

**Ward:** Ramsbottom + Tottington - Tottington

Item 01

**Applicant:** Barnaby Properties Ltd & Dial a Skip UK Ltd

**Location:** Land off Brownhills Close / Bury Road, Tottington

**Proposal:** Outline application with 'Access' for erection of up to 5 dwellings, and new/improved formal and informal community open space, replacement / improved footpath connections and wider greenspace enhancements

**Application Ref:** 67243/Outline Planning  
Permission

**Target Date:** 22/09/2021

**Recommendation:** Approve with Conditions

### **Description**

The application relates to swathe of land located to the rear of nos.331 and 333 Bury Road, between the properties on Royds Close and Cedar Fold which extends over to the eastern side of Brownhills Close adjacent to an expanse of woodland extending from the cycleway.

The old railway lines, known as 'The Lines' and countryside exists to the north of the application site. This area and the land beyond is allocated within the adopted Local Plan as a Site of Biological Importance (Policy EN6/1).

The application site is rugged unmanaged land that has been overtaken by the natural environment

The site is surrounded by residential development to the north, south and west. To the east of site lies undeveloped recreational land and there is an existing Ordinary Watercourse crossing the site from the western to the eastern boundary. This Ordinary Watercourse eventually outfalls into the Main River (Kirklees Brook) located further east.

Outline permission with the matter of Access is sought for:

- A total of up to 5 homes with associated garden curtilage, garages and parking.
- 4 of the houses would be accessed via Brownhills Close by extending its existing turning head eastwards to connect to a shared drive to serve those 4 units.
- A single house would accessed via Bury Road;
- An internal path to connect the two housing zones;
- The provision of a community orchard as shown on the revised masterplan.
- The provision of wildflower meadow as shown on the revised masterplan.
- The planting of 66 new trees and 145 linear metres of mixed native hedgerow.
- The improvement of the surface / gradient of the footpath that runs through the land and connects to the former railway line,
- Improved pedestrian access to connect with adjacent housing and the Kirklees Trail, designed to facilitate use by cyclists, those dependent on wheelchairs, and those with prams;
- Tree / woodland and ecological management measures; and
- Eradication of invasive species that is taking hold of parts of the land.

Access is proposed from two locations. One access proposed from the land between 331 and 333 Bury Road and the other access proposed from the eastern turning head on Brownhills Close.

The indicative Masterplan accompanying the application illustrates two parcels of land would be connected by pedestrian/ cycle paths linking the two parcels together. The

indicative proposals indicate that 4 properties could be located and accessed off Brownhills Close and 1 dwelling could be accessed off Bury Road.

The proposals were initially proposed for a scheme of up to 8 dwellings with the provision of a play area. The above proposals supersede the original submission.

The majority of the application site is located on land allocated within the adopted Unitary Development Plan as being in the river valley landscape (Policy OL5/2), as a Wildlife Corridor (Policy EN6/4) and as existing recreation provision in the countryside (Policy RT1/1). The site is also allocated as being within a Mineral Safeguarding Area.

### **Relevant Planning History**

62967: Application to remove planning obligations under Section 106A of the Town and Country Planning Act 1990 of planning permission 33376 to complete the landscaping works, transfer land to the Council and pay a maintenance contribution. Refused, 22/08/2018

60800: Application to remove planning obligations under Section 106A of the Town and Country Planning Act 1990 of planning permission 33376 to complete the landscaping works, transfer land to the Council and pay a maintenance contribution. Withdrawn, 09/03/2017

57281: Outline application for erection of 4 no. detached dwelling. Withdrawn, 18/08/2014

39803: Approval of Reserved Matters - 16 dwellings. Approved with Conditions, 21/02/2003

35285: Outline application: Residential development on land off Bury Road and use of Land off Scobell Street as replacement allotments. Refused, 15/02/2000

33376: Residential Development - 79 Dwellings, Approved with Conditions and Planning Obligations securing remediation works, fence, maintenance contribution and the transfer of land, 21/04/1998.

This development included an area of Public Open Space, the area of which forms part of the application site.

34819: Outline application for residential development and formation of replacement allotments. Refused, 17/12/1998

### **Publicity**

60 neighbouring properties were notified by means of a letter on 28 July 2021 at the time the application and site notices were posted on 4 August 2021. The following representations have been received:

A petition objecting to the proposals has been received containing 194 signatures. This has raised the following issues:

- Will encourage unsociable behaviour as the plans show a park, which would be used as a meeting point for youths and drugs
- Disturb wildlife - bats, insects, squirrels, flora and fauna. Bats are a protected species.
- Estate is already congested with cars and residents have problems parking in the area
- The owners of Rosewood and Brownhills Close purchased properties on the basis that the land would be used as open space and this is specified on the deeds
- A number of properties on Rosewood and Brownhills Close would lose privacy due to dwellings overlooking into gardens and windows.

52 letters of objection were received at the time of the first public consultation. The following issues raised are as follows:

- Object to any housing development on this land, it is OPOL 'Other Protected Open Land' where residential development is not indicated as an acceptable form of development

- We were assured when we purchased our house that this land would never be built on.
- Loss of habitat and impact upon wildlife
- Noise and mess from building contractors and impacts upon children's safety when playing.
- Loss of views over the wild meadow
- Increased traffic on the estate and main roads
- Limited parking already on Brownhills Close.
- Proposed play area is a big worry and would be hidden, encouraging anti-social behaviour.
- The playing area and park are unnecessary as Tottington has these facilities.
- The council and public services can't currently police or maintain existing recreational spaces, so why would you duplicate and add pressure to the system?
- The OPEN SPACE is an integral part of the Swallow Rise Development and is valued and utilised by the residents.
- The proposal will not solve the issue of affordable housing in this area.
- There is a protected tree in our garden and close to the fence line for the proposed development. Any excavation or disturbance would damage the tree
- Reduced access to my property if the Bury Road access is used. The proposed access would be too narrow at 2.8 metres.
- The proposed Bury Road access would not be wide enough to accommodate emergency/construction vehicles and would not comply with Building Regulations.
- Parking near Bury Road would be reduced and is heavily used by existing residents.
- A similar application was recommended for refusal on 7/7/14 by Traffic as access was substandard in terms of visibility, width and vertical alignment.
- No one in the area wants the new play area
- Given the decision made by Bury Council in only 2018 regarding recreational and amenity space at Brownhills Close, it is difficult to comprehend how this planning application has proceeded.
- Loss of privacy to my property and garden.
- Properties U3 and U4 would impact upon our privacy.
- The path along the rear fence will increase the risk of intruders.
- Additional noise due to play area
- Over development of the area
- Gardens that back onto the site already suffer with subsidence. The proposed dwellings would make this worse.
- Further bat surveys are required before a decision can be made on this application
- Impact on drainage.
- Tottington does not have the infrastructure to support any more housing. Local GPs, dentists, schools and roads are at capacity.
- A raised footpath must be provided on the access to Bury Road to protect pedestrians
- With 1250 dwellings proposed off Scobell Street, the last thing we need is more houses.
- No emergency route to adopted highway.
- Loss of Right of Way over the land used as public open space
- Diverting residents and visitors away from an established, popular, and well-loved Public Footpath is wrong.
- The Public have a Right of Way from Bury Road to the Kirklees Trail
- Impact upon air quality
- Ownership Rights - The occupiers of 28 Rosewood Avenue and 7 Brownhills Close assert they have ownership rights over a strip of land adjacent to their properties as they have mowed a strip of land along the gable of their properties for years.

Following a set of amendments being received, the neighbouring properties were notified of revised plans on 1 September 2021. 7 further letters were received, which raised the following issues:

- The revised plans do not change my initial comments or objections.
- Existing provision of children's parks is already very good
- The path from Brownhills Close to the Kirklees Trail is not hostile and is used.

- The supporting document has not changed my views on the application.
- A ridiculous application to place houses on a small piece of land.
- This area was always protected for the use of the residents of Tottington.

On receipt of amended plans relating to the access proposed from Bury Road between nos. 331 and 333 Bury Road. The neighbouring properties were re-notified recently by means of a letter on 2 March 2023 following receipt of amended plans. The application was advertised as a Departure to the Bury Unitary Development Plan by site notice on 16/03/2023 and press adverts on 16/3/23.

30 letters were received, which have raised the following issues:

- Our objection still stands.
- The reduced number of dwellings will still have negative impacts on residents and the environment
- This land should be retained as public open space as was promised when we purchased our house.
- Brownfield sites should be prioritised over removing green space.
- The proposed community orchard would remove established woodland and replace it with an area that would attract anti-social behaviour
- How does this proposal comply with bio-diversity net gain, which comes into effect from November 2023?
- The access route from Bury Road next to the fencing is less than 3 metres and has already been acknowledged as too narrow for vehicles.
- Parking for local residents from Bury Road is already very restricted and the intention to limit that further is an outrageous suggestion and greeted with outrage from the local community.
- Object to the houses on Bury Road as these will point to the back of my house and would result in a loss of privacy.
- Loss of daylight, impacting upon energy costs.
- The amended application remains a bad idea in respect of land unsuited to development. The land has watercourses, step inclines and access issues that would make construction difficult.
- There is no need for 4 bedroom dwellings in the area.
- Object to having a public footpath so close to my house boundary as this will cause problems with noise and also more of a security risk.
- Who will maintain the new orchard and how will anti-social behaviour be prevented?
- Access from the rear of 333-351 will remain hazardous if vehicular access is granted- it will create a "blind corner". The access is insufficient to allow emergency Vehicle access to the site
- Even though the plans have been updated and the development reduced, my initial objections still remain.
- The access from Bury Road remains an issue
- Lack of parking in the immediate area, which this proposal would exacerbate
- Concern over the increase in traffic
- Playgrounds will attract youths.
- Loss of wildlife
- Does a change of ownership override the original planning consent for the Swallow Rise development which clearly stated it must be retained as Public Open Space and was a major influence in many residents purchasing their properties.
- Should this development be passed and the amenity lost will residents be compensated.
- Loss of parking, which will impact on local businesses.
- Objections raised in the petition are still relevant.
- The proposals do not comply with Building Regulations and Fire Safety standards.

### **Statutory/Non-Statutory Consultations**

**Traffic Section** - No objections, subject to conditions requiring details of land level changes proposed at the Brownhills Close and Bury Roads end of the site.

**Environmental Health** - Contaminated Land - No objections, subject to conditions requiring intrusive site investigation, remediation and verification.

**GM Ecology Unit** - No objections, subject to conditions requiring an updated Extended Phase I Habitat Survey and an updated Badger Survey and a Construction Environmental Management Plan, with a section relating to the protection of the watercourse, all being submitted at the Reserved Matters stage, and a condition securing the eradication of invasive species on the site and also requiring no works to trees and shrubs to be removed during the bird nesting period.

**The Coal Authority** - No objections, subject to including a standard informative on the decision notice.

**Environment Agency** - No objections, subject to conditions requiring remediation of the site, and verification that remediation (where necessary) has been undertaken.

**Drainage Section** - No comments or observations received.

**Design for security** - No comments or observations received.

**United Utilities** - No objections, subject to a condition requiring both surface and foul water drainage schemes to be submitted, approved and implemented, and also requiring the location of a public sewer that they advise crosses the site and its associated standoff distances, are considered at reserved matters stage.

**Public Rights of Way Officer** - No objections.

**Waste Management** - No comments or observations received.

**GM Fire Service** - Raise concerns that the access to the properties accessed from Bury Road are not accessible by the GM Fire Service.

**GM Archaeological Advisory Service** - The application has no archaeological implications.

**Pre-start Conditions** - Sent to agent on 16/08/2023 and the 18/05/2023. An update as to whether the Applicant/Agent has agreed with the recommended pre-commencement conditions will be updated at Committee.

#### **Unitary Development Plan and Policies**

H1/2	Further Housing Development
H2/1	The Form of New Residential Development
H2/2	The Layout of New Residential Development
H2/6	Garden and Backland Development
EN1/1	Visual Amenity
EN1/2	Townscape and Built Design
EN1/3	Landscaping Provision
EN5/1	New Development and Flood Risk
EN6	Conservation of the Natural Environment
EN6/3	Features of Ecological Value
EN7	Pollution Control
EN7/1	Atmospheric Pollution
EN7/2	Noise Pollution
EN7/5	Waste Water Management
EN8	Woodland and Trees
EN8/2	Woodland and Tree Planting
OL1/5	Mineral Extraction and Other Development in the Green Belt
RT1/1	Protection of Recreation Provision in the Urban Area

RT1/2	Improvement of Recreation Facilities
RT3/3	Access to the Countryside
RT3/4	Recreational Routes
HT2/4	Car Parking and New Development
HT4	New Development
HT5/1	Access For Those with Special Needs
HT6/1	Pedestrian and Cyclist Movement
HT6/2	Pedestrian/Vehicular Conflict
SPD1	Open Space, Sport and Recreation Provision
SPD6	Supplementary Planning Document 6: Alterations & Extensions
SPD11	Parking Standards in Bury
NPPF	National Planning Policy Framework
EN6/1	Sites of Nature Conservation Interest SSSI's NNR's
EN6/4	Wildlife Links and Corridors
H2/3	Extensions and Alterations
MW1	Protection of Mineral Resources

### **Issues and Analysis**

The following report includes analysis of the merits of the application against the relevant policies 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.

