



Appeal Decision

Hearing held on 22 February 2022

Site visits made on 21, 22 and 23 February 2022

by S Dean MA MRTPI

an Inspector appointed by the Secretary of State

Decision date: 04 March 2022

Appeal Ref: APP/N4205/W/20/3262736

Land at Lever Park Avenue, Horwich, Bolton, BL6 7LQ, 363604, 412446

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a refusal to grant planning permission.
 - The appeal is made by Eccleston Homes Ltd against the decision of Bolton Metropolitan Borough Council.
 - The application Ref 08075/20, dated 3 March 2020, was refused by notice dated 30 September 2020.
 - The development proposed is the erection of 75No dwellings with associated parking, landscaping, drainage, access and other associated works.
-

Decision

1. The appeal is allowed, and planning permission is granted for the erection of 75No dwellings with associated parking, landscaping, drainage, access and other associated works on Land at Lever Park Avenue, Bolton, BL6 7LQ in accordance with the terms of the application, Ref 08075/20, dated 3 March 2020, subject to the conditions in the schedule attached to this decision.

Preliminary Matters

2. A signed Statement of Common Ground (SOCG) was submitted prior to the hearing. Both main parties confirmed in discussion that their position on the issues within it, both agreed and not agreed had not changed.
3. Notably, the SOCG set out agreement on the principle of development, the housing land supply position in the Borough, that the site is not a valued landscape within the meaning of the National Planning Policy Framework (the Framework), and issues around biodiversity. The SOCG also defined the areas of disagreement between the parties.

Main Issues

4. As a result, the main issues are;
 - whether the appeal site is a suitable location for the development proposed having regard to the development plan,
 - the effect of the proposal on the character and appearance of the area, including the landscape setting, and
 - whether the proposal would enhance the biodiversity of the area.

Reasons

Location

5. As set out in the SOCG, the appeal site is land which Policy CG6AP of Bolton's Allocations Plan (the BAP) designates as Other Protected Open Land (OPOL). This is land not allocated for development, not Green Belt and not subject to any other designation. The supporting text to this policy notes that some of this land could be appropriate for development in the future.
6. Policies OA1.4 and OA1.6 of Bolton's Core Strategy Development Plan Document (the Core Strategy) seek to concentrate new housing for Horwich in the town centre, at the Loco Works site and other sites in the existing urban area, as well as ensuring that protected open land around Horwich remains undeveloped.
7. The proposal is therefore contrary to the development plan with respect to its siting, being on OPOL and not allocated for development. The parties agree on this position, and having regard to the development plan, I concur.

Character and appearance

8. The proposal would clearly alter the character and appearance of the appeal site and area around it, as an open field would be developed. However, it does not automatically follow that such an alteration would be harmful or unacceptable.
9. Lever Park Avenue has a mixed character and appearance. From its junction with Scholes Bank to the appeal site, it is lined with houses of mixed character and appearance, albeit generally larger than those to the east, but with a variety of forms, masses, scales, materials and relationship to the street and each-other.
10. In that context, I do not consider that the design of the part of the proposal which would most closely relate to Lever Park Avenue would be out of character or appear fundamentally different to its immediate surroundings.
11. In particular, the location and relationship of the balancing pond, site entrance, proposed landscaping and houses closest to Lever Park Avenue would, in my view, all combine to deliver an apparently lower density entrance to the site, which would then increase across the site. To my mind, this layout and approach to the density, design, character and appearance of the site would ensure that it is appropriate to the established character and appearance of Lever Park Avenue itself, and other higher-density, more consistent development to the south and east. This design approach would also limit the visual effect of the proposal, particularly when climbing Lever Park Avenue, preserving views of the woodland across the entrance to, and first part of the site.

