

Committee Report**Date: 02.02.2022****Item Number 02****Application Number 20/01209/FUL****Proposal Erection of three dwellings (following demolition of existing light industrial buildings) (resubmission of 20/00835/FUL)****Location Former Kirkland Smithy Garstang By Pass Road Churchtown Preston Lancashire PR3 0HQ****Applicant Mr A Thornton****Correspondence Address c/o Graham Anthony Associates
FAO Mr Jake Salisbury 2 Croston Villa High Street Garstang PR3 1EA****Recommendation Permit****REPORT OF THE HEAD OF PLANNING SERVICES****CASE OFFICER - Miss Lucy Lowcock**

Site Notice Date: 11/12/20

1.0 INTRODUCTION

1.1 This application is brought to Committee at the request of Councillor Cartridge. A site visit is recommended to enable Members to understand the proposal beyond the plans submitted and the photos taken by the Case Officer.

2.0 SITE DESCRIPTION AND LOCATION

2.1 The application site is situated at the north-eastern side of an internal access road off the A6, Churchtown. The site falls in the countryside and Flood Zone 3. It is also in a mineral safeguarding area, area at risk of surface water flooding (access and part of garden) and SSSI Impact Zone. There is a farm opposite and a dwelling to the southern side. There are also some residential barn conversions opposite. There is a field to the north of the site that has planning permission for a replacement dwelling under application no. 21/00403/FUL, which is significantly constructed.

2.2 The site comprises two adjoining buildings constructed from concrete block and profile sheeting. There is a single-storey pitched roof building adjoining the front and north-eastern side of these, constructed from block and sheeting, and an attached stone building. The last use of the buildings appears to be for the manufacture of 'rotating and positioning equipment' for the welding industry, however, the business has since relocated. To the rear is a small enclosed field and beyond this the wider countryside. To the southern boundary is a 2m high fence. The

dwelling to this side has a small side window facing the site. To the front of the building is an area of hardstanding.

3.0 THE PROPOSAL

3.1 This application is for the erection of 3 dwellings on the land, following the demolition of the existing light industrial buildings. These would be one detached dwelling and a pair of semi-detached dwellings. All would have pitched roofs, with an eaves height of 4.75m and ridge of 6.6m. Parking would be provided to each dwelling either to the side or front. Enclosed gardens would be provided to the rear. The floor level of the properties is to be set at 12.80m AOD, approximately 0.8m above ground level.

4.0 RELEVANT PLANNING HISTORY

4.1 App. No: 21/00403/FUL
Butlers Arms Farm
Proposed replacement dwelling (variation of condition 2 (plans) on planning application 18/01184/FUL to amend the orientation and appearance of the dwelling) (part retrospective)
Approved

4.2 App. No: 20/00835/FUL
Erection of 3 detached dwellings (following demolition of former light industrial buildings)
Refused

4.3 App. No: 20/00074/COUPA
Notification for prior approval for change of use of premises from Class B1(c) (light industry) to 3 dwellings (Class C3) under Schedule 2, Part 3, Class PA
Prior approval approved

5.0 PLANNING POLICY

5.1 ADOPTED WYRE BOROUGH LOCAL PLAN

5.1.1 The Wyre Local Plan 2011-2031 (WLP31) was adopted on 28 February 2019 and forms the development plan for Wyre. To the extent that development plan policies are material to the application, and in accordance with the provisions of section 70(2) of the Town and Country Planning Act 1990 and section 38(6) of the Planning and Compulsory Purchase Act 2004 the decision must be taken in accordance with the development plan unless there are material considerations that indicate otherwise.

5.1.2 The following policies contained within the WLP 2031 are of most relevance:

- SP1 Development strategy
- SP2 Sustainable development
- SP4 Countryside areas
- CDMP1 Environmental protection
- CDMP2 Flood risk and surface water management
- CDMP3 Design
- CDMP4 Environmental assets
- CDMP5 Historic environment

- CDMP6 Accessibility and transport
- HP1 Housing land supply

5.2 NATIONAL PLANNING POLICY FRAMEWORK 2021

5.2.1 The revised National Planning Policy Framework (NPPF) was published by the Government on 20th July 2021. It sets out the planning policies for England and how these should be applied in the determination of planning applications and the preparation of development plans. At the heart of the NPPF is a presumption in favour of sustainable development (paragraph 11). The policies in the 2021 NPPF are material considerations which should also be taken into account for the purposes of decision taking.

5.2.2 The following sections / policies set out within the NPPF are of most relevance:

- Section 2. Achieving sustainable development
- Section 5. Delivering a sufficient supply of homes
- Section 9. Promoting sustainable transport
- Section 11. Making effective use of land
- Section 12. Achieving well-designed places
- Section 14. Meeting the challenge of climate change, flooding and coastal change
- Section 15. Conserving and enhancing the natural environment

5.2.3 In accordance with the National Planning Practice Guidance (PPG) and National Planning Policy Framework (NPPF) §74, the council must be able to demonstrate a 5 year housing land supply position (with a 5% buffer) when dealing with applications and appeals. The latest available evidence on housing delivery is that set out in the council's Housing Implementation Strategy (published 30 September 2021) which demonstrates a deliverable housing land supply position of 6.4 years. The council's position therefore is that it is able to demonstrate a deliverable 5 year housing land supply.

OTHER MATERIAL CONSIDERATIONS

5.3 NPPG sections on climate change, flood risk, contamination, noise and design

5.4 SPG4 Spacing guidance for new housing layouts

5.5 SPD Extending Your Home

5.6 Wyre Council Flood Risk Sequential Test – Advice for applicants (Guidance v1.2).

6.0 CONSULTATION RESPONSES

6.1 KIRKLAND PARISH COUNCIL

6.1.1 Object on grounds of traffic and pedestrian safety, flood risk, building accessibility, set a precedence for other applications.