### **Procedural Issues**

The occupiers of 28 Rosewood Avenue and 7 Brownhills Close contend they have ownership rights over the strip of land adjacent to their properties stating they have mowed a strip of land along the gable and boundary of their properties for years. Please see Photo 6 attached to this report for further information. This shows a strip of land along the boundaries of these residents that was mowed at the time of my site visit earlier this month.

Local residents question the legalities of building houses on the Public Open Space approved as part of application 33376 for the properties that exist on Brownhills Close, Rosewood Avenue and Royds Close.

Articles 13 and 14 of the Town & Country Planning (Development Management) Procedure Order 2015 imposes a requirement that all applications for planning permission must be accompanied by a certificate (sometimes called an 'article 13 certificate') confirming that either the applicant is the sole owner of the land to which the application relates or that the appropriate notice has been served on any person who is an owner of the land or a tenant.

Section 65(5) of the Town & Country Planning Act 1990 says that a local planning authority shall not "entertain" any application for planning permission where these requirements have not been satisfied.

An Ownership Certificate D accompanies the application. Certificate D is completed if the applicant does not know the names and addresses of any of the other owners of the land involved in the application. For certificates C and D the applicant also has to advertise in the local press the fact that he/she is making the application and does not know the names of the owner(s) of some or all of the land. The applicant must send a copy of the published notice with their application forms. The applicant advertised their proposals and intention to develop this parcel of land in the Bury Times on the 11 November 2021. According to the applicants agent no one responded to this Press Advert. Procedurally, the Council can therefore make a decision on this application.

Notwithstanding the above, the above-mentioned residents are advised that they should

seek independent legal advice regarding their claims over the strip of land as separate legislation to the planning system may legalise their use of the land in question.

### **Principle of Development**

#### *Principle (Residential)*

The National Planning Policy Framework (NPPF) 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. The Framework maintains the emphasis on identifying a rolling five year supply of deliverable housing land.

Bury's Strategic Housing Land Availability Assessment sets out the latest housing supply position, which is made up of sites that have an extant planning permission and sites that have potential to obtain planning permission in the future. This shows that there are a number of sites within the Borough with the potential to deliver a significant amount of housing. However, not all of these sites will contribute to the five year supply calculations as many sites will take longer than five years to come forward and be fully developed (e.g. some large sites could take up to ten years or more to be completed). As such, latest monitoring indicates that the Council is unable to demonstrate a five year supply of deliverable housing land and this needs to be treated as a material factor when determining applications for residential developments.

The National Planning Policy Framework also sets out the Housing Delivery Test, which is an assessment of net additional dwellings provided over the previous three years against the homes required. Where the test indicates that the delivery of housing was substantially below (less than 75%) of the housing requirement over the previous years, this needs to be taken into account in the decision-taking process. The latest results published by the Government show that Bury has a housing delivery test result of less than 75%, and therefore, this needs to be treated as a material factor when determining applications for residential development.

Therefore, in relation to the proposed development, paragraph 11d) of the National Planning Policy Framework states that where there are no relevant development plan policies, or the policies which are most important for determining the application are out-of-date, planning permission should be granted unless:

- i. The application of policies in the Framework that protect areas, or assets of particular importance, provides a clear reason for refusing the development proposed; or
- ii. Any adverse impacts of doing so would significantly and demonstrably outweigh the benefits, when assessed against the policies in the Framework, taken as a whole.

Therefore, in this case the 'titled balance' applies, and planning permission should be granted unless the above points in Para. 11(d), i or ii apply.

Policy H1/2 of the UDP 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.

The parcel of land closest to Bury Road is closely located to the linear form of development that runs along the length of Bury Road in Tottington. The

The parcel of land at the end of the site nearest to Brownhills Close and Rosewood Avenue form part of the built up core of Tottington. Both sides of the site are therefore considered to form accessible locations for the creation of new houses.

#### *Green Belt*

A small area of land adjacent to the old railway line, The Lines, is located in the Green Belt, as defined by the UDP. The indicative layout drawing suggests that the land allocated as Green Belt would not be affected by the proposals with the exception of an improved

pedestrian route link. Ensuring any housing and their associated domestic curtilage would not encroach on to the adopted Green Belt would be ensured at Reserved Matters stage when considering the matter of Layout.

The footpath/ pedestrian route shown on the Masterplan, is not a definitive Public Right of Way, but the paths and tracks across this land are likely to have been used for at least 20 years could, if local residents and businesses could evidence that the routes through the site have been in continuous use over that timeframe, a formal PROW's application could be approved by the Highway Authority.

#### *Principle of Development: Recreation*

The application site is covered by policies relating to River Valleys (OL5/2), Wildlife Links and Corridors (EN6/4), Protection of Recreation Provision in the Urban Area (RT1/1) and Additional Provision for Recreation in the Countryside (RT3/2) in the adopted Bury Unitary Development Plan.

#### *River Valley*

Policy OL5/2 relates to development in River Valleys and states that within the River Valleys, new buildings or the change of use of existing buildings or the change of use of land will not be permitted. The only exceptions considered acceptable will be those where the development would not lead to the division of the open parts of the valleys into sections and it falls within the terms below:

"where the area is designated as Green Belt the established Green Belt policies will apply; or, where the area does not form part of the Green Belt, at least one of the following circumstances is met:

- that the development represents limited infilling to an established valley settlement or industrial area;
- that it is an extension to, or renewal of an existing industry, where the economic and employment factors are of overriding importance;
- that the development is required in association with an outdoor recreation or appropriate tourist facility;
- that the development is limited and will form part of, and be essential to, the maintenance of the provision and improvement of public services and utilities;
- any other development that would be appropriate in a Green Belt."

The site is considered to be in a sustainable location for housing, abutting the urban area and sitting outside the Green Belt. It is considered that OL5/2 is satisfied as the proposed development at this stage, shown indicatively, does not divide the valley into sections and instead offers increased public access to the Kirklees Trails. Furthermore, the proposed development would represent limited infilling of an area which is already established at the Bury Road end of the site and the development at the Brownhills Close end of the site would form rounding off development and development that would be sited adjacent to existing dwellings so, in special terms would relate well to the existing urban grain.

#### *Wildlife Links and Corridors*

The application site also forms part of a network of Wildlife Corridors as designated under UDP Policy EN6/4. Policy EN6/4 seeks to consolidate and strengthen these corridors and does not permit development which would adversely affect them. New development within or adjacent to corridors is only acceptable if it contributes to their effectiveness through well-designed landscaping.

The outline proposal includes areas of planting and corridor routes which could contribute to the value of the Kirklees Valley wildlife corridor if properly detailed. A condition is recommended to secure this.

#### *Public Open Space (POS) and Recreation*

Paragraph 98 of the Framework acknowledges Access to a network of high quality open spaces and opportunities for sport and physical activity is important for the health and



well-being of communities, and can deliver wider benefits for nature and support efforts to address climate change

An element of the application site (rear of Brownhills Close) was provided to serve the recreational needs of the residents of the existing adjoining development at Rosewood Avenue/Royds Close/Brownhills Close by application 33376 on the 21 April 1998. A plan of the extent of the POS approved by this application is appended to this report for Members information.

This land was not adopted by the Council as the developer did not create the POS up to adoptable standards. Since the time of that development, the development company has gone into liquidation. Notwithstanding the above, due to this development occurring after the adoption of the UDP, this area is not identified on the UDP Proposals Map. Notwithstanding this, the area in question is considered to be informal Public Open Space as such, it still requires consideration under UDP Policy RT1/1 and paragraph 99 of the Framework.

Policy RT1/1 states that development will not be allowed on recreation space unless it meets specific criteria.

Whilst similar, the approach in Policy RT1/1 has now been superseded by Paragraph 99(b) of the NPPF which states that "existing open space, sports and recreational buildings and land, including playing fields, should not be built on unless:

- An assessment has been undertaken which has clearly shown the open space, buildings or land to be surplus to requirements;
- The loss resulting from the proposed development would be replaced by equivalent or better provision in terms of the quantity and quality in a suitable location;
- The development is for alternative sports and recreational provision, the benefits of which clearly outweigh the loss of the current or former use.

The proposal would lead to the loss of some of the RT1/1 land (circa 0.16ha), however, the application also proposes to upgrade the remaining RT1/1 land through the creation of a more attractive, usable and accessible area of open space, upgraded paths connecting Bury Road and Brownhills Close with the Kirklees Valley and creation of a community orchard. The upgraded RT1/1 land and the new recreation provision will continue to provide recreational space for the residents of the existing residential development at Rosewood Avenue/Royds Close/Brownhills Close.

Taking the above into account, it is considered that the loss of part of the existing recreation space off Brownhills Close and the wider informal public open space would be replaced by better recreation provision in terms of both quantity and quality in accordance with paragraph 99(b) of the NPPF. If approved, the application should be conditioned to ensure that the recreation provision is provided to ensure there is no loss of recreation space for the existing residential development at Rosewood Avenue, Royds Close/Brownhills Close while construction is taking place. Such a condition is recommended.

#### *Additional Provision for Recreation in the Countryside*

Part of the application site is allocated for countryside recreation provision under UDP Policy RT3/2/4. Whilst residential development is proposed on part of this designation, the proposal does indicatively identify land for informal recreation and includes proposals to improve access from residential areas to the Kirklees Valley which accords with the general aims of Policy RT3/2/4.

To ensure the proper and permanent management of the proposed paths and open space, a detailed Open Space Improvement and Management Plan would be secured by planning condition and would to be submitted as part of any future reserved matters application for the matters of Landscaping and Layout.

To conclude; on balance, the outline proposal for residential development on this site for up to 5 dwellings is acceptable, given its accessible location, the contribution that the proposals would have to meeting local housing needs and the proposed provision of new and enhanced recreational facilities for existing surrounding residents to use as well as future occupiers of the site. This is subject to the submission of an Open Space Improvement and Management Plan outlined above that should include a requirement to ensure the recreation provision proposed for the application site and that at least 0.16 hectares of the land be completed prior to commencement of development to ensure suitable compensatory recreation provision is provided. The proposals are therefore considered to accord with the requirements of Policies RT/1 and RT3/2/4 of the UDP.

### **Access**

Within the Development Management Procedure Order 2015 (as amended) the reserved matter of "access" means the accessibility to and within the site, for vehicles, cycles and pedestrians in terms of the positioning and treatment of access and circulation routes and how these fit into the surrounding access network; where "site" means the site or part of the site in respect of which outline planning permission is granted or, as the case may be, in respect of which an application for such a permission has been made.

The indicative masterplan indicates that four dwellings could be accessed off the existing eastern turning head on Brownhills Close, with a single dwelling accessed off Bury Road, effectively forming two separate parcels that would be connected by formal pedestrian/cycle paths linking the two parcels of land together.

The Highway Authority is satisfied that occupation of up to a maximum of 5 dwellings would not cause severe harm to the highway network and its capacity and has raised no objections on this basis.

#### *Proposed Access: Bury Road*

Bury Road is subject to a 30mph speed limit, is street lit and has footways on both sides. The area between nos. 331 and 333 Bury Road is unlit.

This access for the development is proposed from Bury Road via the land between the gable ends of nos. 331, the former post office, now a Barbers Shop with flat above, and no. 333, a residential dwelling. This area of land is unmade and is used for incidental parking purposes for nearby residents and customers of the Barbers shop. Cars appear to park on a slight angle up to the gable of no. 331 with three cars parked perpendicular to the gable end of no. 333.

Surrounding residents have raised strong concerns over the loss of parking that would occur by approval of an access in this locality. The owners of the Barbers Shop have also raised objections that any loss of parking provision will cause harm to their business as they rely on the passing trade of customers, who need to park and who do not park when there are no spaces available in this area.

Paragraph 187 of the Framework states:

*Planning policies and decisions should ensure that new development can be integrated effectively with existing businesses and community facilities (such as places of worship, pubs, music venues and sports clubs). Existing businesses and facilities should not have unreasonable restrictions placed on them as a result of development permitted after they were established. Where the operation of an existing business or community facility could have a significant adverse effect on new development (including changes of use) in its vicinity, the applicant (or 'agent of change') should be required to provide suitable mitigation before the development has been completed.*

The concerns of residents and the adjoining business have been carefully considered.

