National Planning Policy Framework.
[2] "Replacement Appendix D to Department of the Environment Circular 9/95: General Development Consolidation Order 1995 (June 2012)

12. Local planning authorities may be liable to pay compensation to those whose permitted development rights have been withdrawn if they:

    a. refuse planning permission for development which would have been permitted development if it were not for an article 4 direction; or
    b. grant planning permission subject to more limiting conditions than the GPDO would normally allow, as a result of an article 4 direction being in place.

13. Compensation may be claimed for abortive expenditure or other loss or damage directly attributable to the withdrawal of permitted development rights. However, if 12 months prior notice of the withdrawal of permitted development rights is given, there is no ability to claim compensation.

Holcombe Conservation Area Article 4 Direction

14. A number of actions proposed in the Holcombe Conservation Area Appraisal included the introduction of an Article 4 Direction for specific normally otherwise, permitted development.

15. This includes small alterations and extensions, the erection of buildings, enclosures or pools required for a purpose incidental to the enjoyment of a dwelling house, the provision of some hard surfaces and the erection of and alteration to boundaries. However within Conservation Areas, some development (that in other areas would be permitted development) are not classified as permitted development. This includes various types of cladding, the insertion of dormer windows and the erection of satellite dishes on walls, roofs and chimneys fronting a highway. Within Conservation Areas, the size of extension that may be erected without special planning permission is also more restricted.

16. Work that affects the external appearance of a building can include the replacement of doors and windows, particularly if it involves a change in the design or use of a modern material, such as plastic (PVC-u). The cumulative effects of door and window replacement are beginning to damage the character and appearance of the Conservation Area. The effect of further alterations of this nature will seriously erode the special nature of the area, which is the reason for its designation.

17. All in all, some 45 separate actions were included within the report. Most of these actions already take place within the consideration of

development proposals one way or another. However, there are still works that can take place without the need of planning permission. These include:

- Replacement of windows and doors
- Removal or concealment of architectural detail
- The enlargement or creation of new exterior openings
- Demolition or lowering of chimney stacks
- Alterations to roof shapes and changes to roofing materials
- The rendering or cladding of external walls, and the painting of brick and stone
- The erection of satellite dishes and prominent solar/pv panels
- The demolition or erection of boundary walls, stone walls, railings, fences and gates
- The creation of hardstandings
- The addition of extensions, porches or outbuildings.

18. Additionally, there are other features such as works to private rights of way which are allowed to be improved or repaired without intervention. An example has recently been completed in Holcombe, which has not been carried out as sympathetically as one might have expected. The works were carried out, without the need for planning permission by virtue of the Town & Country Planning (General Permitted Development) Order 1995 Schedule 2 Part 9 – Repairs to Unadopted Streets and Private Ways. There are extensive areas within Holcombe that are publicly accessible that rely upon the use of private and public ways that if changed without appropriate controls can erode the character of the Conservation Area. As such, it is recommended that this permitted development right is also removed by the Article 4 Direction.

19. A full list of the permitted development rights to be removed by the proposed Article 4 direction is included in Appendix 1 to this report.

Compensation / Notice Period of the Article 4 Direction

20. There is an opportunity to introduce the Article 4 Direction immediately, which will on the one hand, control development (above those that are already in place through existing legislation) immediately but does carry the risk of a compensation claim by those affected (as referred to above). However, this can be avoided by having a 12 month notice period, after which the controls take effect. This latter method has been used in the other areas where an Article 4 Direction applies in the Borough.

21. Experience here has shown that there were no 'overt rushes' to do works before the controls actually came into force. In view of this and the fact that there is such a high level of support for the additional controls by the local heritage groups, it is highly unlikely that there would be any significant rushes to do works before the Direction comes into effect.

22. As such, it is considered that the Article 4 Direction for Holcombe Conservation Area is non-immediate with a prior notice period of 12 months. This would avoid liability to pay compensation referred to above and allow the results of local consultation to be taken into account in advance of deciding whether to confirm the Direction.

Financial Implications

23. It is very difficult to estimate the potential implications arising from the making of the Article 4 Direction. The costs of making the Article 4 Direction will be met from the existing planning budget. If the Article 4 Direction is confirmed there is likely to be a financial impact on the planning service because no fees are payable for planning applications arising as a result of the removal of permitted development rights.

24. As a comparison to the two areas that are currently subject to Article 4 Directions, this works out to be on average 5 applications only per year, which is has a cost implication of around £2,500.00 per year, which considering that the benefits of careful control underpins the Council's commitment to heritage and conservation, would be subsumed within existing resources. Article 4 Directions also need to be supported by robust monitoring and enforcement which would potentially have resource implications for the Council's planning and enforcement officers.

Consultation

25. The public consultation process is built into the way that Directions are made. Following the making of an Article 4 Direction, it will be advertised and a statutory consultation period will commence. A further report will be presented to the Planning Control Committee at the end of the consultation period, to take into account consultation responses and determine whether to confirm the Article 4 Direction or remove it.

Conclusion

26. Taking into account the recommendation of the Holcombe Conservation Area Appraisal and the need to preserve the visual amenity of the area and historic environment, it is considered expedient to make an Article 4 Direction to remove the permitted development rights listed at Appendix 1 in relation to the Holcombe Conservation Area.

27. A non-immediate direction is considered to be appropriate allowing a twelve month notice period to avoid compensation liability and to take into account consultation responses before a decision is made to confirm the Direction.