6.2 LANCASHIRE ARCHAEOLOGY

6.2.1 The former smithy building, as a non-designated heritage asset, merited recording prior to its demolition, and that such work should be secured by means a condition.

6.3 LANCASHIRE COUNTY COUNCIL (HIGHWAYS)

6.3.1 No objections. Recommend a condition on parking and turning.

6.4 THE ENVIRONMENT AGENCY

6.4.1 No objection.

6.5 UNITED UTILITIES

6.5.1 Comments on drainage, water supply and United Utilities assets.

6.6 WBC HEAD OF ENGINEERING SERVICES (DRAINAGE)

6.6.1 No objection

6.7 WBC HEAD OF ENVIRONMENTAL HEALTH AND COMMUNITY SAFETY (CONTAMINATION)

6.7.1 Requires a condition for a desk-study.

6.8 WBC HEAD OF ENVIRONMENTAL HEALTH AND COMMUNITY SAFETY (AMENITY)

6.8.1 Based on proposed mitigation for noise and odour, no objection.

7.0 REPRESENTATIONS

7.1 10 letters of objection, points raised:

- traffic
- dangerous for pedestrians
- flooding
- inappropriate setting in relation to farm
- loss of turning area for waste, fire and rescue, delivery vehicles and haulage wagons
- danger of working farm
- livestock worrying
- obstruct access to farm
- asbestos in existing building
- loss of historic smithy building

8.0 CONTACTS WITH APPLICANT/AGENT

8.1 Revised plans 12/1/22 (latest)

8.2 Submitted flooding evacuation plan (14/12/21)

8.3 Noise assessment addendum (22/3/21)

8.4 Submitted noise assessment (18/2/21)

8.5 Submitted Flood Risk Assessment (14/1/21)

9.0 ISSUES

9.1 The main issues in this application are as follows:

- Principle of development
- Visual Impact/Design/Impact on the street scene
- Impact on Residential Amenity
- Impact on Highway/Parking
- Flood Risk and Drainage
- Ecology

Principle of development

9.2 The site is in the countryside, outside of a settlement boundary. Policy SP1 of the Adopted Local Plan directs development to within the settlement boundaries and strictly limits development outside settlements. Policy SP4 of the Adopted Local Plan sets out limited types of development that are acceptable in the countryside. New build market dwellings are not acceptable development in the countryside under Policy SP4. The proposal for 3 new build market dwellings, is therefore unacceptable in principle.

9.3 The planning statement submitted with the application sets out that the site benefits from prior approval for 3 dwellings (App. No: 20/00074/COUPA). The statement says this creates 'a realistic fall-back position' and 'the case of Mansell v Tonbridge and Malling BC (2017) EWCA Civ 1314 establishes that consideration of such Permitted Development fall-back is legally compliant'. The development permitted under application no. 20/00074/COUPA is for the change of use of the existing industrial building to 3 dwellings only, with no physical alterations to the building approved. It is subject to the condition that it must be completed by 30/4/23. Although planning permission would likely be required to be obtained for physical alterations to the building to make it habitable, such as the insertion of windows, the Class PA approval is considered to be a realistic fall-back position for the provision of 3 dwellings at the site.

9.4 National and Local Policies support re-use of existing buildings, including those in the countryside. Certain Permitted Development rights allowed for the change of use of industrial buildings under Class PA. Conversion of existing buildings can generally result in minimal visual alterations to the building or landscape, and make use of an existing building. In this case, the appellant has not sought to suggest that the existing building is not capable of conversion, but instead suggests that the current proposal would reduce the built form and improve residential amenity over the conversion under Class PA. The visual and residential amenity impacts are assessed below. There is no detailed comparison of the two schemes in terms of their resource use, so it has not been demonstrated that the proposal would be significantly more resource efficient than the approved scheme. Consequently, this does not weigh in favour of the proposal. The detailed comparison of the proposal against the fall-back position is set out in each section below. Overall, there is a realistic fall-back position which would result in the same amount of housing (3 dwellings) being delivered in the same location. Albeit, the Class PA approval was for

the change of use of existing buildings and therefore is not directly comparable to the proposal.

9.5 Policy SP2 of the Adopted Local Plan requires sustainable development. Relevant matters to this application are, ensuring housing provision to meet the needs of all sections of the community, maximise the use of previously developed land, ensure accessible places and minimise the need to travel by car, reduce and manage flood risk, and protect biodiversity, and landscape assets. The proposal would provide housing. This is not to meet a specific social need but would be of the smaller (2 bedroom) house types evidenced to be most needed in Wyre. The proposal would make use of previously developed land, being on land which accommodates industrial buildings. In relation to accessibility, there is a bus-stop, shop/fuel station, school, village hall, employment area all within around 500m of the site. However, there is no pedestrian footpath on the application site side of the road and a busy A Class road would need to be crossed to access the specified services. Therefore, the pedestrian accessibility and access to public transport is considered to be poor, therefore the proposal would not minimise the need to travel by car. As mentioned above, there exists the fall-back position of the change of use of the existing buildings to 3 dwellings under Class PA. Class PA did not allow for consideration of the accessibility of the location of the site. Nevertheless, both the current proposal and the approved scheme would result in 3 dwellings in the same poorly accessible location and therefore the two schemes would have the same impact in respect of this matter. The site is in Flood Zone 3. The matter of flooding is discussed below and the proposal is considered to propose suitable flood risk management that is a betterment over the previous approval. Ecology impacts are discussed below and are considered to be acceptable. The landscape impacts are discussed below and the proposal is considered to be visually acceptable.