12. Other streets, accessed from but having a spatial and visual relationship to Lever Park Avenue, and also therefore contributing to the established character and appearance of the area, are very different to it. Notably, Fearnhead Avenue to the south of the site appears as a long, straight road, rising up and away from Lever Park Avenue, featuring a limited variety of closely-related standard house types. Kemble Close to the south-east of the site is also very different to the established character and appearance of Lever Park Avenue in particular.
13. I accept the point made by the Council that these areas of housing may no longer reflect design ideals and aspirations expressed in contemporary national and local policy. However, they do form part of the established character and appearance of the area, and given that their presence, their own character and appearance, does not harm the overall character and appearance of the area, I do not find that the proposal, which shares some of those features, would as a result of its design and layout, cause harm to the character and appearance of the area.
14. I have also carefully considered the evidence and the discussion at the hearing with regard to the detailed design and final appearance of the proposal, including the landscaping and its relationship to the surrounding area and trees to the north. Taking that into account, I am satisfied that the appearance of the development would be acceptable, that it would not be dominated by fences, walls or parked cars, and that the landscaping would soften the appearance of the proposal and would integrate well with the surrounding landscape. I do not find the specific criticisms of the detailed design of the site and its layout, that the house types and finishes are poorly integrated, of poor design or overly urban are sustained, nor do I find that they would cause harm.
15. The Council has referred in particular to views across the site, towards the hills and wider landscapes beyond, notably from Lever Park Avenue. Whilst such views would change as a result of the proposal, I do not consider that the development would lead to a total loss of the wider, distant landscape and scenic views above and beyond the site. The foreground to these views would change, but I do not consider this change to be unacceptable. Indeed, the net effect, of an obviously scenic wider landscape being visible above and beyond a residential development would not be entirely alien to the area, as it is a type of view widely experienced elsewhere around the site.
16. Turning to the landscape setting of the proposal, as noted above, it is common ground that the site is not a valued landscape in Framework terms. It is clear however, particularly from third-party representations that the site has a degree of local value in terms of its appearance and the uses to which it has been put over time.
17. From discussion at the hearing, and from the evidence of the main parties and third parties, it is clear that there are also conceptual differences around the understanding of what and where Lever Park is. There is the formal, designed and designated, now listed park, with boundaries mapped and formalised. There is also Lever Park as understood by "*the man on the Horwich omnibus*" which starts at the engraved stone pylons at the junction of Lever Park Avenue and Scholes Bank.

18. The appeal site lies adjacent to, but not within the Grade II listed Lever Park. The site does therefore contribute to the setting of the park insofar as it lends an open view towards the boundary of the park itself. In my view, the contribution of the site to the significance of the park as a designated heritage asset is neutral. Although the site is an undeveloped open field, adjacent to the park boundary which allows views across it of the woods which form the boundary to the park, I find that the boundary to the formal park is a strong and discrete one, clearly demarcating the park from the town.
19. In addition, the park is a design concept and entity in and of itself, which has a central core and layout some distance from, and, as a result of my findings above, unaffected by, the proposal. To my mind this effect is reinforced by the location of the last house on Lever Park Avenue opposite the entrance to the site, as well as the allotments, houses on Fearnhead Avenue and Kemble Close, as well as the location of the school, lying between the site, the formal park boundary and the wider park.
20. The proposal would alter the setting of the park as development of the site would change the character of the site itself. The particular layout of the proposal, with the permanently wet balancing pond, landscaping and planting at the western end of the site, and then the gradual increase in number and density of dwellings across the site, away from Lever Park Avenue, as well as the existing trees to the south, all combine to limit the overall effect of the proposal on views towards the park when travelling up Lever Park Avenue.
21. Taking all of this together, I find that although the appeal proposal would alter the setting of the listed park, given the discrete nature of the site boundaries, and the limited effects beyond those boundaries, and having given great weight to the asset's conservation, I am satisfied that the proposal would not harm the setting of the listed park or its significance as a designated heritage asset. I therefore find there is no harm to the setting of the park, and as a result, no harm to the significance of it as a designated heritage asset.
22. However, even if I were to find the less than substantial harm which the Council has found, I consider that it would be outweighed by the significant public benefit of 75 additional dwellings in an area where there is an agreed persistent and significant shortfall in the delivery of housing.
23. Further to Policy CG6AP of the BAP, the Council commissioned LUC to prepare a Review of Protected Open Land in Bolton (the LUC report), published in 2018. This report reviewed OPOL sites to assess issues likely to be important in any future planning applications for the development of OPOL and to ensure that any future development proposals could be assessed more robustly. That report assessed land at Lever Park Avenue under a number of criteria and concluded that the site is of low landscape sensitivity to development and is considered to have capacity to accommodate some development from a landscape perspective.
24. Taking the conclusions of that report, together with my findings above, the evidence around the localised visual and landscape effects of the proposal and the contents of the SOCG, I find that the proposal would have an acceptable effect on the character and appearance of the area, including the landscape setting.

