

# PLANNING COMMITTEE UPDATE SHEET

COMMITTEE DATE: 7<sup>th</sup> April 2021

APPLICATION NO.	TEAM LEADER	ITEM NO.	PAGE NOS.
20/00212/FULMAJ	Lyndsey Hayes	1	5 - 32

## Updated position on education contributions / Update to recommendation

Paragraph 8.13 of the main committee report sets out that officers have queried the Local Education Authority's (LEA) response and the assumptions on committed developments in the local area, and that any change in position will be reported on the update sheet. This was with particular reference to the Forton application (18/00469/OULMAJ) which has a resolution to grant outline planning permission for up to 195 dwellings and is therefore to be treated as a committed development, but where the actual bedroom mix (and therefore pupil yield) is unknown at this stage. In line with the LEA methodology, where the bedroom mix is unknown a "worst case scenario" is taken and so the LEA assumes 195 x 4 bed units at Forton in the assessment of this application. The Forton development is therefore said to take up 31 of the 36 spare secondary school places, leaving 5 spare places remaining. The pupil need from this application is 7 places, resulting in the LEA asking for a contribution towards 2 pupil places.

The applicant has challenged this contribution request stating "it is inconceivable that the Forton application will generate the number of spaces being suggested by the LEA as they are basing this on 100% of these 195 dwellings comprising 4 bed properties, which would be entirely against Council Local Plan policy and clearly will not be acceptable to Wyre...As such we fail to see how LEA can reasonably justify that the resolution to approve the outline Forton now places a need for our client to fund two school places".

The LEA were asked to respond to this, and have confirmed "*As there is an established methodology regarding additional approvals we would not be revising the education assessment in terms of the Forton application initial dwelling mix calculation...*"

The LEA remain of the view that a contribution towards two secondary school places is required. The applicant does not agree, which effectively means they would not agree to sign the s106 legal agreement. As such the Council needs to decide if it can uphold the LEA request for seeking contributions. In making this decision it is relevant to consider whether these obligations would satisfy the three tests of being necessary to make the development acceptable in planning terms; directly related to the development; and fairly and reasonably related in scale and kind to the development.

Officers are of the view that notwithstanding the LEA methodology, it is unrealistic to assume that all of the 195 units at Forton would come forward as 4 bed units when the Wyre Local Plan policy requirement is for a significantly smaller proportion (18% beds, but potentially increasing to 30% under the right circumstances). Therefore it is entirely reasonable to conclude that the two developments at Forton and in this application would not exceed the surplus of 36 places. In which case officers do not concur with the LEA that an education contribution is necessary to

make the development acceptable, and do not consider that this is something which could be successfully defended at appeal.

Therefore the recommendation at 11.0 of the main committee report is amended to exclude education contributions as follows:-

**Grant full planning permission subject to conditions and a S106 legal agreement to secure on-site affordable housing (30%) and green infrastructure and financial contributions towards the A6 Highway Strategy and health care. That the Head of Planning Services be authorised to issue the decision following the satisfactory completion of the S106 agreement.**

### Conditions

Updates to the following conditions are suggested as follows:-

#### 6 (Footpath link)

Update to Condition 6 to allow closure during construction in the interests of health and safety (changes illustrated in **bold italic**):

No dwelling shall be first occupied until the 2 metre wide footpath link shown on the approved site layout plan to the front of plot 55 connecting to the A6 has been constructed up to the 2 metre wide footpath running along the site frontage, in surface materials as shown on the approved External Surfaces Layout Drawing R104/4 Rev B. The footpath link shall thereafter be maintained and remain open and unobstructed at all times, **unless its closure is required during the period of construction.**

Reason: In the interests of highway safety and sustainability and in accordance with Policy CDMP6 of the Wyre Local Plan (2011-31).”

#### Condition 13 (Contamination)

A Phase I and Phase II site assessment were submitted in support of the application and found to be acceptable by the Council’s Environmental Health (Land Contamination) Team. Details of gas protection measures are still required and dealt with by Condition 14. Condition 13 is no longer required and is removed.

#### Condition 14 (Gas Protection Measures)

Condition 14 has been amended to allow for access roads to be constructed prior to agreement of gas protection measures. Gas protection measures to be agreed prior to construction of any dwelling (changes illustrated in **bold italic**):

The development shall incorporate suitable gas protection measures, details of which shall be submitted to and approved in writing by the Local Planning Authority **prior to the construction of any of the dwellings hereby approved.** The measures shall include as a minimum: ventilation of confined spaces within the building, a ground slab of suitable construction, a low permeability gas membrane, minimum (ideally none) penetration of the ground slab by services, and passive ventilation to the underside of the building. The development shall be carried out in accordance with the approved scheme and thereafter be maintained and retained. Alternatively, **prior to the construction of any of the dwellings hereby approved,** a gas monitoring programme and risk assessment of the results shall be undertaken to demonstrate that the above protection measures are not required. The results shall be submitted to and approved in writing by the Local Planning Authority. Any gas monitoring programme must be carried out over a period of at least three months and include at least three readings where the atmospheric pressure is below 1000mb. Gas flow rates must also be provided.

Reason: The footprint of the proposed development is within the immediate vicinity of an area of infilled ground. The nature of the fill is unknown. Works are therefore required in the interests of public safety and in accordance with Policy CDMP1 of the Wyre Local Plan (2011-31).

#### Condition 23 – Levels

Condition 23 has been revised, as acceptable existing and proposed ground and finished floor levels details have been provided under the application (new text illustrated in **bold italic**).

***The ground, slab and finished floor levels shall be constructed and completed in accordance with the approved details shown on Drawing No.101 Rev S (Main Drainage Layout Development Area).***

Reason: To ensure that the development has a satisfactory visual impact on the streetscene, a satisfactory impact on neighbouring residential amenity and has a minimum risk of flooding in accordance with Policies CDMP2 and CDMP3 of the Wyre Local Plan (2011-31).

#### Condition 24 – Bin storage

Condition 24 has been revised to allow for access roads to be constructed prior to agreement of bin storage details (changes illustrated in **bold italic**).

***Prior to the construction of any dwelling hereby approved***, details of the refuse storage provision (including location, design and materials of construction) shall be submitted to and approved in writing by the Local Planning Authority. The refuse storage area(s) shall be provided in accordance with the approved details prior to first occupation of any dwelling and shall thereafter be maintained and retained.

Reason: In the interests of the appearance of the site and locality and the residential amenity of occupants and neighbours, in accordance with Policies CDMP1 and CDMP3 of the Wyre Local Plan (2011-31).

#### Condition 27 – Delivery of GI

Condition 27 has been altered to allow for a higher number of dwellings (previously 19) to be occupied before the GI needs to be provided (changes illustrated in **bold italic**):

(i) No dwelling hereby approved shall be occupied unless and until the 'public open space' as shown on the approved layout plan has been enclosed on the northern, southern and western boundaries in order to be separated from the wider agricultural land, and this area of public open space left with an open eastern boundary so that it is encompassed within the residential development;

(ii) No more than **35** dwellings hereby approved shall be occupied unless and until, all of the green infrastructure and associated operational development / works have been completed in full and made available for use.

Reason: To ensure that the necessary green infrastructure required to support this development is provided in a timely manner in accordance with Policy HP9 of the Adopted Wyre Local Plan 2011-2031.