The Highway Authority considers that the informal historic parking arrangement between the

two terraces that exists does not meet today's highway safety standards and has sought to improve both pedestrian and vehicular safety from Bury Road over to the Kirklees Trail.

The Highway Authority has sought additional information relating to the access proposed from Bury Road in between nos. 331 and 333, during the course of the application and is satisfied with the amended parking layout shown on drawing no. J1215 Figure 1, which is to be paved, but left unmarked, and which would provide a designated pedestrian route, would lead to safer manoeuvrability for both existing cars and also pedestrian highway users. The pedestrian route would result in the loss of two/ three parking spaces which would no longer be able to park against the gable and boundary of no. 333 Bury Road. However, the Highway Authority consider that the current informal parking area as it stands is not safe for all users of the highway and the loss of these informal parking spaces would improve highway safety for all highway users. This weighs in favour of the proposal.

The Highway Authority also consider that the loss of the space for vehicles to park along the gable and boundary of no. 333 Bury Road would not result in conditions so harmful, or severe, to highway safety that a reason for refusal on this basis could not be justified.

Trees exist on the boundaries of the site along the proposed access route. A planning condition is recommended to ensure an Arboricultural Survey is undertaken to ensure mitigation of the trees and any necessary replacement planting is secured through reserved matters (landscaping).

#### *Access: Brownhills Close*

Brownhills Close is a cul-de-sac accessed from Rosewood Avenue. Rosewood Avenue is subject to a 20mph speed limit, is street lit, has footways on both sides and is traffic calmed with speed humps. The junction between Bury Road and Rosewood Avenue is controlled by a mini round about. Brownhill Close is subject to a 20mph speed limit and is street lit but has no footways. It is approximately 6m wide and is block paved.

The proposed access here is indicated on Drawing J1215 Figure 2. The submitted plan shows the eastern turning head being extended to accommodate 4 dwellings.

The Highway Authority is satisfied that this access would be safe and would not result in the significant displacement of cars from the turning head that could not be parked elsewhere in the vicinity.

#### *Fire Safety*

The Fire Service are of the opinion that given the proposed indicative site layout would create a cul-de-sac from Bury Road to Brownhills Close in excess of 250 metres in length with the single point of entry to the proposed development being unsatisfactory as any obstruction along the single access road could prevent emergency vehicles from entering the estate and restrict access to the dwelling, increasing attendance time and posing a risk to public life.

A site layout which is considered unacceptable on the grounds of accessibility for fire appliances may become acceptable if the buildings are equipped with sprinkler systems which are strongly recommended for buildings that are more than 250 meters from an access road. Residential sprinkler systems are therefore recommended by GMFRS for this development as they allow for a longer response time to emergency situations and may be deemed suitable to overcome the site deficiencies of the proposal.

In addition, GMF&RS advise the proposal should meet the recognised Approved Document requirements for Fire Service access:

- Vehicular access for a fire appliance to within 45m of all points within the dwellings
- The access road should be a minimum width of 4.5m and capable of carrying 12.5 tonnes
- If the access road is more than 20m long a turning circle, hammerhead, or other turning point for fire appliances will be required

- There should be a suitable fire hydrant within 165m of the furthest dwelling.

The Traffic Section has no objections, subject to the inclusion of conditions relating to construction traffic management plan, turning facilities and sprinklers being installed in the two development areas and securing details. The reserved matter of Layout would ensure that each dwelling would have sufficient off-road parking provision, and provision would be made to visitors of the site. Subject to the recommended planning conditions, the proposed development would be in accordance with the relevant sections of Policies EN1/2, H2/1, H2/2 and HT6/2 of the Bury Unitary Development Plan.

#### *Public Right of Way*

Objectors raise concerns over the public rights of way that are clearly evident on the site. The Council's Highways Public Right of Way (PRoW) Officer has confirmed that there are no designated PRoW across this land, however, the Officer acknowledges that the pedestrian routes through the site are clear and, indeed, on inspecting the site, a footpath stile exists linking the site to and from the Kirklees Trail.

NPPF, para. 100 states: "Planning policies and decisions should protect and enhance public rights of way and access, including taking opportunities to provide better facilities for users, for example by adding links to existing rights of way networks."

The indicative Masterplan indicates a number of paths through the site linking Bury Road and Brownhills Close to the Kirklees Trail and the submission proposes improvements to the paths through the site to enable easier access for local residents which will allow less able-bodied people to experience the site and the Kirklees Trail. Conditions are recommended to secure the proposed pedestrian routes through the site. The proposals are therefore considered to meet the requirements of the Framework.

#### *Both accesses*

Due to the changes in land levels at both ends of the site it would be necessary to provide a safe access for all highway users, the Highway Authority have requested specific details be provided in respect of both accesses relating to any necessary level changes prior to any work commencing on site. This condition is duly recommended.

It is considered the submitted details relating to the access arrangements to the site would result in conditions that are in compliance with the Council's highway safety standards. Securing the improvement of the pedestrian routes through the site would be secured through the matter of Layout and by condition. The proposals are considered to result in benefits to the public, some of whom will currently be unable to access the site due to the ground conditions and the semi-rural nature of the application site.

To conclude, subject to the conditions recommended, the proposals accord with Policies H1/2, HT2/1, HT5/1 and HT6/2 of the adopted Local Plan and the NPPF.

#### **Ground Conditions**

The site is currently an area of informal public open space. Surrounding land uses include housing and open land. Previous land uses at the site have included landfilling and waste disposal activities, while in the surrounding area previous uses have included railway land and Leeman Hill Mill.

The site itself includes a former landfill site known as Bury Road, Tottington Landfill. This landfill site is a former gravel pit which was filled with industrial, bleach & dye works waste, between 1875 and 1977 and in 1977 hardcore waste was tipped on top. The fill material is thought to be up to 14m deep. The site is unlicensed and was operated by Roberts Waste Disposal. A previous limited investigation (carried out for development to the north of the landfill) identified blue material with high concentrations of cadmium, lead and lubricating oil located towards the northern boundary of the landfill.

A tributary of the Kirklees Brook flows beneath the site and is culverted in places. The

natural geology beneath the site comprises of glaciofluvial sand and gravel deposits and glacial till over the Old Lawrence Rock Secondary A aquifer. Significant depths of made ground are likely to be present on site.

The submitted desk study split the site into 3 distinct areas which were given different risk rating:

- Zone 1 - Green - located to south of Brownhills Close - this area was not part of the former landfill site and is likely to be the least contaminated part of the site. The indicative proposals is for up to 4 no. dwellings.
- Zone 2 - Amber - located north of Bury Road - likely to be the deepest part of landfill site but land is generally level. Based on historical maps it is likely that a tributary of the Kirklees Brook is culverted beneath this area. The proposal indicatively shows for 1 no. house and new community orchard.
- Zone 3 - Red - located to north of Cedar Fold - northern part of landfill site and includes steep vegetated slopes. Considered unsuitable for development - proposal for new footpaths only.

The applicant's consultant considered that the site poses a risk to future site users and the environment, and that intrusive investigations were required. This should assess the risks to human health from soil contamination and ground gas/vapours and to controlled waters including the underlying aquifer and surface waters on the site. Within the report it was recommended that the Environment Agency is consulted regarding potential risks to controlled waters and waste management issues. A survey for invasive species, such as Japanese Knotweed, was also required. These matters have been addressed by planning conditions that are recommended.

Due to the history of the site and proposed end uses, the Council required that a site investigation be undertaken before a decision on the application could be made. An initial site investigation therefore accompanies this application.

Based on the investigation to date, the applicant's consultant considers that there is a moderate risk to controlled waters. However, further investigation is proposed to confirm the contamination risk. The Council's Contaminated Land Officers also consider further intrusive site investigation works are required prior to commencement of development. This would be secured by planning condition.

In relation to ground gas, the submitted details found the risk to future site users from vapour is considered to be low.

Overall, the Council's Contaminated Land section is satisfied that sufficient information has been submitted to enable the Council to make a decision on this application, and subject to a planning condition requiring;

- i.) Further detailed site investigation and risk assessment report,
- ii.) Updated detailed Remediation Strategy and Validation Plan.
- iii.) Confirmation that the Environment Agency is satisfied with the controlled waters risk assessment and any proposed remedial actions.
- iv.) Japanese knotweed and invasive species survey and validation information to demonstrate the eradication action was successful.
- v.) After completion of site works, a verification report is required to validate that the work undertaken conforms to the remediation proposals received and agreed by Officers.

The Council's Environmental Health Officers and the Environment Agency have suggested planning conditions to ensure this information is submitted to and agreed in writing in conjunction with the Local Planning Authority. Subject to the inclusion of these conditions, that are included in the list of recommended planning conditions, the development should ensure that controlled waters, and that future occupiers of the development would not be harmed by these proposals.

## **Utilities, Drainage and Flood Risk**

Paragraph 167 of the NPPF (2021) states that Local Planning Authorities should ensure flood risk is not increased elsewhere (i.e. outside areas at risk of flooding) and only consider development appropriate in areas at risk of flooding where proposals are informed by a site-specific flood risk assessment.

UDP Policy EN5/1 concerns itself with new development and flood risk and states the Council will not permit new development, including the raising of land, and the intensification of development, where such development would be at risk from flooding, or would be likely to increase the risk of flooding elsewhere, or affect river flood defences.

The application site is located in Flood Zone 1 which is identified as being an area which has the lowest risk of flooding.

The applicants have undertaken a review of the United Utilities (UU) sewer records and have identified multiple sewer networks to be present within the site boundary. These will need to be accounted for within any planning layout in the form of a no-build offset. A diversion in some cases may be possible subject to early discussion with UU. Where diversion is not practical then any proposed planning layout will need to allow for the required offset from the centreline of the sewer(s) on both sides. This information can be secured through the reserved matter of Layout and a condition securing this is therefore recommended.

A Drainage Strategy accompanies the application. Due to the relatively low flood risks identified, the principle focus of the submitted Drainage Strategy is on the sustainable management of surface water run-off to ensure no increased flood risk would result from the development.

There are three methods that have been reviewed for the management and discharge of surface water, in accordance with the sustainable drainage hierarchy. These may be applied individually or collectively to form a complete strategy and should be applied in the order of priority; discharge via infiltration, discharge to watercourse, discharge to public sewerage system.

Based on the ground conditions identified by the published online datasets, infiltration would not be considered a feasible option for managing surface water run-off generated by future development. To confirm the specific infiltration rates, as these can vary on a site-by-site basis, Soakaway Testing (to BRE365) may need to be commissioned in due course.

As infiltration is not likely to be feasible, the submitted assessment has also considered the alternative options for managing surface water run-off generated. The next method in the sustainable drainage hierarchy is discharge surface water run-off generated by the proposals to a nearby watercourse. The nearest watercourse is the Ordinary Watercourse, which flows within the wider site extent from the western to the eastern boundary. The Ordinary Watercourse is both open channel and culverted through the wider site and ultimately outfalls into Kirklees Brook less than 200m from the site.

The proposals for surface water management at the site is proposed to mimic the redevelopment situation where at all feasible and continue to discharge surface water run-off (at a restricted rate) to the Ordinary Watercourse network. Given that there would likely to be two distinct development areas within the wider site there will be a requirement to have two generate surface water systems serving each area.

Where levels and engineering constraints allow, the proposals propose to form new formal surface water connections to the Ordinary Watercourse network. Where there are further constraints and two new direct outfalls to the watercourse are not practical, then the proposals would seek to utilise the short lengths of existing public surface water sewers which currently cross the site and outfall to the watercourse for conveyance.

The applicants have held consultation with United Utilities and state they have confirmed they would consider split surface water connection into the public surface water sewer (300mm dia.) located within the site boundary at a rate not exceeding 5 l/s at each respective connection point, should a direction connection into the watercourse not be feasible.

Detailed design will need to refine the drainage strategy, based on any agreed sewer diversion works, design engineering constraints and final planning layouts. Given the existing ground levels a gravity solution is anticipated to be practical although this will again need to be confirmed following full review of design levels. This approach is considered to be reasonable by Officers. It is considered that suitable conditions would be sufficient to secure appropriate drainage of the site that would not result in flooding further downstream or in the locality.

United Utilities have raised no objection to the proposals in principle, subject to their suggested condition being imposed and the location of UU's assets and their associated standoff distances being taken into account under the reserved matter of Layout. This has been secured by the recommended planning conditions.

Subject to the recommended planning conditions, the proposals are considered to accord with the requirements of the NPPF in relation to flood risk and drainage and Policy EN5/1 of the Unitary Development Plan.

#### **Impact upon surrounding area**

UDP Policies EN1/1 and EN1/2 concern themselves with the effect of proposals on visual amenity and the design and impact on the surrounding area.