9.6 Policy SP2 also requires a proposal to demonstrate a response to climate change. There is the potential for tree planting in the gardens and on the wider field to the rear. The flood risk management proposed is considered acceptable. A condition can be imposed requiring an electric car charging scheme to be agreed in accordance with Policy CDMP6 of the Adopted Local Plan. This would be a gain over the approved Class PA application. Overall, this is considered to meet the requirements on climate change for this part of Policy SP2.

Visual Impact / Design / Impact on the street scene

9.7 There is an existing industrial building on part of the application site that would be demolished as part of this application. The site is in the countryside. Policy SP4 of the Adopted Local Plan states that development which adversely impacts on the open and rural character of the countryside will not be permitted unless it is demonstrated that the harm is necessary to achieved substantial public benefits. Overall, it is assessed that the proposal would not be harmful to the open and rural character of the countryside. A condition would be required that the existing buildings be fully demolished, as the proposal would not cover the entire footprint of the existing buildings. The specific impacts are assessed below.

9.8 Scale – the dwellings would be two-storey with an eaves height of 4.75m and ridge of 6.6m. The existing maximum ridge height is 6.6m. The total volume would be 885m³ compared to an existing of 1833m³, and the total footprint 178.5m² compared to an existing of 374m². A comparison elevation of the existing and proposed has been provided, which shows that the proposal would match the eaves and ridge height of the highest existing building, which ties in with that of the existing adjacent cottages. The proposed site plan shows the existing footprint compared to

that proposed. Compared to the existing situation, bulk and mass will be lost from the rear and north of the site. There be a significant reduction in the amount of built form at the site, which would have potential visual benefits, particularly the view of the rear of the building from the A6 and wider fields. The benefits are not considered to be significant, as the current building is not overly obtrusive in the wider countryside being well screened from the A6 by trees and other buildings, and is of a similar scale to the adjacent buildings. However, the scale of development proposed is visually acceptable.

9.9 The dwellings would have gardens that would extend the residential use out into the wider field to the rear of the existing building by around 6m beyond the rear elevation of the existing building. It is not considered that this would be detrimental to the character and appearance of the wider countryside, as it would not extend out further than the existing dwelling to the north. This is a reduction in the size of gardens than proposed under refused application no. 20/00835/FUL. Although the previous Class PA approval did not include the provision of gardens, it considered reasonable that dwellings in a rural location require some outdoor amenity space.

9.10 Design – the dwellings would be of a simple style with pitched roofs. The floor levels would need to be substantially raised to provide the required flood mitigation. The dwellings are therefore proposed to be accessed with steps at the front and rear. This would be visually acceptable. The materials proposed are; coursed rubble sandstone walls, white painted render above, slate roofing, grey UPVC window frames and black rainwater goods. These would generally be appropriate, however, a condition would be required for the full specification to be agreed.

9.11 Layout – the dwellings would be staggered and set behind the front building line of the cottage to the southern side. This would in part be forwards of the footprint of the existing industrial building, but given the relationship with the existing dwellings to either side of the application site, it is not considered that this layout would be obtrusive. The semi-detached dwellings would have driveways to each side, which would visually break up the areas of parking. The detached dwelling would have parking to the front. As there is an existing area of hardstanding to the front of the building, this amount of front parking is considered to be visually acceptable. The dwellings would have sufficient space between each other and from the existing dwellings, compliant with the spacing standards in SPD4. Comparing the layout of the proposal with that of the existing building, it is considered that the proposal would have be similar in visual impact.

9.12 Levels – an existing topographic survey has been provided. This shows the land levels to the outer boundary of the site and some within it. This shows land to the adjacent properties and wider field no lower than approximately 12.0m AOD. The access road to the front is 11.5m AOD. The proposed site plan shows rear garden levels of 12.4m at the highest point. The drives and side garden are shown at 11.85m and the front gardens 11.7m. The finished floor levels of the dwellings would be 12.8m, raised 0.8m over the ground level at the front and accessible by steps. Overall, it is considered reasonable that the proposal can be carried out without significant land level changes and would be visually acceptable. The land levels can be conditioned to be implemented.

9.13 Boundaries – detailed boundary details have not been provided, therefore these will need to be conditioned to be agreed. It may be possible that a post and rail/wire fence with hedgerow could be provided along part of the rear boundary of the site, which may be most appropriate being onto the wider countryside. 2m

acoustic fencing would be required to the boundary of the plot closest to the road, which for this small length of boundary would be visually acceptable. 2m high acoustic fencing would be required to the southern boundary. As there is already a 2m high timber fence to this boundary, this would not be visually harmful.

9.14 Landscaping – a detailed landscaping scheme has not been provided, however, the general arrangement between grassed and paved areas would be acceptable. There is potential for tree planting in the rear gardens and wider field to the rear. A condition would be required for a detailed landscape scheme to be submitted and agreed. Compared to the existing situation and the approval for the change of use of the buildings, there would be some benefit from the current application over these, as it would enable some additional planting to be achieved.