25. I note the local value placed on the site, particularly in third-party representations. However, in light of my conclusions around the effects and appearance of the entrance to the site in particular, and the effects of the proposal on the wider area of Lever Park Avenue, I do not find the proposal would cause unacceptable harm. I must also balance the desire of third-parties to see this site remain an open field against the established, unmet, need for housing in the area.
26. I therefore find that the proposal would maintain and respect the character and appearance of the area, including its landscape setting, and this effect would be acceptable. In those respects, it would not conflict with Policies CG3, OA1.9 and OA1.11 of the Core Strategy. These policies seek, amongst other things, to ensure that development delivers good urban design, which is compatible with and conserves local distinctiveness, has regard to and is compatible with the overall built character and landscape quality, and does not harm landscape setting.
27. As a result, the proposal would also not conflict with the spatial vision for Bolton set out in the Core Strategy, which seeks to protect the high-quality visual environments of the outer areas of the borough, and only allowing development where the character of the area allows it.
28. I note the suggestion of the Council that the proposal would be inconsistent with the aims of the Framework to achieve well-designed places, which are beautiful, sustainable and distinctive, with a consistent and high-quality standard of design. However, having paid close regard to the evidence of the parties, the discussion at the hearing, the established character and appearance of the area around the site and my own observations during my site visits, I am satisfied that the proposal does not conflict with the aims of section 12 of the Framework, or indeed, the tests in paragraph 130.

Biodiversity

29. Policy CG1.1 of the Core Strategy commits the Council to "safeguard and enhance the rural areas of the Borough from development that would adversely affects its biodiversity".
30. It is common ground between the parties that, subject to appropriate mitigation and conditions, the proposed development would not directly harm the features within or the purposes of the designation of the nearby SSSI, Site of Biological Importance or Biological Heritage Site¹.
31. It is also common ground that subject to appropriate mitigation and the imposition of recommended conditions, the proposal would safeguard biodiversity². Given that, the proposal would not subject this area of the Borough to development that would adversely affect its biodiversity.
32. It is also common ground between the parties that there is currently no policy requirement for the site to deliver a minimum of 10% biodiversity net gain³.

¹ SOCG paragraphs 5.22-5.23

² SOCG paragraph 5.24

³ SOCG paragraph 5.25

33. Notwithstanding that, disagreement remains as to how much biodiversity enhancement the proposal should deliver, and whether or not the amount proposed would be acceptable. Having had regard to the evidence submitted, and the discussion at the hearing, I am satisfied that subject to the imposition of the agreed conditions, the proposal would give rise to biodiversity net gain, albeit not to the level sought by the Council. A measurable gain arises from the application of the DEFRA Biodiversity Metric 2.0 (the Metric), and there are other biodiversity enhancements proposed which are outside the ability of the Metric to measure.
34. However, as it was agreed that there is no current policy or legislative requirement for a specific amount of biodiversity net gain, I consider that the proposal meets the requirements of both the development plan and the aspirations of the Framework.
35. The policy and legislative aspirations for greater biodiversity net gain are material, but I am not persuaded that these aspirations in themselves require me to find that compliance with the development plan is insufficient.
36. It is important to note that the biodiversity enhancement above and beyond the biodiversity baseline of the site would also be accompanied by the delivery of 75 dwellings, which the Council accepts is a significant benefit in an area of persistent and significant shortfall in the delivery of housing in the Borough.
37. I therefore find that although not to the level preferred by the authority, the proposal would enhance the biodiversity of the area, and its overall effect on biodiversity would not conflict with policy CG1.1 of the Core Strategy which seeks to avoid adverse effects on biodiversity.

Other Matters

38. Third parties have suggested that there are covenants on the land, which could prevent the proposal being implemented. The planning process does not override separate legal rights, nor does it provide legal rights where none currently exist. As such, it remains for the appellant to secure such rights and address any covenants, separately from the planning application and appeal process.
39. As noted in my Preliminary Matters above, a signed SOCG addressed all other, remaining matters relating to the development of the site, setting out that the Council was satisfied with the proposal with regard to highways matters, local infrastructure, healthcare effects, public open space, minerals, public rights of way, crime, trees, flooding and drainage matters, potential land contamination, noise and air quality and all other amenity considerations.
40. I note that third parties have also raised concerns over many of these matters. However, in light of the responses of consultees, the evidence presented in the appeal, and the SOCG, I agree with the position of the main parties that the proposal is acceptable in respect of all other matters.