By its nature, the development would have an urbanising impact on this semi-natural landscape. However, subject to the sympathetic siting of proposals, and the landscaping and biodiversity mitigation and enhancement conditions recommended could ensure the impact of the proposed development is not only mitigated, the impact on biodiversity would be both mitigated and enhanced along with the public access and use of the land for recreational wellbeing purposes would be demonstrably improved, particularly from the Bury Road end of the site.

This matter will be fully considered under the reserved matters of appearance, layout and landscaping.

The indicative proposals indicate that the proposed level of development could be accommodated on the site without causing demonstrable harm to the site and surroundings. The proposal therefore accords with the requirements of policies EN1/1 and EN1/2 of the Unitary Development Plan.

#### **Impact upon residential amenity**

Policy H1/2 of the UDP states that the Council will have regard to various factors when assessing a proposal for residential development, including, amongst other things, the suitability of the site, with regard to amenity, of surrounding land uses. This includes the impact on residential amenity.

The application site has adjoining residents to three sides at the end of the site nearest Bury Road, and residents on two sides of the site at the end to be accessed from Brownhills Close.

The indicative Masterplan indicates that one dwelling could be sited between the rear of dwellings on Bury Road, Royds Close and Cedar Fold. One dwelling here, as shown indicatively, could be designed in such a way to cause minimal impact on the amenity of occupiers of these roads.

The Indicative Masterplan also illustrates that up to 4 dwellings could be accommodated on

the land accessed from Brownhills Close without causing undue harm to neighbouring occupiers.

The layout and appearance of all dwellings to ensure the amenity of neighbouring residents would not be unduly harmed, would be secured at reserved matters stage.

The proposals therefore comply with Policy H1/2 of the Bury Unitary Development Plan.

### **Trees**

UDP Policy EN8 – Woodlands and Trees supports the retention of trees, woods, copses and hedgerows, natural regeneration, and new and replacement planting.

Trees protected by Tree Preservation Order (TPO) exist within the application site, and in close proximity to the boundaries of the application site on 3<sup>rd</sup> party land, and existing within the application site itself that will need to be taken account of when designing proposals and improvements to the existing rights of way across the site. Due to this, a planning condition is considered necessary to require the developer to submit a detailed Arboricultural Report and Arboricultural Method Statement (AMS) in accordance with BS5837:2012: Trees in relation to design, demolition and construction to be submitted to and approved in writing by the Local Planning Authority at reserved matters stage. Subject to the above-mentioned planning condition, the proposals would accord with Policy EN8 of the adopted Local Plan.

The trees on the site also have a biodiversity value and this will be considered as part of the reserved matters.

### **Biodiversity**

Section 174 of the NPPF states that the planning policies and decisions should contribute to and enhance the natural and local environment.

The majority of the site is allocated within the adopted plan as a Wildlife Link and Corridor(s) (UDP Policy EN6/4).

The area of the site directly abutting the Kirklees Trail and its brook are allocated in the UDP as being within both a Grade A Site of Biological Importance, as the watercourse, known as the Kirklees Brook, is a Site of Biological Interest (SBI), under UDP Policy EN6/1. The area abutting Kirklees Brook is allocated within the UDP under UDP Policy EN6/2 as a Local Nature Reserve and Grade B and C Site of Biological Importance.

The application site as a whole therefore holds ecological value. The most ecologically valuable habitats are considered to be the woodland, continuous scrub, and the watercourse present on the site. These habitats provide cover from predation, a source of nectar and pollen for invertebrates, as well as foraging, commuting and overwintering opportunities. The grasslands if maintained long also provides some of these benefits. The woodland and scrub also offer nesting habitat for birds.

The proposed outline development seeks permission for the construction of residential units in the west and south of the site. This will cause the loss of semi-improved grassland and poor-semi-improved grassland.

The application is accompanied by a Phase 1 Habitat Survey for the application site, carried out by Rachel Hacking Ecology, dated August 2020 was submitted at the time of the application. Greater Manchester Ecology Unit (GMEU), have accepted the findings of this ecological report previously, the findings of which is considered by GMEU still valid. This recommendation has been made on this basis.

The ecological report is still considered to be valid given the Outline nature of these proposals with no layout being applied for. However due to both the application type and the report being already aged, updates will likely be required prior to development. A



condition is therefore recommended requiring an updated Extended Phase 1 habitat survey to be submitted and agreed as part of reserved matters.

#### *Bats*

No direct impacts on bats is likely. The indirect risk that could occur is if street lighting or other external lighting was directed towards the watercourse or woodland edge. The indicative masterplan shows a reduced impact to the site, with no likely impact on the Brook as the woodland is to be retained and the houses are indicated as backing on to the woodland thereby shielding the woodland edge from any street lights. This could be secured at reserved matters stage and therefore Officers are satisfied that the risk are very low and given this is an outline application no further information is required at this time. Conditions are recommended at this stage that requires details of the any proposed lighting, their positions and intensity and any necessary mitigation measures to be submitted to and approved in writing by the LPA prior to any above-ground works occurring on the site as well as the impact on biodiversity being reassessed through the reserved matters stage(s).

#### *Badgers*

It is suspected that badger forage on the site. No setts were however located.

It is an offence under the Protection of Badgers Act 1992 to interfere with a badger sett intentionally or recklessly, or to willfully kill, injure, ill-treat, take or possess a badger or attempt to do so. Under advice from GMEU it is recommend that as part of any reserved matters application an updated survey for badger setts is provided and reasonable avoidance measure provided to protect badgers from accidental harm during construction.

A condition requiring an updated survey of the site and adjacent land, that also looks for badger sets and to secure appropriate reasonable avoidance methods is recommended, to reduce the risk of harm to individual badgers during construction is therefore recommended.

#### *Nesting Birds*

The development is likely to result in the loss of bird nesting habitat.

All British birds, nests and eggs (with certain limited exceptions) are protected by Section 1 of the Wildlife & Countryside Act 1981 (as amended), as amended. It is recommended a condition is imposed to ensure that no works to trees or shrubs shall occur between the 1st March and 31st August 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 active bird nests are present which has been agreed in writing by the LPA. An Informative advising the applicant of the requirements of the Wildlife & Countryside Act 1981 (as amended).

#### *Invasive Species*

Himalayan Balsam, Japanese Knotweed and Monbretia were identified on the site all listed under Schedule 9, Part 2 of the Wildlife & Countryside Act 1981 (as amended) as non-native plants. A condition is recommended requiring a Method Statement for the removal/ control of these invasive plants.

#### *Protection of the Watercourse*

There are risks during and post construction of negative impacts to the watercourse a tributary of the Kirklees Brook, flowing into the Local Nature Reserve. The indicative layout indicates that risks during construction would be very low with a significant buffer of vegetation retained between construction and the watercourse. Officers are satisfied that standard best practice during construction can prevent any impacts. As part of reserved matters, a Construction and Environmental Management Plan condition is recommended, which would include a section relating to the protection of the watercourse.

Post development, it is proposed to discharge surface water to the Brook. There is therefore, the potential for negative impacts from increased discharge levels, increased levels of sediment and various pollutants. As part of reserved matters, it is recommended

full details of the sustainable drainage measures proposed that demonstrate no negative impacts to biodiversity and water quality would occur. A condition is recommended that would secure this.

#### *Contributing to and Enhancing the Natural Environment*

Section 174 of the NPPF 2021 states that the planning policies and decisions should contribute to and enhance the natural and local environment. The development would result in the loss of a relatively small area of semi-natural habitat, with significant areas retained that provide scope for mitigation. Accordingly, a condition is recommended securing a biodiversity mitigation and enhancement plan for loss of habitats and species interest.

#### *Dealing with invasive species across the site.*

This is currently unmanaged and is spreading across the site, and in all likelihood (unless it is arrested) will soon spread beyond the confines of the site. These invasive species are undermining the biodiversity value of the site. Some invasive species can also negatively affect properties. Landowners are responsible for controlling invasive species. The issue in this case is that the landowner ceased trading through liquidation and cannot be pursued. Hence no management of the land occurs or would until permission is approved for this development, at which point the land will fall into the ownership of the Applicant, who would then be responsible for managing the invasive species. A planning condition to control the invasive species on site is duly recommended.

To summarise, subject to the recommended planning conditions, issues relating to badger, bats, nesting birds, invasive species, protection of the Brook and the Kirklees Valley and ecological mitigation can be dealt with at reserved matters stage by requiring updated habitat assessments to be undertaken and that stage and via planning conditions at this outline stage. It is considered that subject to suitable mitigation, enhancements and net gain, the biodiversity value of the site can both be mitigated and enhanced. On this basis, the proposals would accord with the requirements of UDP Policies EN6/1, EN6/2 and EN6/4 of the UDP, the National Planning Policy Framework and the Wildlife and Countryside Act 1981 (as amended).

#### **Air Quality**

The site is not located within an Air Quality Management Area and Environmental Health has raised no objections to the scheme in terms of its impact on air quality.

Due to the scale of the development (up to 5 dwellings) it is considered unlikely that the development would create an increase of more than 500 AADT (annual average daily traffic). Therefore, in line with the EPUK Guidance, an air quality assessment is not required. However, Bury Council has been identified by DEFRA as an area requiring to significantly improve air quality. The required measures to do this are currently under discussion. However, to encourage the use of alternative fuels and reduce car emissions, it is considered a condition be attached requiring a scheme for the installation of electric vehicle charging points, within each parking area, be submitted to the LPA as part of the reserved matters application. Subject to this condition, it is considered the proposal complies with Policy EN71 of the Bury Unitary Development Plan.

#### **Crime and Disorder**

A couple of objections has raised in their objections concerns relating to crime and disorder. Both the National Planning Policy Framework (NPPF) and Planning Practice Guidance (PPG) set out guidance in creating safe and accessible communities, with the NPPF recommending that local planning authorities ensure their policies and decisions aim to create safe and accessible environments where crime and disorder, and the fear of crime, do not undermine quality of life or community cohesion and resilience.

The consideration of crime and disorder cannot be fully considered at this stage due to the Outline nature of these proposals, this would be considered at reserved matters stage, however secured at this outline stage. A condition is therefore recommended to secure a Crime Impact Assessment at Reserved Matters.

## **Mineral Safeguarding**

The application site is positioned within an allocated Minerals Safeguarding Area for Surface Coal, Brickclay, Sandstone, Sand and Gravel.

Policy 8 of the joint Greater Manchester Combined Authority Minerals Plan states that all non-mineral development proposals within the Mineral Safeguarding Area should extract any viable mineral resources present in advance of construction.

Proposals for non-mineral development within the Mineral Safeguarding Areas that do not allow for the prior extraction of minerals will only be permitted where, amongst other things, it can be clearly demonstrated that it is not environmentally acceptable or economically viable to extract the mineral prior to non-mineral development taking place.

It is considered that in this case, the site is heavily constrained against minerals extraction taking place, by the narrow access to the site from Bury Road making it highly unlikely quarry wagons and drilling machines could safely enter and leave the site, and residential properties bordering the site and the Brownhills Close end of the site is unsuitable for mineral extraction, due to the access to the site being through the Brownhills Close, Rosewood Avenue and Royds Close residential developments. The site is also constrained on three sides by residential development. For these reasons, the proposals are acceptable in this regard, and thus accord with Policy 8 of the Greater Manchester Minerals Plan.

## **Response to objectors**

Many of the concerns and objections received were issues that are considered to be material planning considerations. These have been addressed throughout the content of this report.

### Response to objectors

- The issues relating to loss of public open space, trees, ecology, privacy, loss of light, highway safety, parking and the impact on local business have been addressed in the report above.
- The issues relating to the principle of developing on Other Protected Open Land (OPOL) have been addressed in the report.
- The issues raised relating to the impact on biodiversity/ wildlife have been addressed in the report.
- A play area was originally proposed but has been deleted from the scheme. This is stated in the Description Section of the report above.
- The proposed recreational enhancements (The Orchard and improvement to pedestrian routes) would be maintained by the developer/ any management company set up by the developer, and not by the Council. Planning conditions are recommended to secure this.
- The proposed development would not meet the threshold for affordable housing and as such, this is not a requirement of this application.
- Condition 30 requires the installation of electric vehicle charging points, which would reduce the impact upon air quality.
- The issue of land ownership is a private matter and is not a material planning consideration. As such, it cannot be taken into consideration. The Procedural Issues section of the report provides further information.
- The impact of noise during construction and the loss of views are not material planning considerations and cannot be taken into consideration.
- The issue of subsidence during construction would be covered by the Building Regulations and is not a material planning consideration.
- The impact upon drainage is addressed in this report and by condition 5 of this report
- Biodiversity Net Gain (BNG) is not yet mandatory, with the exception of paragraph 174d) of the Framework. This has been addressed by all of the suggested planning conditions (nos. 4, 6, 9, 13, and 17) including requiring an updated Phase 1 Habitat Survey to be submitted at first reserved matters stage (condition no. 6).