References

Holcombe Conservation Area Appraisal compiled by Kathryn Sather & Associates http://www.bury.gov.uk/CHttpHandler.ashx?id=5991&p=0

Town & Country Planning (General Permitted Development) Order 1995 as amended

Replacement Appendix D to Department of the Environment Circular 9/95: General Development Consolidation Order 1995 (June 2012)

APPENDIX 1

List of Permitted development rights to be removed by the proposed Article 4 Direction

Schedule 2, Part 1 of the Town and Country Planning (General Development Order) 1995 as amended:

- **Class A** – The enlargement, improvement or other alteration of a dwellinghouse;
- **Class C** – Any other alteration to the roof of a dwellinghouse;
- **Class D** – The erection or construction of a porch outside any external door of a dwellinghouse;
- **Class E** – The provision within the curtilage of a dwellinghouse of any building or enclosure, swimming or other pool required for a purpose incidental to the enjoyment of the dwellinghouse as such, or the maintenance, improvement or other alteration of such a building or enclosure; or a container used for domestic heating purposes for the storage of oil or liquid or petroleum gas;
- **Class F** – Development consisting of the provision within the curtilage of a dwellinghouse of a hard surface for any purpose incidental to the enjoyment of a dwellinghouse as such; or the replacement in whole or in part of such a surface.

And

Schedule 2, Part 2 of the Town and Country Planning (General Permitted Development) Order 1995 as amended

- **Class A -** The erection, construction, maintenance, improvement or alteration of a gate, fence, wall or other means of enclosure;
- **Class B** - The formation, laying out and construction of a means of access to a highway which is not a trunk road or a classified road, where that access is required in connection with development permitted by any Class in the Schedule (other than by Class A of this Part);
- **Class C** - The painting of the exterior of any building or work.

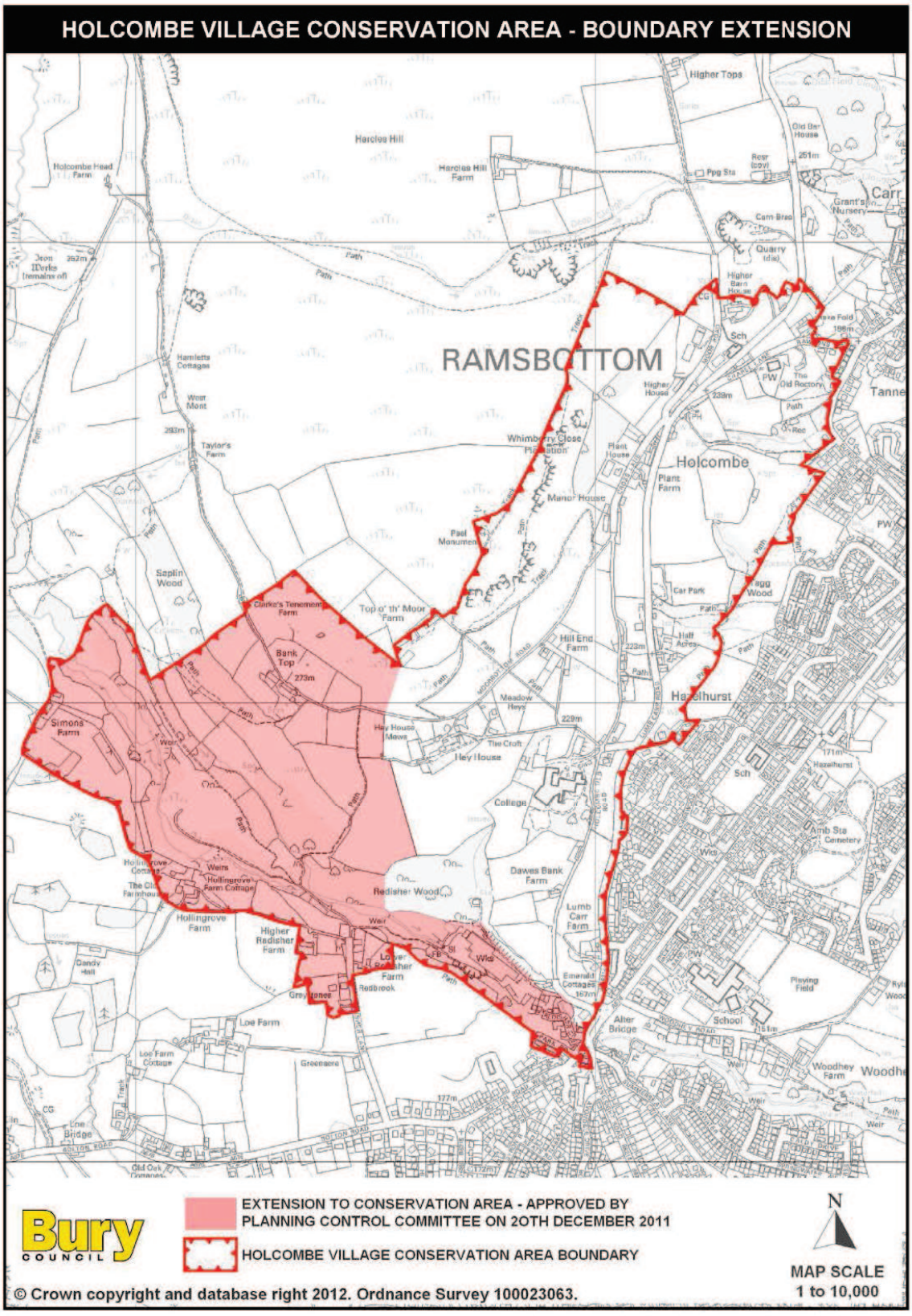
And

Schedule 2, Part 9 of the Town and Country Planning (General Permitted Development) Order 1995 as amended

- **Class A -** The carrying out on land within the boundaries of an unadopted street or private way of works required for the maintenance or improvement of the street or way.

APPENDIX 2

Plan of the area to be covered by the Article 4 Direction



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