Planning Balance

41. It is common ground that housing land supply in the Borough is insufficient, and that there has been a persistent and significant shortfall in the delivery of housing. It is also common ground that none of the footnote 7 policies apply to the proposal, and that the proposal should be considered in the context of the presumption in favour of sustainable development found in paragraph 11 of the Framework. I agree with this conclusion.
42. It therefore falls to consider whether any adverse impacts of granting planning permission would significantly and demonstrably outweigh the benefits of the proposal when assessed against the policies in the Framework taken as a whole.
43. I have found development plan conflict in the proposal, which is an adverse impact. As set out above, this is limited to the location of the site on land not otherwise allocated for development. The Council does acknowledge that OPOL land may be required for future development, and the LUC Report notes the capacity of the site for development. The loss of an otherwise undeveloped field could also be framed as a minor adverse impact, given this identified development plan conflict.
44. Against that adverse impact, the proposal would lead to the delivery of housing which parties agree would contribute towards meeting the identified local housing need and requirements of the development plan, including affordable housing, without harm to biodiversity, character and appearance or landscape setting, in a location with clear housing need and a persistent and significant shortfall in the delivery of housing particularly in recent years.
45. There are also socio-economic benefits arising directly from the development of the site itself, as well as first occupation expenditure, council tax, and ongoing local expenditure.
46. As a result, I find that any adverse impacts of granting planning permission would not significantly and demonstrably outweigh the benefits, when assessed against the policies in the Framework taken as a whole. The proposal does therefore benefit from the presumption in favour of sustainable development set out in the Framework.

Planning obligation

47. A signed and sealed agreement under section 106 of the Act has been provided. The Council has confirmed that this undertaking meets their requirements, both legally and with regard to what it will secure and deliver. I agree with that conclusion. On that basis, I consider that the proposal could secure satisfactory contributions towards affordable housing, public open space, play space, on-site SSSI management, primary and secondary education.
48. I have considered whether the agreement meets the tests set out in Regulation 122 of the Community Infrastructure Regulations 2010. On the basis of the evidence I am satisfied that the agreement is necessary to make the development acceptable in planning terms, is directly related to the development and is fairly related in scale and kind to the development.

Conditions

49. I have been provided with a list of conditions, agreed between the appellant and the Council. Having had regard to the requirements of the Framework and the Planning Practice Guidance (PPG) I have imposed standard conditions concerning commencement (1) and compliance with the submitted plans (2).
50. Conditions 2, 6, 7, 8, 9, 12, 18, 21 and 25 relating to compliance with submitted plans, biodiversity mitigation, ecological design strategy, fauna accommodation, arboricultural methods, landscape and ecological management are necessary to ensure that the development delivers the biodiversity enhancement proposed and required.
51. Condition 3 is required to ensure that any heritage assets impacted by the development are understood. Conditions 4 and 26 are necessary to ensure that the site is properly drained. Conditions 5, 11, 16 and 17 are necessary to ensure that the development can be carried out appropriately, with regard to construction effects and any potential land contamination.
52. Conditions 10, 18, 19, 20 and 22 are reasonable and necessary to ensure the satisfactory appearance of the completed development. Conditions 13, 14 and 15 are required to ensure that the development is suitably accessible and that it provides appropriate footways, footpaths, roads, and space for car parking.
53. Conditions 23 and 24 are necessary to safeguard occupiers of nearby properties from any noise and air quality effects arising from the development.
54. The appellant has confirmed in writing that they have no objection to the terms of the pre-commencement conditions proposed by the Council. It is necessary and reasonable that the information required by these conditions be provided prior to the commencement of development, as these are matters which cannot properly or reasonably be addressed following the commencement of the development. I have removed tailpieces from two of the suggested conditions as they are inappropriate.
55. The conditions I have imposed have been kept to a minimum and are necessary, relevant to planning, relevant to the development permitted, enforceable, precise and reasonable in all other respects. I am therefore satisfied that they meet the tests in, and requirements of both the Framework and the PPG.