9.15 Waste – bins can be stored down the side of each property, which will be visually acceptable.

Impact on Residential Amenity

9.16 Light – there is a farm opposite the front of the site and some residential barn conversions. The barn conversions would be over 30m away from the proposal which would be adequate separation to prevent an unacceptable impact on light. The dwellings would project beyond the rear elevation of the cottage to the south. The council's SPG on housing spacing standards does not provide specific guidance for such layout arrangements, however, the principles from the council's SPD used in the assessment of house extensions can be applied. Normally, a two-storey rear extension set off the boundary can project beyond the rear elevation of the main rear wall of the adjoining property by no more than half the set off distance plus 1.5m. In this case, the set off distance between the properties is 3.8m, therefore allowing for a rearwards projection of 3.4m. The projection will be 7.6m, therefore exceeding this distance by 4.2m. However, it has to be noted that the proposed dwellings would project out around 8.3m less than the existing building. So overall, it is assessed that there would be an improvement over the existing situation, in particular in relation to the mass and dominance of built form to the neighbouring cottage's rear windows and garden. The application site is to the north of the cottage, so the changes to direct sunlight will be minimal, with a slight improvement. A dwelling is situated to the north of the application site, with its frontage at an angle towards the application site. The distance from this will be approximately 11m at the closest point increasing to 17m. Normally, the council's SPG requires a spacing of 13m between two-storey dwellings where there is a front to side relationship. The proposal would be 2m less than this in part, however, the dwellings would be at an angle to each other, where the required separation distances would be exceeded in the most part. Therefore, it is not considered that there would be an unacceptable impact on light or sense of overbearing to the neighbour to this side. There are no properties to the rear to be impacted on.

9.17 Overlooking – the above mentioned separation distance would be adequate from the barn conversions opposite to prevent unacceptable overlooking. No windows are proposed in the sides of the dwellings. The cottage to the south has a small secondary window in the side. Given that this is already immediately onto the forecourt of the business and it is a secondary window, it is not considered that there would be an overlooking impact that would be greater than the existing situation to result in unacceptable amenity. The windows in the rear of the closet property to the neighbour to the north, will be at sufficient angle to avoid unacceptable overlooking. There are no properties to the rear to be overlooked.

9.18 Noise/disturbance – the proposed residential use would be compatible with the adjacent dwellings, and there is the potential for an improvement to residential amenity on this matter, with the removal of the industrial use.

9.19 Amenity of proposed occupants – the rear gardens of the properties will be of sufficient length to provide adequate outdoor amenity space for the proposed dwellings, exceeding 10.5m. Each main room in the proposed dwellings would have a window to provide outlook and light. The relationship between the proposed dwellings, and with existing buildings, would be acceptable so as to avoid unacceptable impacts on light and overlooking to the proposed occupants. The council's environmental health department have been consulted on the application and based on submitted noise and odour assessments, have no objections provided that mitigation is installed in the proposed dwellings, to protect against farm noise and odours, and road noise. This would require double glazing with trickle vents, a 2m high acoustic fence to the rear garden and a passive input ventilation system. With this mitigation it is assessed that there would not be an unacceptable impact on the amenity of the occupants from the adjacent farm. The dwellings will have their own enclosed curtilages, so there would be clear separation between them and the adjacent farm activity. They would front onto a shared access rather than onto a farm yard. Overall, a conflict between the residential and agricultural uses would be avoided.

9.20 When comparing the current proposal to the fall-back position, it would bring amenity benefits to the neighbours with a reduction in built form, and therefore less bulk and mass to the shared boundaries. The amenity of the occupants of the proposed 3 dwellings would be improved with the provision of noise and odour mitigation through a condition, and the provision of outdoor amenity space.

Impact on Highway / Parking

9.21 There is an existing access onto the A6 serving the industrial buildings. Lancashire County Council as the local highways authority have been consulted on the application and have no objections based on traffic generation or highway safety. Concerns have been raised by the Parish Council and neighbours about highway and pedestrian safety, however, based on the professional advice from LCC Highways it is assessed that the proposal will be acceptable in relation to highway safety. LCC highways have commented that 'any future development being accessed from the access road serving the site would require highways improvements and/or better protection of the sightlines onto the A6...', however, this refers to future development and has not been requested on this planning application. It should be noted that the approved Class PA application if implemented, would result in the same number of dwellings at the site, and therefore likely similar number of traffic movements. Additionally, the footprint of the existing industrial building is 374m². Under the Adopted Local Plan parking standards an industrial use of this size would have a parking requirement of 8 car spaces, which is greater than proposed in association with this current application, where 6 car spaces are proposed. This provides an indication that the current industrial use could have greater parking requirements and therefore associated traffic movements than the proposed dwellings.

9.22 Comments have been raised by LCC Highways that the parking for the proposed semi-detached dwellings is to be 'stacked' and 'as such only one parking space is easily accessible. It is LCC Highways opinion therefore that only one parking space is being provided for the two-semi-detached dwellings'. The plans show two parking spaces for the semi-detached dwellings on a drive arrangement.

This is considered a typical parking arrangement for a residential dwelling, therefore is considered by the planning officer to provide adequate parking provision. A condition can be used for the parking to be provided and retained as shown.

9.23 Some neighbour comments have been received raising concerns about the loss of turning on the forecourt of the site, including for waste collection vehicles and deliveries. This is private land, owned by the applicant, therefore it is not part of a public space available for turning. Additionally, it could currently be used by the industrial use for parking. No objections have been raised by LCC Highways on turning for larger vehicles. On the previously refused application no. 20/00835/FUL the council's waste department had no objections to a similar site arrangement. It is therefore concluded that there is suitable provision for waste collection vehicles to access the site. A neighbour has commented about obstruction of the access, however, right of access would be a private legal matter on the private road.

Flood Risk and drainage

9.24 The application site is in Flood Zone 3. A Flood Risk Assessment (FRA) has been provided with the application and The Environment Agency and council's drainage engineer consulted on this. The Environment Agency have no objections to the proposal, provided that the FRA is conditioned to be implemented. This shows finished floor levels of 12.8m AOD. The Environment Agency have confirmed that there would be a flood benefit from the newly constructed dwellings under this application over the Class PA approval, as they can provide higher floor levels. They state, 'the future occupants of the approved conversions (20/00074/COUPA) would be more reliant on managing flood risk and flood proofing measures (deploying barriers, evacuating if required, dealing with the aftermath/internal damage), compared with the proposed new houses because the constraints of the existing buildings mean the FFLs cannot be raised as high'. The floor levels on application 20/00074/COUPA were approved at 11.85m AOD for one building and 12.3m AOD for the main workshop building. Therefore, the current proposal would reduce flood risk as a result of the increase in levels by 0.95m and 0.5m respectively. Based on the advice from The Environment Agency, it is considered that this would bring a significant flood risk benefit of the current proposed dwellings, over those granted approval under the Class PA.