- Crime including Anti-social behaviour on the orchard has been addressed in the report and by planning condition no. 22
- Further bat surveys are required at submission of the first reserved matters. This has been secured by recommended condition no.6 requiring the first reserved matters application to be accompanied by a Phase 1 Habitat Survey.
- The Council has no evidence that Tottington does not have the infrastructure to support any more housing and the Borough of Bury is not meeting its required housing provision
- Rights of way over the land/ public open space have been addressed in the report
- Residents' compensation - The planning system offers no compensation.
- Constraints of the site - Officers recognise there are varying land levels and watercourses on the site. This has been addressed in the report and a number of planning conditions are recommended to address the issues raised.
- Proposals compliance with Building Regulations - Whilst this may be the case, the NPPF, at paragraph 188 advises that the focus of planning policies and decisions should be on whether proposed development is an acceptable use of land, rather than the control of matters that are subject to separate legislation and regimes. Whether the proposal would comply with the requirements of Building Control, is therefore not a planning matter and is therefore this is not a consideration for Members in the consideration and determination of this planning application. The issue raised regarding fire safety is addressed on the report.

### **Planning Balance and Conclusions**

The National Planning Policy Framework (NPPF) 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. The Framework maintains the emphasis on identifying a rolling five-year supply of deliverable housing land. The latest monitoring indicates that the Council is unable to demonstrate a five-year supply of deliverable housing land. The presumption in favour of sustainable development therefore applies and the tilted balance in favour of the proposals, as required by NPPF, paragraph 11d), unless any adverse impacts of doing so would significantly and demonstrably outweigh the benefits, when assessed against the policies in this Framework taken as a whole.

The site is considered to be in a sustainable location for housing, abutting the urban area and sitting outside the Green Belt. It is considered that OL5/2 is satisfied as the proposed development at this stage, shown indicatively, does not divide the valley into sections and instead offers increased public access to the Kirklees Trails.

Furthermore, the proposed development in principle would, at the Bury Road end of the site, represent limited infilling of an area between properties on Cedar Fold and Royds Close. At the Brownhills Close end of the site the indicative details would form rounding off development and development that would be sited adjacent to existing dwellings so would relate well to existing residential development. This weighs in favour of the proposed amount of development.

It is considered that the loss of part of the existing allocated recreation space/ informal Public Open Space off Brownhills Close would be replaced by better recreation provision in terms of both quantity and quality on the wider site, in accordance with the requirements of paragraph 99(b) of the NPPF. A condition is recommended to secure this. It is also evident that the recreational offer of this site would be enhanced by the proposed improvements to the paths and by the proposed community orchard. This again weighs in favour of approving the proposal.

The majority of the site is also unallocated/ informal Public Open Space and planning conditions are recommended to ensure that whilst two portions of the land are indicated for development, the loss resulting from the proposed development would be replaced by equivalent or better provision in terms of the quantity and quality in a suitable location, by proposing improved footpath links and treating and eradicating the invasive species that

occupy large areas of this application site and land directly adjoining the site, shown within the submitted blue edge. This is also a positive aspect of the development.

The application site is covered by policies relating to River Valleys (OL5/2), Wildlife Links and Corridors (EN6/4), Protection of Recreation Provision in the Urban Area (RT1/1) and Additional Provision for Recreation in the Countryside (RT3/2) in the adopted Bury Unitary Development Plan. Provided satisfactory mitigation is achieved for biodiversity, secured by the recommended planning conditions, the proposal would not compromise the function of this swathe of land as a Wildlife Corridor abutting the Kirklees Brook Site of Biological Importance and Nature Reserve. Biodiversity would be mitigated and enhanced, in line with para. 174d) of the Framework. On this basis, the proposals would accord with the requirements of UDP Policies EN6/1, EN6/2 and EN6/4 of the UDP, the National Planning Policy Framework and the Wildlife and Countryside Act 1981 (as amended). Biodiversity enhancements and net-gains weigh heavily in favour of the proposals.

A number of trees within the application site, and within close proximity to the boundaries of the site are protected by Tree Preservation Order. A condition is recommended to secure an Arboricultural Report and Arboricultural Method Statement at first reserved matters stage to ensure all trees on the site are properly considered, managed and appropriate mitigation is secured through the first reserved matters submission. Any necessary replacement planting would also be secured at reserved matters stage. These outline proposals are therefore considered to accord with UDP Policy EN8. This weighs neutrally in the balance.

In terms of Utilities, Drainage and Flood Risk, the submitted Drainage Strategy indicates that residential development of the scale proposed would not increase the risk of flooding elsewhere or affect river flood defences. This again weighs neutrally in the planning balance.

In relation to the concerns over the loss of informal parking provision and the re-organisation of the area between nos. 331 and 333 Bury Road, by local residents and the Barber Shop are understood. Indeed, any harm to the operations of businesses does weigh against the proposal.

The Highway Authority is satisfied with the access proposals which include the proposed reorganisation of the informal parking area and advise that this would actually improve highway safety in this locality for all highway users. The Highway Authority is also satisfied that the proposals would not cause severe harm to highway safety. This matter weighs in favour of the proposals. All other material planning matters are considered to acceptable, subject to the recommended planning conditions.

Taking into account all of the above, it is clear that when weighing the positives against the harm, the positives demonstrable outweigh the harm identified. Paragraph 11d) of the Framework therefore considers these proposals to constitute sustainable development.

In view of all the above, the proposal complies with the relevant provisions of the development plan as a whole, and as such the proposal is considered to comply with the Development Plan when taken as a whole and there are no material considerations which outweigh this finding. Therefore, in accordance with Section 38(6) of the Planning and Compulsory Purchase Act 2004 and the Framework it is considered that planning permission should be granted, subject to the recommended planning conditions.

**Recommendation:** Approve with Conditions

**Conditions/ Reasons**

1. Applications for approval of reserved matters must be made not later than:

- the expiration of three years beginning with the date of the grant of outline planning permission; and
- that the development to which the permission relates must be begun not later than the expiration of two years from the final approval of the reserved matters or, in the case of approval on different dates, the final approval of the last such matter to be approved.

Reason. Required to be imposed pursuant to Section 51 of the Planning and Compulsory Purchase Act 2004

2. Before the development is commenced, the applicant shall submit detailed plans and particulars to the Local Planning Authority, and obtain their approval under the Town and Country Planning Acts, of the following reserved matters; the layout, scale, appearance, access thereto and the landscaping of the site.

Reason. To ensure the satisfactory development of the site and because this application is in outline only.

3. This permission relates to the following plans:

Drawing no. YD2\_BC\_SP001: Site Location Plan  
 Drawing no. J1215 access Fig. 1 [Bury Road]  
 Drawing no. J1215 access Fig. 2 [Brownhills Close]  
 YD2\_BH\_LP001 Rev. A: Illustrative Masterplan

Except as provided for by other conditions to this permission, any application for approval of reserved matters submitted pursuant to condition 3 of this permission shall accord with the outline permission insofar as it relates to the site and the maximum number of dwellings to no more than 5 in the locations indicated.

Reason: The application is granted in outline only in accordance with the provisions of Article 4 of the Town and Country Planning (Development Management Procedure) Order 2015. Access has been applied for and any application for reserved matters must be in accordance with the parameters established as part of this permission

4. As part of the submission of the first reserved matters application, a detailed Arboricultural Report and Arboricultural Method Statement (AMS) in accordance with BS5837:2012 Trees in relation to design, demolition and construction shall be submitted to and approved in writing by the Local Planning Authority.

The AMS shall include full details of the following:

- a) Timing and phasing of Arboricultural works in relation to the approved development including those works identified in Section 4.2 'Direct Impacts' of the approved Arboricultural Report & Impact Assessment.
- b) Detailed tree felling and / or pruning specification in accordance with BS3998:2010 recommendations for Tree Works.
- c) Details of a tree protection scheme in accordance with BS5837:2012: which provides for the retention and protection of trees, shrubs and hedges growing on or adjacent to the site.
- d) Details of any construction works required within the root protection area as defined by BS5837:2012 regarding providing satisfactory mitigation, employing no-dig type construction methods with a porous final surface.
- e) Details of any changes in ground level, including existing and proposed

spot levels required within the root protection area as defined by BS5837:2012.

f) Details of the arrangements for the implementation, supervision and monitoring of works required to comply with the Arboricultural Method Statement.

Works shall be undertaken in strict accordance with the approved AMS. Thereafter all trees identified to be retained shall be protected in accordance with the approved AMS to ensure that:

- a. All tree felling and /or pruning works shall be carried out in full accordance with the approved specification and the requirements of British Standard 3998:2010 (as amended) - Recommendations for Tree Works.
- b. No excavations for services, storage of materials or machinery, parking of vehicles, deposit or excavation of soil or rubble, or disposal of liquids shall take place within any area designated as being fenced off or otherwise protected in the approved protection scheme.
- c. No fires should be lit within 6m of the furthest extent of the canopy of any tree or tree group to be retained as part of the approved scheme.
- d. Protective fencing shall be retained intact for the full duration of the development hereby approved and shall not be removed or repositioned without the prior written approval of the Local Planning Authority.
- e. No development or other operations shall take place except in complete accordance with the approved protection scheme and Arboricultural Method Statement.

Reason: Details are required at reserved matters to ensure the continued well-being of the trees both within the site and within influencing distance of the site, in the interests of the amenity and environmental quality of the locality and biodiversity, in accordance with Policies EN8, EN8/1, EN6/1 and EN6/4 of the Unitary Development Plan.

5. As part of the submission of the first reserved matters application, details of a sustainable surface water drainage scheme and a foul water drainage scheme shall be submitted to and approved in writing by the Local Planning Authority. The drainage schemes must include:
  - (i) An investigation of the hierarchy of drainage options in the National Planning Practice Guidance (or any subsequent amendment thereof). This investigation shall include evidence of an assessment of ground conditions, the potential for infiltration of surface water in accordance with BRE365;
  - (ii) A restricted rate of discharge of surface water agreed with the local planning authority (if it is agreed that infiltration is discounted by the investigations).
  - (iii) Levels of the proposed drainage systems including proposed ground and finished floor levels in AOD;
  - (iv) Incorporate mitigation measures to manage the risk of sewer

surcharge; and

- (v) Foul and surface water shall drain on separate systems within the site.

The approved schemes shall also be in accordance with the Non-Statutory Technical Standards for Sustainable Drainage Systems (March 2015) or any subsequent replacement national standards and no surface water shall discharge to the public sewer either directly or indirectly.

Prior to occupation of the proposed development, the drainage schemes shall be completed in accordance with the approved details and retained thereafter for the lifetime of the development.

Reason: To promote sustainable development, secure proper drainage and to manage the risk of flooding and pollution, in accordance with Policy EN5/1 of the Bury Unitary Development Plan.

6. As part of first reserved matters an updated Extended Phase 1 Habitat Survey(s) shall be submitted to and agreed in writing by the Local Planning Authority.

Reason: In order to ensure adequate protection of existing landscape features of ecological value and to achieve appropriate landscape and biodiversity enhancements as part of the development in accordance with the requirements of Policies EN6/1, EN6/2 and EN6/4 of the Unitary Development Plan, the National Planning Policy Framework and the Wildlife and Countryside Act 1981 (as amended).

7. As part of first reserved matters an updated survey of the site and adjacent land where accessible for badger setts shall be provided and a reasonable avoidance method statement provided to reduce the risk of harm to individual badgers during construction also provided, supplied to and agreed in writing by the Local Planning Authority.

Reason: It is an offence Under the Protection of Badgers Act 1992 to intentionally or recklessly interfere with a badger sett and to take, injure or kill a badger.

8. As part of reserved matters, an Environmental Construction Method Statement (ECMS) setting out details of measures to protect the nature conservation interest of the site and the adjacent areas during construction has been submitted to and approved in writing by the Local Planning Authority. The ECMS shall include details of the following:

- (i) the siting, height and design of any protective barrier to be erected between the site and the adjacent land;
- (ii) any reasonable avoidance measures to limit the potential for harm to habitats and species associated with the land;
- (iii) measures to prevent local ground and surface water pollution; and
- (iv) A timetable for implementation

Development shall thereafter be carried out in strict accordance with the details and timetable contained within the duly approved ECMS.

Reason: In order to ensure that appropriate mitigation measures are put in place



to safeguard the nature conservation interest of the adjacent habitat during the construction period before any development takes place in accordance with the requirements of policies EN6/1 and EN6/4 of the Bury Unitary Development Plan, and the National Planning Policy Framework.