Conclusion

56. Decisions must be taken in accordance with the development plan unless material considerations indicate otherwise. The Framework is a material consideration in decision making but does not override this statutory starting point.
57. I have found that the proposal would not conflict with development plan policies in respect of effects on the character and appearance of the area, including the landscape setting, and whether the proposal would enhance the biodiversity of the area.

58. I have found conflict between the proposal and specific policies in the development plan, with regard to the site being a suitable location for the development proposed, namely the location of the site on OPOL, and the parties agree that this conflict exists.
59. The persistent and significant shortfall in the delivery of housing in the borough is a material consideration which weighs heavily in favour of the proposal, as does the presumption in favour of sustainable development, set out in the Framework.
60. As a result, although there is conflict between the proposal and some of the policies listed in the decision notice, I find that the lack of harm from this proposal on this site, the acceptability of its specific effects, and the presumption in favour of sustainable development set out in the Framework are material considerations of such weight to indicate that a decision be taken not in accordance with the development plan in this case.
61. The appeal should therefore be allowed, and planning permission granted.

S Dean

INSPECTOR

Schedule of conditions

1. The development hereby permitted shall be begun before the expiration of three years from the date of this permission.
2. The development hereby permitted shall be carried out in complete accordance with the following approved plans:
 - 102 Rev C; "Planning Layout"; revision dated 08.06.20
 - AP-P-01; "Apartment House Type Planning Drawing"; dated May 2020
 - AP-P-02; "Apartment House Type Planning Drawing"; dated May 2020
 - CL-P-01; "Clitheroe House Type Planning Drawing"; dated Jan 2020
 - CU-P-01; "Culcheth House Type Planning Drawing"; dated Jan 2020
 - CU-P-01-1; "Culcheth House Type Render Version Planning Drawing"; dated Jan 2020
 - ED-P-01; "Edenfield House Type Planning Drawing"; dated Jan 2020
 - FR-P-01; "Frodsham House Type Planning Drawing"; dated Jan 2020
 - HA-P-01; "Haigh House Type Planning Drawing"; dated Jan 2020
 - HT-P-01; "Hartford House Type Planning Drawing"; dated Jan 2020
 - HT-P-01-1; "Hartford House Type Render Version Planning Drawing"; dated Jan 2020
 - SG-P-01; "Single Garage Planning Drawing"; dated Jan 2020
 - TA-P-01; "Tarleton House Type Planning Drawing"; dated Jan 2020
 - TA-P-01-1; "Tarleton House Type Render Version Planning Drawing"; dated Jan 2020
 - WN2-P-01; "Whalley 2 House Type Planning Drawing"; dated Jan 2020
 - WH2-P-01-1; "Whalley 2 House Type Render Version Planning Drawing"; dated Jan 2020
 - WN-P-01 Rev A; "Willaston House Type Planning Drawing"; revision dated 14.05.20
 - WN-P-01 Rev A; "Willaston Render House Type Planning Drawing"; revision dated 14.05.20
 - WNDG-P-01 Rev A; "Willaston Double Garage House Type Render Version Planning Drawing"; revision dated 14.05.20
3. Prior to the commencement of any groundworks, the applicant shall implement a programme of archaeological investigation. This programme of investigation shall be undertaken in accordance with a Written Scheme of Investigation (WSI) which shall be submitted to and approved in writing by the Local Planning Authority. The WSI shall cover the following:

A phased programme and methodology of investigation, recording, analysis and reporting to include:

 1. Fieldwork
 - i) archaeological evaluation through trial trenching
 - ii) informed by the above, a scheme for targeted excavation (subject to a separate WSI)
 2. A programme for post-fieldwork assessment to include:
 - i) analysis of the site investigation records
 - ii) specialist assessment, analysis and reporting on finds
 - iii) production of final reports on the significance of the archaeological and historical interest represented.
 3. Deposition of the final reports with the Greater Manchester Historic Environment Record and Bolton Local Studies Library.
 4. Dissemination of the results commensurate with their significance.