9.25 As the proposal is for new build development in Flood Zone 3, a sequential test on flooding is required to be passed to meet the requirements of the NPPF and Policy CDMP2 of the Adopted Local Plan. The submitted FRA includes a sequential test. This states 'the development is proposed to provide an alternative to an extant permission which evidently fixes the development location. Thus, only land in this specific location, that falls within the client's ownership can serve the need for the dwellings. Adjacent to the site, any undeveloped land which is at a lower flood zone is land that does not lie within the ownership of the applicant. The applicant must therefore look to land within the existing site boundary, which is all classified as being in Flood Zone 3 defended'. This is an incorrect application of the sequential test, which requires sites that are reasonably available for the development at a lower risk of flooding be used. Although, there is a Class PA approval for the change of use of the existing industrial buildings to 3 dwellings, the current proposal is for new built dwellings, which could be provided on land at a lower risk of flooding. For sequential test purposes this land is not required to be under the ownership of the applicant. The council's advice for applicants on the flood risk sequential test (v1.2) sets out that the geographical area of search is the whole borough. 'The council views residential development of all sizes – whether for market or affordable housing - as a strategic matter which will normally be considered on a whole-borough basis...'. As a

sequential test has not been carried out on this basis, the proposal fails the sequential test, contrary to the NPPF and Policy CDMP2 of the Local Plan. The fall-back position would allow for 3 dwellings at the site, however, that approval was for a change of use under Class PA, where a sequential test was not a policy requirement or controllable by the Local Authority, and as an existing building was being utilised could not be expected to be provided in another location. However, as the current application is for new build dwellings in flood zone 3, it is a National and Local policy requirement that a sequential test be provided, and so reasonable that alternative sites at a lower risk of flooding are considered. This has not been done.

9.26 Only when the sequential test is passed should the exceptions test be applied. Notwithstanding the failure to pass the sequential test the exceptions test will be considered for clarity. As the proposal is for 'more vulnerable' development in Flood Zone 3, it is required that the exceptions test be passed. The exceptions test part 1 requires the proposed development to show that it will provide wider sustainability benefits to the community that outweigh flood risk. This has been not provided with the application and therefore this test is not passed. The exceptions test part 2 requires development to be safe for its lifetime, without increasing flood risk elsewhere and where possible reduce flood risk overall. As the FRA is considered to be acceptable by The Environment Agency and council's drainage engineer, this part of the test is passed.

9.27 The council's drainage engineer has been consulted on the application. United Utilities have commented that the sustainable drainage hierarchy should be followed. A condition can be used to require foul and surface water details to be agreed, to ensure that the most sustainable drainage option is used. An informative could also be added to any permission granted, about United Utilities assets and water supply.

Ecology

9.28 An ecology survey has been submitted with the application. This was carried out on 3/6/2019 by a suitably qualified ecologist. Although the survey is not up-to-date, as at that time it was concluded the building/s had a low potential for bats, it is not considered that there would have been significant changes in this time. However, as a precaution an informative can be used to make them aware of legislation relevant to protected species. Also, a condition can be used to ensure that demolition of the existing building/s is not carried out during the nesting bird season. As the buildings have previously provided nesting sites for birds, a condition can be used to require habitat enhancements, including bird box provision. The mitigation in the report can be conditioned to be implemented. An additional survey found Himalayan Balsam on the site. A condition could be added for the removal and management of this invasive plant. The site falls in an SSSI impact zone, however, for this type of development in this location, there are no concerns about impacts on protected habitats nor a requirement to consult Natural England. The ecological impacts for this application are considered similar to the fall-back position.

Other Issues

9.29 The council's environmental protection department have commented on the application and require a desk-study on contamination. If planning permission is granted, this can be conditioned to be provided. So as to protect the environment and human health. A neighbour comment has been raised about asbestos on the site. This should be addressed in the desk-study, but would nonetheless be subject to separate legislation.

9.30 The Parish Council raise concerns about the accessibility of the proposed dwellings. It is acknowledged that they will require stepped access due to the raised floor levels. There is no Adopted Local Plan Policy requirement that the dwellings on a housing development of this scale be required to meet accessibility standards. However, this may be a requirement of separate legislation, such as building regulations. The requirements that may or may not be required under separate legislation is not a material planning consideration.

9.31 Due to the historic nature of the Smithy, Lancashire Archaeology require a condition for building recording. This is appropriate in order to suitably record the asset in accordance with Policy CDMP5 of the Adopted Local Plan. The approval for the change of use of the buildings would have ensured the retention of the smithy building, however, as Lancashire Archaeology have no objections to the removal of the building, it is not considered that there would be unacceptable harm to heritage assets from the current proposal.

9.32 An objection has been raised about potential livestock worrying from the proposal. This would be the dog owner's responsibility and subject to separate legislation.

9.33 The site falls in a mineral safeguarding area. It is not considered that the development of the area of land proposed which is already mainly built on, would have an unacceptable impact on the use of the mineral asset.

9.34 United Utilities comment about their assets. There is a public sewer in the vicinity of the site. An informative could be added about this.