9. As part of the first reserved matters a biodiversity mitigation and enhancement plan shall be submitted to and approved in writing including:
- Habitat enhancement measures on the retained site;
  - Landscaping within the developed site;
  - Mitigation and enhancement of the site for nesting birds
  - A 5 year management and maintenance plan

Development shall thereafter be carried out in strict accordance with the measures and timetable contained within the duly approved biodiversity mitigation and enhancement plan.

Reason: To ensure that appropriate measures are implemented as part of the development to mitigate the impact of operations during the construction, operational and decommissioning phases of development, to provide adequate compensation for any habitat loss arising as a result of the development, to ensure that the development does not adversely affect the favourable conservation status of protected species and to secure appropriate biodiversity enhancements as part of the development in accordance with the requirements of policies EN6/1 and EN6/4 of the Bury Unitary Development Plan and the National Planning Policy Framework.

10. As part of the first reserved matters, full details of the sustainable drainage measures proposed shall be submitted to and approved in writing to the Local Planning Authority which demonstrate that there would be no negative impact on biodiversity.

Reason: To ensure that the development is not at risk of flooding and does not increase flood risk elsewhere, and that adequate measures are put in place for the disposal of foul and surface water in accordance with the requirements of Policy EN5/1 of the Unitary Development Plan and the National Planning Policy Framework.

11. Any application for approval of reserved matters shall be accompanied by full details of existing and proposed ground levels (including sections through the site) and proposed finished floor levels of the development (all relative to ground levels within the site and adjacent to site boundaries), notwithstanding any such detail shown on previously submitted plan(s). The development shall be carried out only in accordance with the details so approved.

Reason: To protect biodiversity, the appearance of the locality and in the interests of the amenities of local residents, in accordance with Policies EN2/2, H2/2, H2/2 and EN6/4 of the Bury Unitary Development Plan, the National Planning Policy Framework and the Planning Practice Guide.

12. Any application which seeks approval for the first reserved matter pursuant to condition 3 of this permission shall include a scheme for the provision and future maintenance of Public Open Space to be delivered on the site as part of the

development. The scheme shall include details of the size, siting, layout, design and maintenance arrangements for the improved Public Open Space, and the Community Orchard, and a timetable for its provision and future maintenance.

A minimum of at least 0.16 hectares land within the application site shall be improved prior to commencement of development.

The improved Public Open Space, including Community Orchard shall be provided and maintained in accordance with the details and timetable contained within the duly approved scheme, and shall be maintained as such thereafter for use as Public Open Space.

Reason: To ensure that the development provides satisfactory mitigation for the loss of Public Open Space approved by application no. 33756 makes a proportionate contribution towards the provision and future maintenance of public open space on the site in order to avoid a deficiency in the quantity and quality of recreational open space in the locality and to ensure that the impact of the development on existing recreational open space is adequately mitigated in accordance with the requirements of Policy RT1 of the Bury Unitary Development Plan and the National Planning Policy Framework.

13. Any application which seeks approval for the reserved matter of landscaping pursuant to condition 3 of this permission shall include a landscaping scheme for the site which contains details of:
- (i) any trees, hedgerows and any other vegetation on/overhanging the site to be retained;
  - (ii) compensatory planting to replace any trees or hedgerows to be removed;
  - (iii) the introduction of additional planting within the site which forms part of the internal development layout and does not fall within (i) or (ii); and
  - (iv) the type, size, species, siting, planting distances and the programme of planting of hedges, trees, shrubs and of the community orchard and around the pathways being improved.

The duly approved landscaping scheme shall be carried out during the first planting season after the development is substantially completed and the areas which are landscaped shall be retained as landscaped areas thereafter. Any trees or shrubs removed, dying, being severely damaged or becoming seriously diseased within five years of planting shall be replaced by trees or shrubs of similar size and species to those originally required to be planted.

Reason: To ensure suitable mitigation and strengthening of existing landscaping on the site in the interests of visual amenity, to secure adequate provision of private garden space for the dwellinghouses and in the interests of providing biodiversity mitigation, enhancement, and biodiversity net-gain in accordance with the requirements of policies EN1/1, EN1/2, EN6/1 and EN6/4 of the Bury Unitary Development Plan, and the National Planning Policy Framework.

14. Any application which seeks approval for the reserved matter of Layout pursuant to condition 3 of this permission shall include the following details:

- Provision of tracked turning facilities within the curtilage of both sites clear of proposed parking/driveways, hardstandings and refuse storage areas, in order to enable private vehicles to enter and leave each hardstanding area in a forward gear;
- Provision of bin storage arrangements within the curtilage of each dwelling in accordance with Waste Management's 'Guide to Refuse Collection Requirements & Storage Methods for New Developments'.
- Provision of parking facilities within the curtilage of each dwelling in accordance with the maximum standards in SPD 11 - Parking Standards in Bury and the National Design Guide.

Prior to occupation of any dwellings, the development shall be completed in accordance with the approved details and retained thereafter for the lifetime of the development.

Reason: In the interests of good design and the amenity of the amenity of future occupiers of the site to ensure each dwelling is accessible by all who will visit the development, in accordance with Policy EN1/2, H2/2 and HT/6 of the Bury Unitary Development Plan, SPD11 – Parking Standards, and the National Planning Policy Framework and National Design Guide.

15. Any application which seeks approval for the reserved matter of layout pursuant to condition 3 of this permission shall include a scheme for the provision of the pedestrian/cycle routes through to adjoining land which are shown on drawing no. YD2\_BH\_LP001 Rev. A: Illustrative Masterplan. The scheme shall include details of the siting, layout, design, construction (including surfacing materials) and drainage of each route, and a timetable for their provision. The pedestrian/cycle routes shall thereafter be constructed and made available for use in accordance with the details in the duly approved scheme and the timetable contained therein.

Reason: To ensure connectivity between adjoining sites for cyclists and pedestrians in the interests of promoting permeability and accessibility between sites and a holistic approach to development in accordance with the requirements of the National Planning Policy Framework.

16. Any application which seeks approval for the reserved matter of layout pursuant to condition 3 of this permission shall include the position and access easements of the public sewer and any other United Utilities assets.

Reason: In the interests of safeguarding this infrastructure which serves the surrounding residential estates and the needs of neighbouring occupiers.

17. ***Pre-Commencement Conditions***

***No clearance of any vegetation in preparation for or during the course of development shall take place during the bird nesting season (March to August inclusive) unless an ecological survey has first been submitted to and approved in writing by the Local Planning Authority which demonstrates that the vegetation to be cleared is not utilised for bird nesting. Should the survey reveal the presence of any nesting species, then no clearance of any vegetation shall take place during the bird nesting season until a***

***methodology for protecting nest sites during the course of the development has been submitted to and approved in writing by the Local Planning Authority. Nest site protection shall thereafter be provided in accordance with the duly approved methodology.***

Reason: In order to prevent any habitat disturbance to nesting birds in accordance with the requirements of Policy EN6/1 and EN6/4 of the Bury Unitary Development Plan, the provisions of the Wildlife and Countryside Act 1981 (as amended) and the National Planning Policy Framework.

18. 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.

The development shall thereafter be carried out in full accordance with the duly approved remediation strategy and a verification report submitted to and approved in writing by the Local Planning Authority within agreed timescales before any of the buildings hereby approved are first occupied.

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.

19. Notwithstanding the details shown on the approved plans, no development shall commence until full details submitted on a topographical based survey of the application site and adopted highways of the following highway aspects have been submitted to and approved in writing by the Local Planning Authority:

- Formation of the site access from Brownhills Close in the form of a new service strip crossing, incorporating the provision of the minimum access and shared driveway widths shown, demarcation of the limits of the adopted highway, shared driveway hardstanding in a porous/permeable material and/or measures to prevent the discharge of surface water onto the adopted highway, 'bin waiting' area of a size and in a position to be agreed with Waste Management and all associated highway and highway drainage remedial works, all to a scope and specification to be agreed with the Highway Authority;
- Formation of the site access from Bury Road, incorporating the provision of a scheme of works on the adopted highway to extend the footway, provide a segregated pedestrian route to the site and formalise the site access/parking arrangements at the gable of No. 331

Bury Road, resurfacing of the unadopted side street and all associated road markings, a scheme of works including all necessary signage and road markings on the proposed site access and at the junction with the unadopted back street to implement the priority give-way arrangements proposed and reverse the priority at the junction with the unadopted back street, the minimum access/driveway widths shown, driveway hardstanding in a porous/permeable material, and/or measures to prevent the discharge of surface water onto the unadopted back street, 'bin waiting' area of a size and in a position to be agreed with Waste Management and all associated highway and highway drainage remedial works, all to a scope and specification to be agreed with the Highway Authority; and

- Formation and retention of the pedestrian accesses onto the Kirklees Trail and retention/improvement of pedestrian routes through the site.

No more than one dwelling shall be erected that seeks to utilise the Bury Road access, and no construction of that dwelling shall occur until the access improvements to the area of land between nos. 331 and 333 Bury Road have been implemented.

Prior to occupation of any dwellings, the development shall be completed in accordance with the approved details and retained thereafter for the lifetime of the development.

Reason: To secure the satisfactory development of the site in terms of highway safety, ensure good highway design and maintain the integrity of the adopted highway, all in the interests of highway safety.

20. No trees, unless indicated otherwise on plans submitted and approved as "reserved matters", 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 and EN8/2 of the Bury Unitary Development Plan.

21. No development shall commence unless and until a 'Construction Traffic Management Plan' (CTMP), has been submitted to and agreed in writing with the Local Planning Authority and shall confirm/provide the following:

- Photographic dilapidation survey of the footways, carriageways and service strips leading to and abutting the site in the event that subsequent remedial works are required following construction of the development and as a result of statutory undertakers connections to the site;
- Access route for all vehicles to the site from the Key Route Network and all temporary works required to facilitate access for ground works/construction vehicles;
- If proposed, details of site hoarding/gate positions clear of the adopted turning head on Brownhills Close;
- The provision, where necessary, of all required temporary pedestrian facilities/protection measures;
- A scheme of appropriate warning/construction traffic speed signage in the vicinity of the site and its accesses;
- Hours of operation, confirmation of delivery & construction vehicle

sizes that can be accommodated on the residential estate roads leading to the site and number of vehicle movements;

- Arrangements for the turning and manoeuvring of vehicles within the curtilage of each site and/or measures to control/manage delivery vehicle manoeuvres;
- Parking on site or on land within the applicant's control of operatives' and construction vehicles, together with storage on site of construction materials;
- Measures to ensure that all mud and other loose materials are not spread onto the adjacent adopted/unadopted highways as a result of the groundworks operations or carried on the wheels and chassis of any vehicles leaving the site and measures to minimise dust nuisance caused by the operations.

The approved plan shall be adhered to throughout the construction period and the measures shall be retained and facilities used for the intended purpose for the duration of the construction period. The areas identified shall not be used for any other purposes other than the turning/parking of vehicles and storage of construction materials. All highway remedial works identified as a result of the dilapidation survey shall be implemented to the written satisfaction of the Local Planning Authority prior to the development hereby approved being brought into use.

Reason: To mitigate the impact of the construction traffic generated by the proposed development on the adjacent residential streets, ensure adequate off-street car parking provision and materials storage arrangements for the duration of the construction period and ensure that the adopted highways are kept free of deposited material from the ground works operations, in the interests of highway safety.

22. No development shall commence unless and until a scheme incorporating measures to minimise the risk of crime and meet the specific security needs of the application site and the development has been submitted to and approved in writing by the Local Planning Authority. No dwelling shall be occupied until the approved measures for that dwelling have been installed which shall thereafter be retained for the lifetime of the development.

Reason: In pursuance of the Council's duty under Section 17 of the Crime and Disorder Act 1998 and in accordance with Policy EN1/5 of Bury Unitary Development Plan and the National Planning Policy Framework.

23. **Pre and Post Development**

No infiltration of surface water drainage into the ground where adverse concentrations of contamination are known or suspected to be present is permitted other than with the express written consent of the local planning authority, which may be given for those parts of the site where it has been demonstrated that there is no resultant unacceptable risk to controlled waters. The development shall be carried out in accordance with the approval details.

Reason: For the future protection of the Water Environment from risks arising from land contamination, in accordance with Policy EN5/1 of the Bury Unitary Development Plan and the National Planning policy Framework.

24. Piling or any other foundation designs using penetrative methods shall not be

permitted other than with the express written consent of the local planning authority, which may be given for those parts of the site where it has been demonstrated that there is no resultant unacceptable risk to groundwater. The development shall be carried out in accordance with the approved details.

Reason: For the future protection of the Water Environment from risks arising from land contamination, in accordance with Policy EN5/1 of the Bury Unitary Development Plan and the National Planning Policy Framework.