5. Provision of archive deposition of the report and records of the site investigation.
 6. Nomination of a competent person or persons/organisation to undertake the works set out within the approved WSI.
4. Prior to the commencement of development, full details of the proposed surface water drainage works shall be submitted to and approved in writing by the Local Planning Authority. Before these details are submitted an assessment shall be carried out to investigate the potential for disposing of surface water by means of a sustainable drainage system in accordance with the principles set out in the National Planning Policy Framework, and the results of the assessment provided to the Local Planning Authority. Where a sustainable drainage system is to be provided, the submitted details shall:
- 1) Provide information about the design storm period and intensity, the method employed to delay and control the surface water discharged from the site and the measures taken to prevent pollution of the receiving groundwater and/or surface waters.
 - 2) Include a timetable for its implementation, and
 - 3) Provide a management and maintenance plan for the lifetime of the development which shall include the arrangements for adoption by any public authority or statutory undertaker and any other arrangements to secure the operation of the scheme throughout its lifetime.

The approved works shall be implemented in full prior to the occupation of the buildings hereby approved and those works as approved shall be retained thereafter.

5. No development shall take place (including ground works and vegetation clearance) until a construction environmental management plan (CEMP) has been submitted to and approved in writing by the Local Planning Authority. The CEMP shall include the following.
- a) Risk assessment of potentially damaging construction activities.
 - b) Identification of "biodiversity protection zones".
 - c) Practical measures (both physical measures and sensitive working practices) to avoid or reduce impacts during construction (may be provided as a set of method statements).
 - d) The location and timing of sensitive works to avoid harm to biodiversity features.
 - e) The times during construction when specialist ecologists need to be present on site to oversee works.
 - f) Responsible persons and lines of communication.
 - g) The role and responsibilities on site of an ecological clerk of works (ECoW) or similarly competent person.
 - h) Use of protective fences, exclusion barriers and warning signs, including establishment of the buffer zone along the SBI/SSSI edge as identified on Landscape Strategy Plan reference 12873/P08b, prior to commencement of the development.

The CEMP should be based on the measures identified in the ecology report (Lever Park, Horwich Ecological Appraisal – Updated 2020; by Bowland Ecology; dated July 2020), and once approved shall be adhered to and

implemented throughout the construction period strictly in accordance with the approved details.

6. No development shall take place (including any ground works and site clearance) until a detailed Mitigation Plan and Recreational Disturbance Impact Assessment for the West Pennine Moors SSSI, Knoll Wood SBI and Shaw Clough and Shaw's Wood BHS, has been submitted to and approved in writing by the Local Planning Authority. The content of the method statement shall include the measures identified within section 5 of Lever Park, Horwich Ecological Appraisal – Updated 2020; by Bowland Ecology; dated July 2020, which include mitigation measures in relation to disturbance of the SSSI, treatment and eradication of Himalayan balsam, installation of bird boxes within the woodland, fencing of the SSSI and BHS/SBI including adaptations for cats, home information packs, signage and education boards and re-siting of the green corridor prior to commencement of works.

The works shall be carried out strictly in accordance with the approved details and shall be retained in that manner thereafter.

7. No development shall commence until an Ecological Design Strategy (EDS) addressing mitigation, compensation and enhancement measures identified within the ecology report has been submitted to and approved in writing by the local planning authority. The EDS shall include the following:
 - a) Purpose and conservation objectives for the proposed works.
 - b) Review of site potential and constraints.
 - c) Detailed design(s) and/or working method(s) to achieve stated objectives.
 - d) Extent and location/area of proposed works on appropriate scale maps and plans.
 - e) Type and source of materials to be used where appropriate, e.g. native species of local provenance.
 - f) Timetable for implementation demonstrating that works are aligned with the proposed phasing of development.
 - g) Persons responsible for implementing the works.
 - h) Details of initial aftercare and long-term maintenance.
 - i) Details for monitoring and remedial measures.
 - j) Details for disposal of any wastes arising from works.

The EDS shall be implemented in accordance with the approved details and all features shall be retained in that manner thereafter.

8. Prior to the commencement of development, details shall be submitted to and approved in writing by the Local Planning Authority for alternative on-site nesting bird, bat and hedgehog accommodation. The approved scheme shall be implemented in full and retained thereafter.
9. Prior to the commencement of development of any works on site, the developer shall submit an arboricultural method statement to the Local Planning Authority detailing how the proposed diversion of the existing sewer and the proposed creation of the new sewer will be undertaken/constructed without causing harm or damage to the trees within W3 (along the southern boundary). No development or site clearance shall take place until the Local

Planning Authority has agreed the measures in writing, and these measures shall then be implemented fully in accordance with the approved details.