10.0 CONCLUSION

10.1 The current proposal directly conflicts with the Local Plan in principle, as it is for market dwellings in the countryside and is in a poorly accessible location in terms of access by sustainable means. Additionally, it does not pass the sequential and exception tests on flooding, as assessed under the flood risk section of this report. A previous planning application for the erection of 3 detached dwellings (application no. 20/00835/FUL) was refused for reasons including being unacceptable development in the countryside and failing the sequential test on flooding. These factors weigh against the development. There is, however, a fall-back position under extant Prior Approval application 20/00074/COUPA, which means that the existing buildings can be changed in use to 3 dwellings. Although for new build dwellings and therefore not directly comparable, the current proposal would result in the same number of dwellings at this site. In this report it is assessed that the current proposal would deliver significant benefits compared to the Prior Approval fall-back position, specifically in relation to flood risk management, with significantly higher floor levels. The Environment Agency advise that the new build dwellings would bring flood risk management improvements for the occupants. There would also be some visual and neighbouring amenity improvements with a reduction in built form and removal of an industrial use. There are other gains, including that this current proposal will allow for the requirement of landscaping, noise and odour mitigation for the new dwellings, and provision of car charging facilities, which could not be achieved through the Prior Approval application. Although the development plan (Local Plan) is the starting point for decision-making, the NPPF states 'local planning authorities may take decisions that depart from an up-to-date development plan, but only if material considerations in a particular case indicate that a plan should not be followed'. In this case, as 3 dwellings could currently realistically be provided at the site under the fall-back

position of the Class PA approval, and the current proposal would bring a betterment over that scheme, especially with the flood risk management gains, these material considerations are considered to outweigh the conflict with the development plan in this instance.

11.0 HUMAN RIGHTS ACT IMPLICATIONS

11.1 ARTICLE 8 - Right to respect the private and family life has been considered in coming to this recommendation.

11.2 ARTICLE 1 - of the First Protocol Protection of Property has been considered in coming to this recommendation.

12.0 RECOMMENDATION

12.1 Grant planning permission subject to conditions

Recommendation: Permit

Conditions: -

1. The development must be begun before the expiration of three years beginning with the date of this permission.

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

2. The development shall be carried out, except where modified by the conditions to this permission, in accordance with the Planning Application received by the Local Planning Authority on 3/12/20 including the following plans/documents:

- Site location plan GA3214-PL03-01G
- Site layout as proposed GA3214-PL03-03G
- Plans as proposed GA3214-PL03-05G
- Proposed elevations GA3214-PL03-06G
- Existing and proposed strip elevations GA3214-PL03-07G

The development shall be retained hereafter in accordance with this detail.

Reason: For the avoidance of doubt and so that the Local Planning Authority shall be satisfied as to the details.

3. No development shall take place until full details of both hard and soft landscaping works have been submitted to and approved in writing by the Local Planning Authority. These details shall include, areas of soft landscaping (including any retained trees, hedgerows and other planting and any replanted or transplanted hedgerows), hard surfaced areas and materials, planting plans specifications and schedules (including plant size, species and number/ densities), existing landscaping to be retained, and shall show how account has been taken of any underground services.

The landscaping works shall be carried out in accordance with the approved details prior to first occupation or first use of any part of the development or otherwise in

accordance with a programme agreed in writing by the Local Planning Authority and shall thereafter be retained and maintained.

Any trees or shrubs planted in accordance with this condition which are removed, uprooted, destroyed, die, or become severely damaged or seriously diseased within 7 years of planting, or any trees or shrubs planted as replacements shall be replaced within the next planting season by trees or shrubs of similar size and species to those originally required to be planted, unless the Local Planning Authority gives its written consent to any variation.

Reason: To ensure the site is satisfactorily landscaped in the interests of visual amenity and ecology in accordance with Policies CDMP3 and CDMP4 of the Wyre Local Plan (2011-31) and to ensure compliance with the Wildlife and Countryside Act 1981 and section 15 of the National Planning Policy Framework. The details are required to be approved prior to commencement of development to ensure landscaping is implemented at an appropriate time during the development.

4. No development shall take place until, a plan indicating the positions, design, materials and type of boundary treatment to be erected, shall be submitted to and approved in writing by the Local Planning Authority. The approved boundary treatment shall be completed before the dwelling(s) is first occupied. The approved details shall thereafter be maintained and retained.

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

5. Prior to the commencement of development a desk study to investigate and produce an assessment of the risk of the potential for on-site contamination shall be undertaken and submitted to and approved in writing by the Local Planning Authority. If the desk study identifies potential contamination, a detailed site investigation shall be carried out in accordance with a written methodology, which shall first have been submitted to and approved in writing by the Local Planning Authority. If remediation measures are then considered necessary, a scheme for decontamination of the site shall be submitted to, and approved by, the Local Planning Authority in writing and the approved scheme implemented prior to the development of the site, and validation of the approved measures shall be submitted to, and approved by, the Local Planning Authority in writing on completion of the works. Any changes to the approved scheme must be approved in writing by the Local Planning Authority prior to any works being undertaken.

Reason: The development is for a sensitive end use and insufficient information has been submitted with the application as to the potential contamination risks of the site. The potential for contamination must therefore be addressed in order to safeguard the development in accordance with Policy CDMP1 of the Wyre Local Plan (2011-31).

6. No development, clearance, demolition, site preparation or other works shall take place on the original stone-built portion of the building complex until the applicant or their agent or successors in title has secured the implementation of a programme of building recording, analysis and reporting work. This must be carried out in accordance with a written scheme of investigation, which shall first have been submitted to and agreed in writing by the Local Planning Authority. The programme of works should comprise the creation of a record of the building to level 2-3 as set out in "Understanding Historic Buildings" (Historic England 2016). It should include a

full description of the building, inside and out, drawn plans, elevations and at least one section (which drawings may be derived from checked and corrected architect's drawings), and a full photographic coverage, inside and out. The record should also include a rapid desk-based assessment, putting the building and its features into context. The work must be undertaken by an appropriately qualified and experienced professional contractor to the standards and guidance of the Chartered Institute for Archaeologists. A copy of this record shall be submitted to the Local Planning Authority and the Lancashire Historic Environment Record before any dwelling hereby approved is first occupied.