25. No above ground works shall take place until a scheme for the disposal of foul and surface water from the site has been submitted to and approved in writing by the Local Planning Authority. Unless otherwise agreed in writing with the Local Planning Authority, the scheme shall include:
- (i) separate systems for the disposal of foul and surface water;
  - (ii) a detailed drainage strategy to demonstrate that the post-development surface water discharge rate to any soakaway, watercourse or sewer does not exceed the pre-development (greenfield) rate. The drainage strategy shall include details of the peak surface water runoff rate from the development for the 1 in 1 year rainfall event and the 1 in 100 year (+30% climate change allowance) rainfall event, and shall demonstrate that the peak post-development runoff rate does not exceed the peak pre-development greenfield runoff rate for the same event;
  - (iii) details of any necessary flow attenuation measures, including the use of SUDS where appropriate;
  - (iv) details of the measures taken to prevent flooding and pollution of any receiving groundwater and/or surface waters (including watercourses) and any off-site works required to ensure adequate discharge of surface water without causing flooding or pollution (including refurbishment of existing culverts and headwalls or removal of unused culverts where applicable);
  - (v) flood water exceedance routes, both on and off site;
  - (vi) means of access for maintenance and easements (where applicable);
  - (vii) a timetable for implementation, including any phasing of works.

The duly approved scheme shall be implemented before any of the dwellings hereby approved are first occupied, or within any other timescale first agreed in writing with the Local Planning Authority.

Reason: To ensure that the development is not at risk of flooding and does not increase flood risk elsewhere, and that adequate measures are put in place for the disposal of foul and surface water in accordance with the requirements of Policy EN5/1 of the Bury Unitary Development Plan, the National Planning Framework and Planning Practice Guidance.

26. No above ground works shall take place until a phasing plan for the construction of the development has been submitted to and approved in writing by the Local Planning Authority. The phasing plan shall include a programme of works for the provision of:-
- (i) Each of the proposed land uses within the site;
  - (ii) Any highway infrastructure associated with those uses and
  - (iii) The area of formal Public Open Space allocated as such under policy RT1/1 of the Bury Unitary Development Plan; and
  - (iv) The area(s) of recreational open space and any other areas of amenity open space shown to be improved.

The development shall thereafter be carried out in accordance with the duly

approved phasing plan(s).

Reason: To ensure that any phased development of the site takes place in an appropriate order and within an acceptable timescale, to ensure adequate provision of infrastructure to serve each phase and because no such details were submitted as part of the application.

27. No above ground works shall take place until a lighting scheme has been submitted to and approved in writing by the Local Planning Authority. Details shall include the location, orientation and type of lights. No dwelling shall be occupied until the approved measures for that dwelling have been installed which shall thereafter be retained for the lifetime of the development.

Reason: To ensure that appropriate measures are implemented as part of the development to mitigate the impact of operations during the construction and occupation phases of development, to provide adequate mitigation, to ensure that the development does not adversely affect the favourable conservation status of protected species, In the interest of amenity and in pursuance of the Council's duty under Section 17 of the Crime and Disorder Act 1998 and in accordance with Policies EN1/1, EN1/2, EN1/5, EN6/1 and EN6/4 of the Bury Unitary Development Plan and the National Planning Policy Framework.

28. Following the provisions of Condition 18 of this planning permission, where land contamination remediation is required, the approved Remediation Strategy must be carried out to the satisfaction of the Local Planning Authority within agreed timescales; and prior to any part of the permitted development being occupied, a verification report demonstrating the completion of works set out in the approved remediation strategy and the effectiveness of the remediation shall be submitted to, and approved in writing, by the local planning authority. The report shall include results of sampling and monitoring carried out in accordance with the approved verification plan to demonstrate that the site remediation criteria have been met.

Reason: For the ongoing protection of the Water Environment from risks arising from land contamination and to secure the satisfactory development of the site in terms of human health, controlled waters and the wider environment and pursuant to the National Planning Policy Framework.

29. **Prior to Occupation**

Prior to first occupation of the development hereby approved, a sprinkler/misting system to meet the requirements of BS 9251:2014 or other subsequent standard that meets the requirements of Greater Manchester Fire and Rescue Service and deemed suitable to overcome the site's emergency access deficiencies, shall be installed in the dwellings hereby approved and shall thereafter be maintained at all times.

Reason: In the interests of fire safety and to ensure the safe and satisfactory development of the site and for its future occupiers pursuant to Policies H1/2, H2/2 and EN1/2 of the Bury Unitary Development Plan and the National Planning Policy Framework.

30. **Post-Occupation**

Each dwelling hereby approved shall be provided with 1 electric vehicle (EV)



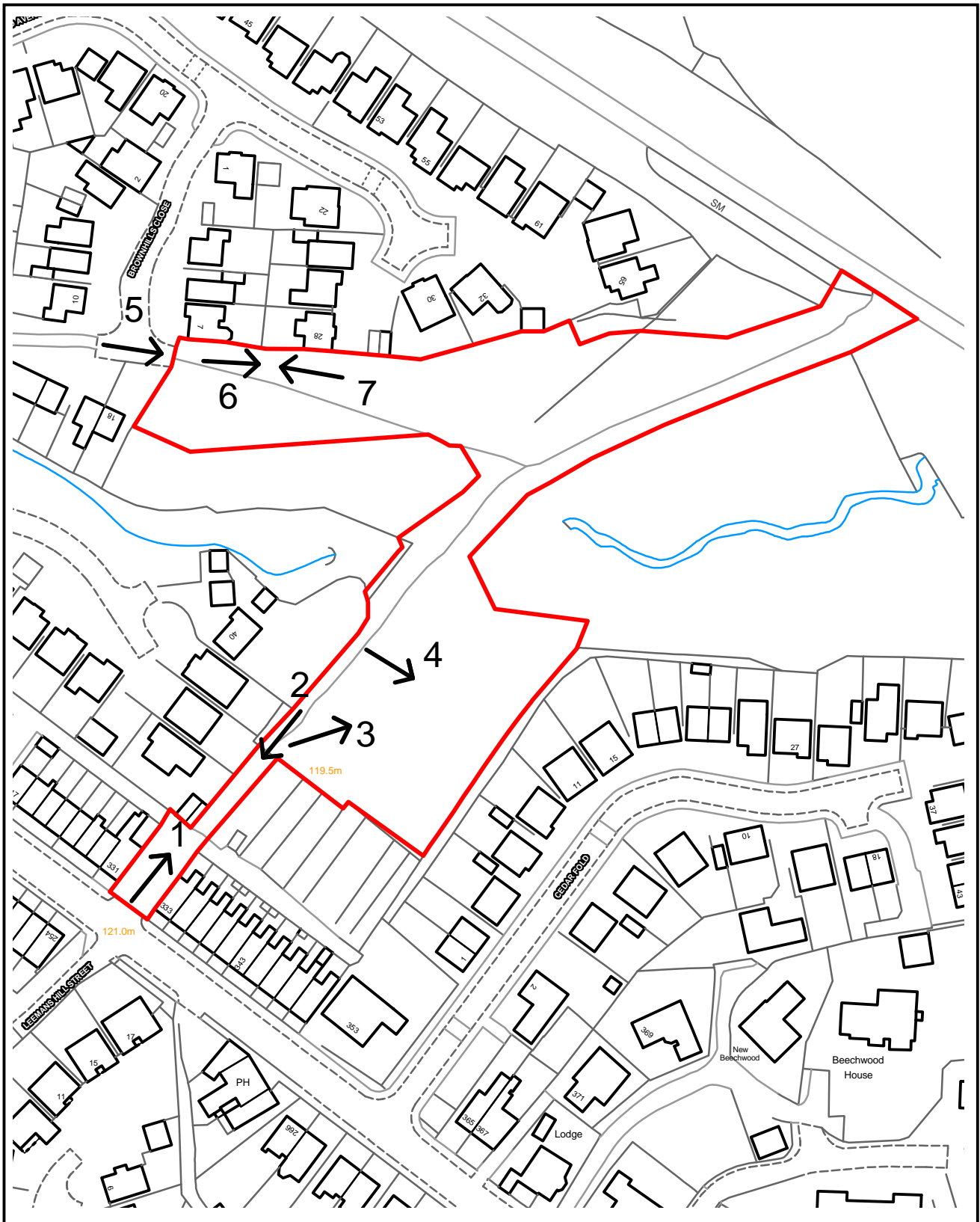
charge point (minimum 7kW\*) prior to its occupation.

\*Mode 3, 7kW (32A) single phase, or 22kW (32A) three phase, and for 50kW Mode 4 rapid charging may be required. British Standard BS EN 61851-1:2019

Reason. To encourage the uptake of ultra-low emission vehicles and ensure the development is sustainable. To safeguard residential amenity, public health and quality of life pursuant to National Planning Policy Framework Section 15 - Conserving and enhancing the natural environment.

For further information on the application please contact **Claire Booth** on **0161 253 5396**

# Viewpoints



## PLANNING APPLICATION LOCATION PLAN

APP. NO 67243

ADDRESS: Land off Brownhills Close / Bury Road  
Tottington

Planning, Environmental and Regulatory Services

(C) Crown Copyright and database right (2015). Ordnance Survey 100023063.



**Bury**  
COUNCIL

67243

Photo 1



Photo 2



67243

Photo 3



Photo 4



67243

Photo 5



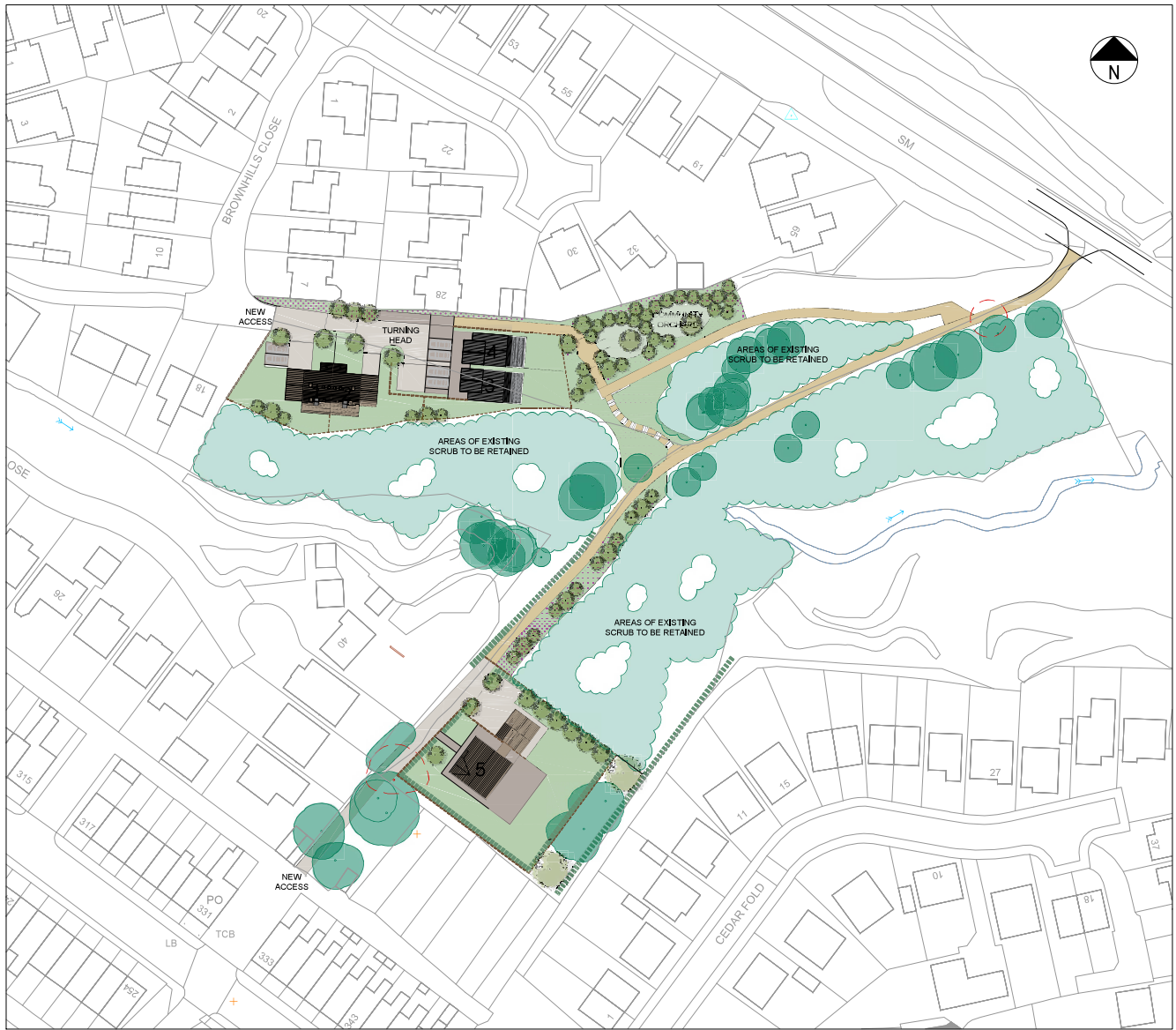
Photo 6



67243

Photo 7





**EXISTING SITE:**

- EXISTING TREE RETAINED
- EXISTING TREE REMOVED

**HARD LANDSCAPE:**

- PROPOSED CONCRETE BLOCK PAVING TO SHARED SPACE  
MARSHALLS TEGULA OR SIMILAR APPROVED  
COLOUR PENNANT GREY
- PROPOSED CONCRETE BLOCK PAVING TO DRIVES  
MARSHALLS TEGULA OR SIMILAR APPROVED  
COLOUR HARVEST
- PROPOSED ASPHALT FOOTPATH 2.1M WIDE  
LEVELS TO ALLOW FULL WHEELCHAIR ACCESS

**SOFT LANDSCAPE:**

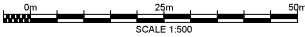
- PROPOSED SPECIMEN TREES - TOTAL 66 NUMBER  
PLANTED AS A MIX OF 12-14CM GIRTH AND 14-16CM GRTH  
ALL TREES TO BE DOUBLE STAKED AND TIED
- PROPOSED MIXED NATIVE HEDGE/ROW  
TOTAL 145 LIN M - MADE UP OF 1:2 TRANSLOCATED WHIPS  
PLANTED AT 5LIN M IN A DOUBLE STAGGERED ROW  
LAWN AREA (TO BE SEEDED OR TURFED)
- TURF TO BE LAID ON MIN 150MM DEPTH OF TOPSOIL, LIGHTLY  
COMPACTED AND RAKED TO A FINE SURFACE TLTH
- PROPOSED WILDFLOWER MEADOW

**BOUNDARY TREATMENTS:**

- PROPOSED BOUNDARY FENCE  
1.8M HIGH VERTICAL CLOSE BOARDED TIMBER FENCE  
OR SIMILAR APPROVED

**SOFT LANDSCAPE SPECIFICATION NOTES:**

- ALL PLANTING WORKS SHALL BE CARRIED OUT IN ACCORDANCE WITH BS 6043, BS 4408 AND BS 5837
- ALL PLANTING/TURF AREAS TO BE PREPARED BY REMOVING ANY DETRITUS/CONSTRUCTION MATERIALS AND STONE/ROCK/BRICK GREATER THAN 40MM DIAM. AREA SHALL BE CLEARED OF WEEDS USING A TRANSLOCATED HERBICIDE AND CULTIVATED TO A DEPTH OF 300MM, WHERE EXISTING SOIL IS POOR QUALITY TOPSOIL SHALL BE IMPORTED
- ALL PLANTS SUPPLIED SHALL COMPLY WITH BS3936: PARTS 1 TO 10 AS RELEVANT, BS 4043 AND THE NATIONAL PLANT SPECIFICATION, PUBLISHED BY THE HORTICULTURAL TRADES ASSOCIATION.
- ALL LAWN AREAS TO BE CULTIVATED TO A DEPTH OF 150MM PRIOR TO LAYING OF TURF. IF THE EXISTING SOIL IS POOR QUALITY - TOPSOIL SHOULD BE IMPORTED.
- ALL SHRUB PLANTING AREAS TO RECEIVE A 50MM LAYER OF ORGANIC SOIL CONDITIONER (GRO CHAR OR SIMILAR APPROVED) AND BE CULTIVATED TO A DEPTH OF 300MM PRIOR TO PLANTING.
- ALL IMPORTED TOPSOIL MUST COMPLY WITH BS 3882:2015
- ALL PLANTS ARE TO RECEIVE SLOW RELEASE FERTILISER TO THE PITS. SIDES OF PITS TO BE LOOSENEED PRIOR TO PLANTING.
- ALL PLANTS TO BE WELL WATERED IN AT PLANTING.
- ALL PLANTING AREAS TO BE MULCHED WITH 75MM TO 100MM DEPTH OF BARK CHIP.



**Squareyard**

landscape Architecture - Urban Design - Masterplanning

Email - studio@yd2.co.uk  
Web - www.yd2.co.uk  
Tel - 07514 281 452

Address:  
Suite 10-Hardman Business Centre,  
New Hallway Road,  
Russellsdale

**GENERAL NOTES:**

1. DO NOT SCALE FROM THIS DRAWING
2. DIMENSIONS GOVERN
3. ALL DIMENSIONS ARE IN MILLIMETERS UNLESS NOTED OTHERWISE ON THE DRAWINGS
4. ALL DIMENSIONS SHALL BE VERIFIED ON SITE PRIOR TO ANY CONSTRUCTION
5. YD2 SHALL BE NOTIFIED OF ANY DISCREPANCIES

**DRAWING NOTES:**

	(-) FIRST ISSUE - FOR OUTLINE PLANNING APPLICATION	AV	AV	13/07/2021
A	LAYOUT REVISED - HOUSING NUMBERS REDUCED	AV	AV	11/01/2023
REV	DESCRIPTION	DRAWN	CHECKED	DATE

**PROJECT TITLE**

**LAND OFF BROWNHILLS CLOSE  
TOTTINGTON  
BURY**

**DRAWING TITLE**

**SITE MASTERPLAN  
ILLUSTRATIVE DEVELOPMENT LAYOUT**

**SCALE**

**@ A1  
1:500**

**DATE**

**JULY 2021**

**PROJECT NUMBER**

**YD2\_21\_20**

**DRAWING NO.**

**YD2\_BH\_LP001**

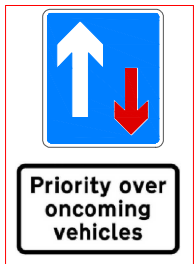
**REVISION**

**A**

No dig construction  
 No kerb upstands  
 block paving finish

7.6m inter  
 visibility

4.8m width



Bin waiting

1m wide tie in

26m single lane working section,  
 width varies between 4.5m and 3m  
 inbound to have priority over outbound

4.8m parking area  
 no space markings

1m wide edge strip demarked for safe zone  
 break between tarmac and block paving construction

grey area shows to be  
 reshaped and surfaced

1m wide tie in

1.5m wide path  
 pram and walker passing  
 solid white line and ped markkngs  
 red surfacing

tactile paving

4.5m wide road

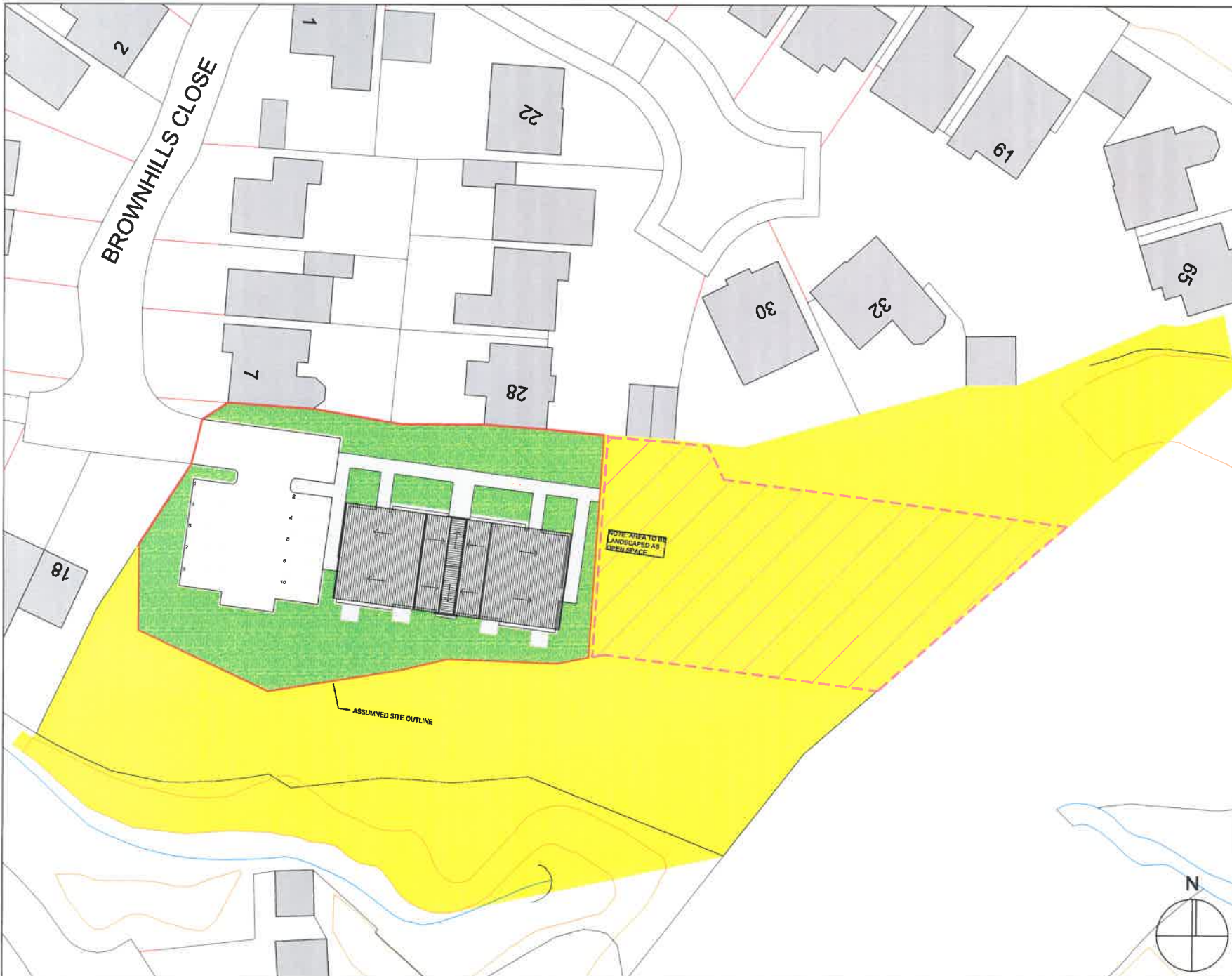
REV	DATE	AMENDMENTS	DRAWN	CHK	APP

Client Barnaby Properties Ltd and Dial-a-Skip UK Ltd	Drawn AJC	Checked AD	Approved AD
Project Brownhills development	Scale A2 Plot 1:200	Date 29/7/2022	Rev
Title Access and layout arrangements	Drawing No. J1215 access fig 1	File Name	
Purpose of Issue <input type="checkbox"/> For Information <input checked="" type="checkbox"/> Preliminary	X		

DTPC (Northwest)  
 The Studio, 3 Philips Road  
 West, Bacup  
 Lancashire  
 OL13 8RH

Tel: 01706 872323  
 Email: info@dtpc.uk.com





NOTE:  
 1. DO NOT SCALE OFF THIS DRAWING.  
 2. ANY DISCREPANCIES TO BE REPORTED IMMEDIATELY TO THE ARCHITECT.  
 3. ALL DIMENSIONS TO BE SITE CHECKED & VERIFIED BY THE CONTRACTOR PRIOR TO THE MANUFACTURE OR ORDER OF ANY MATERIALS OR GOODS.



Block Location Plan  
 1:1250

NOTE: RED LINE ASSUMED. SITE BOUNDARY DETERMINED FROM GOOGLE EARTH

KEY:

-  LAND TO BE DEVELOPED FOR NEW RESIDENTIAL SCHEME
-  EXISTING BUILDINGS
-  LAND TO BE LANDSCAPED
-  LAND TO BE RETAINED IN OWNERSHIP OF DAVID MCLEAN HOMES LIMITED (IN LIQUIDATION)

LAND TO BE RETAINED IN OWNERSHIP OF DAVID MCLEAN HOMES LIMITED (IN LIQUIDATION)

RevA	Number of parking spaces reduced to 15 (A1). Note added to drawing. Rr: open space	17.04.18	SS
RevB	Driveway added to drawing delineating potential extension of north access roadway across front of building to serve area to be landscaped as open access. Key amended to show service runs. Area to be landscaped as open area highlighted.	19.04.18	SS
RevC	Key amended.	26.04.18	SS
RevD	Areas within site delineated as per instructed. Key amended accordingly	30.04.18	SS
RevE	Areas amended accordingly.	30.04.18	L11

SKETCH

BROWNHILLS CLOSE,  
 TOTTINGTON,  
 BURY,  
 BL8 3LF.  
 SITE PLAN  
 AS PROPOSED

Scale	SS	Date	19 Apr 2018
Sheet No	3827-202	CC	1:200, 1:1250 @ A1

ABW architects Ltd.  
 architects build + work

Site Plan  
 1:200