Reason: To ensure and safeguard the recording and inspection of matters of archaeological/historical importance associated with the site in accordance with Policy CDMP5 of the Adopted Local Plan, and the NPPF.

7. Prior to the commencement of development, a drainage scheme, which shall detail measures for the attenuation and the disposal of foul and surface waters, together with details of existing and proposed ground and finished floor levels to achieve the drainage scheme and any flood risk mitigation deemed necessary, shall be submitted to and approved in writing by the Local Planning Authority. The surface water drainage scheme shall be in accordance with the hierarchy of drainage options outlined in Policy CDMP2 of the Adopted Local Plan 2011-31 or any equivalent policy in an adopted Local Plan that replicates the existing Local Plan, with evidence of an assessment of the site conditions to include site investigation and test results to confirm infiltrations rates to be submitted. For the avoidance of doubt, surface water must drain separate from the foul and unless otherwise agreed in writing by the Local Planning Authority, no surface water shall discharge to the public sewerage system either directly or indirectly.

No part of the development shall be occupied or brought into first use until the drainage works and levels have been completed in accordance with the approved scheme. Thereafter the agreed scheme shall be retained, managed and maintained in accordance with the approved details.

Reason: To promote sustainable development using appropriate drainage systems, to prevent an undue increase in surface water run-off to reduce the risk of flooding and in the interests of visual and residential amenity in accordance with policies CDMP2 and CDMP3 of the Wyre Local Plan (2011-31) and the National Planning Policy Framework. The condition is required to be approved prior to commencement of development to ensure that full details are provided, that have not been forthcoming with the application, to ensure a suitable form of drainage is provided in that specific area taking into consideration land conditions and proximity to existing services and to ensure that any proposed raising of levels can be assessed and that a coherent approach is taken with regard to the design of drainage and housing layout.

8. Prior to the commencement of development a Landscape and Habitat Creation and Management Scheme, including a timetable for implementation, shall be submitted to and approved in writing by the Local Planning Authority. The Scheme shall identify the opportunities for biodiversity enhancement on site including (but not limited to):

- Native tree and shrub planting
- Hedgerow planting
- Bolstering of existing hedgerows

- Bird Boxes

The Landscape and Habitat Creation and Management Scheme shall be carried out in accordance with the approved details.

Reason: Such a scheme was not submitted with the application but is necessary to secure opportunities for the enhancement of the nature conservation value of the site in the interests of ecology and biodiversity in accordance with the Wildlife and Countryside Act 1981, Policy CDMP4 of the Wyre Local Plan (2011-31) and section 15 of the National Planning Policy Framework.

9. Prior to the commencement of the works on the dwellings hereby approved, the existing buildings at the application site, as shown on the approved site plan shall be entirely demolished, and any leftover materials removed from the site.

Reason: To protect visual amenity in accordance with Policies SP4 and CDMP3 of the Wyre Local Plan (2011-31) and the National Planning Policy Framework.

10. Prior to the commencement of the development hereby approved, the agreed method statement for the control of Himalayan Balsam [Envirotech letter 13/6/2019] shall be implemented in full, unless carried out in accordance with an alternative timetable for implementation submitted to and approved in writing by the Local Planning Authority.

Reason: In the interests of ecology and biodiversity in accordance with the Wildlife and Countryside Act 1981, Policy CDMP4 of the Wyre Local Plan (2011-31) and section 15 of the National Planning Policy Framework.

11. No development above ground level shall be commenced until details of the materials to be used in the construction of the external surfaces of that dwelling(s) (including the external walls, roof, and windows) have first been submitted to and approved in writing by the Local Planning Authority. The development shall be carried out using the approved materials.

Reason: To safeguard the visual amenities of the locality and in accordance with Policy CDMP3 of the Wyre Local Plan (2011-31).

12. The development hereby permitted shall be carried out in accordance with the approved Flood Risk Assessment (FRA) [GA3214; published on the LPA website on 14 January 2021] and flood emergency plan [published on the LPA website on 14 December 2021], and the following mitigation measures detailed within the FRA:

1. The floor level of the properties is to be set at 12.80m AOD
2. Flood proofing measures are to be incorporated into the building designs including:
 - Forming the ground bearing slab in solid concrete
 - Incorporate a non-return valve on the drainage system
 - Connect incoming services at high level on the face of the building
 - Locating all fittings, fixtures and services above design floor level
 - Using UPVC skirting / architraves and flood resistant linings internally
 - Using storm dry additives to mortar and masonry cream application to limit penetrating water to external masonry

- Used closed cell insulation to walls and floors
- Provide movable flood barriers for door openings

The mitigation measures shall be fully implemented prior to first occupation of the development or subsequently in accordance with the timing/phasing arrangements embodied within the scheme, or within any other period as may subsequently be approved in writing by the Local Planning Authority.

Reason: To reduce the risk of flooding to the proposed development and future occupants in accordance with Policy CDMP2 of the Wyre Local Plan (2011-31) and the National Planning Policy Framework.

13. The ground and finished floor levels shall be constructed and completed in accordance with the approved details [Site layout as proposed GA3214-PL03-03G].

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).

14. No dwelling hereby approved shall be first occupied until the parking shown on the approved plan [Site layout as proposed GA3214-PL03-03G] as relating to that dwelling has been laid out, surfaced and drained. The parking areas shall thereafter be retained and maintained and not used for any purpose other than for the parking and manoeuvring of vehicles without express planning consent from the local planning authority first being obtained.

Reason: To ensure that adequate off road parking is provided and retained to serve the development in the interests of highway safety and in accordance with the provisions of Policy CDMP6 of the Wyre Local Plan (2011-31).

15. Prior to the first occupation of the development hereby approved, the noise mitigation and control of odour measures set out in the supporting assessment submitted with the application [Acoustic and Odour Assessment January 2021 Report No: 2039-1] shall be implemented, and the following mitigation measures detailed within the assessment:

- 6/12/6 double glazing unit that provide a sound reduction, $R_w(C;Ctr)$, of 33(-1;-3) for all the windows in the dwellings.
- The installation of an alternative ventilation system incorporating acoustic trickle ventilators for all windows to habitable rooms to the dwellings.
- The erection of a 2.0m high close boarded fence of at least 12Kg/m³ around the garden area
- Installation of positive input ventilation (PIV) system, with an additional carbon filter to remove odour and particulates, located within the roof space of the dwellings.

The approved noise and control of odour mitigation measures shall thereafter be retained and maintained.

Reason: To ensure there is no adverse effect on the health and quality of life of future occupants and to avoid an unacceptable impact on residential amenity by virtue of noise in accordance with Policy CDMP1 of the Wyre Local Plan (2011-31).

16. An electric vehicle recharging (EVCP) scheme shall be submitted to and agreed in writing by the Local Planning Authority for all dwellings with parking provision unless it is demonstrated that such provision of EVCP is not practical in communal parking areas or due to other identified site constraints. No dwelling shall be occupied until the agreed electric vehicle recharging point scheme has been provided for the dwelling to which it relates, and such electric vehicle recharging point shall be maintained and retained for that purpose thereafter.

Reason: To ensure the provision of appropriate on-site mitigation to compensate for the impact on air quality caused by the development in the surrounding area in accordance with Policy CDMP6 of the Wyre Local Plan (2011-31).

17. No demolition, tree felling, tree works or works to hedgerows shall take place during the optimum period for bird nesting (March to August inclusive) unless a report, undertaken by a suitably qualified person immediately prior to any clearance, has been submitted to and approved in writing by the Local Planning Authority, demonstrating that nesting / breeding birds have been shown to be absent.

Reason: To protect and prevent unnecessary disturbance of nesting birds in accordance with the provisions of the Wildlife and Countryside Act 1981 and section 15 of the National Planning Policy Framework.

18. The development hereby approved shall be implemented in full accordance with the Ecological Appraisal submitted with the planning application [Envirotech report reference 5347] including all the mitigation measures set out in that report.

Reason: To ensure compliance with the Wildlife and Countryside Act 1981, Policy CDMP4 of the Wyre Local Plan (2011-31) and section 15 of the National Planning Policy Framework.

Notes: -

1. Relevant archaeological standards and lists of potential contractors can be found on the ClfA web pages: <http://www.archaeologists.net> and the BAJR Directory: <http://www.bajr.org>. 'Understanding Historic Buildings' can be accessed online at <https://historicengland.org.uk/images-books/publications/understanding-historic-buildings/>

2. Each individual unit will require a separate metered supply at the applicant's expense and all internal pipework must comply with current water supply (water fittings) regulations 1999. The level of cover to the water mains and sewers must not be compromised either during or after construction. Should this planning application be approved, the applicant should contact United Utilities by telephoning 03456 723 723 or writing to Warrington North WwTW, Gatewarth Industrial Estate, off Liverpool Road, Sankey Bridges, Warrington, WA5 1DS.

3. It is the applicant's responsibility to demonstrate the exact relationship between any United Utilities' assets and the proposed development. United Utilities' offer a fully supported mapping service and recommend the applicant contact the Property Searches Team by telephoning 0870 751 0101 to obtain maps of the site. Due to the public sewer transfer, not all sewers are currently shown on the statutory sewer records, if a sewer is discovered during construction; please contact a Building Control Body to discuss the matter further.

4. The site falls in

5. Flood Zone 3. It is therefore recommended that flood proofing measures are considered by the applicant and incorporated into the development where appropriate.

Further details are available on the GOV.UK website:-

- Improving the flood performance of new buildings: flood resilient construction (<https://www.gov.uk/government/publications/flood-resilient-construction-of-new-buildings>)
- Prepare your property for flooding (<https://www.gov.uk/government/publications/prepare-your-property-for-flooding>)

Further Preparing for Floods guidance is also available on the Planning Portal website at

<http://www.planningportal.gov.uk/buildingregulations/goodpractice/preparingforfloods>

6. The future occupants can phone Flood line on 0345 988 1188 to register for a flood warning, or visit <https://www.gov.uk/sign-up-for-flood-warnings>. It's a free service that provides warnings of flooding from rivers, the sea and groundwater, direct by telephone, email or text message. Anyone can sign up.

By getting an advanced warning it will allow protection measures to be implemented as well as evacuating people off site. For practical advice on preparing for a flood, visit <https://www.gov.uk/prepare-forflooding>

To get help during a flood, visit <https://www.gov.uk/help-during-flood> .

For advice on what do after a flood, visit <https://www.gov.uk/after-flood> .

6. It is an offence to disturb, harm or kill any species specifically protected under the Wildlife and Countryside Act 1981. In the event of any such species being unexpectedly encountered before and during site clearance or development work, then work shall stop immediately until specialist advice has been sought from a suitably qualified Ecologist regarding the need for additional survey(s), a license from Natural England and/or the implementation of necessary mitigation measures.

7. If any part of the proposed development encroaches onto neighbouring property the approval of the adjoining owners should be obtained before the development is commenced.