10. Before the approved development is commenced details of the existing and proposed ground levels within the site and on adjoining land including spot heights, cross sections and finished floor levels of all buildings and structures shall be submitted to and approved in writing by the Local Planning Authority. The approved details shall be implemented in full and retained thereafter.
11. No development shall take place until a Construction Method Statement has been submitted to, and approved in writing by, the Local Planning Authority. The approved Statement shall be adhered to throughout the construction period. The Statement shall provide for:
 - i. The parking of vehicles of site operatives and visitors;
 - ii. Loading and unloading of plant and materials;
 - iii. Storage of plant and materials used in constructing the development;
 - iv. The erection and maintenance of security hoarding including decorative displays and facilities for public viewing, where appropriate;
 - v. Wheel washing facilities;
 - vi. Measures to control the emission of dust and dirt during construction;
 - vii. A scheme for recycling/disposing of waste resulting from demolition and construction works.
12. Prior to the occupation of any dwelling hereby approved, a landscape and ecological management plan (LEMP) shall be submitted to, and be approved in writing by, the local planning authority. The content of the LEMP shall include the following.
 - a) Description and evaluation of features to be managed.
 - b) Ecological trends and constraints on site that might influence management.
 - c) Aims and objectives of management.
 - d) Appropriate management options for achieving aims and objectives.
 - e) Prescriptions for management actions.
 - f) Preparation of a work schedule (including an annual work plan capable of being rolled forward over a five-year period).
 - g) Details of the body or organization responsible for implementation of the plan.
 - h) Ongoing monitoring and remedial measures.

The LEMP shall also include details of the legal and funding mechanism{s} by which the long-term implementation of the plan will be secured by the developer with the management body(ies) responsible for its delivery. The approved plan will be implemented in accordance with the approved details.
13. Prior to the development hereby approved being first occupied the means of vehicular access to the site from Lever Park Avenue shall be constructed in accordance with drawing ref.102 Rev C; "Planning Layout"; revision dated 08.06.20.

14. No dwelling shall be occupied until the access road(s), footway(s) and footpath(s) leading thereto have been constructed and completed in accordance with drawing ref.102 Rev C; "Planning Layout"; revision dated 08.06.20.
15. Before the approved development is first brought into use car parking spaces shall be provided within the curtilage of the site in accordance with the approved plan (drawing ref. 102 Rev C; "Planning Layout"; revision dated 08.06.20). Such spaces shall be made available for the parking of cars at all times.
16. The development hereby approved shall be carried out in full accordance with the approved Site Investigation: Remediation required, dated January 2020 (ref:19ECH017) by Betts Geo Consulting. Where necessary a scheme of remediation to remove any unacceptable risk to human health, buildings and the environment shall be submitted to and approved by the Local Planning Authority prior to implementation.

During the period of construction, should any unforeseen contamination be found on site that has not been previously identified, no further works shall be undertaken in the affected area. Prior to further works being carried out in the affected area, the contamination shall be reported to the Local Planning Authority within a maximum of 5 days from the discovery, a further contaminated land assessment shall be carried out, appropriate remediation identified and agreed in writing by the Local Planning Authority. The development shall be undertaken in accordance with the agreed remediation measures.

Prior to first occupation of the development hereby approved a Verification Report shall be submitted to, and approved in writing by, the Local Planning Authority. The Verification Report shall validate that no unforeseen contamination was found that all remedial works undertaken on site were completed in accordance with those agreed by the Local Planning Authority.

17. No soil or soil forming materials shall be brought to the site until a testing methodology including testing schedules, sampling frequencies, allowable contaminant concentrations (as determined by appropriate risk assessment) and source material information has been submitted to and approved in writing by the Local Planning Authority. The approved testing methodology shall be implemented in full during the importation of soil or soil forming material.

Prior to the development being first brought into use or occupied a verification report including soil descriptions, laboratory certificates and photographs shall be submitted to and approved in writing by the Local Planning Authority.

18. Notwithstanding the submitted plans, trees, shrubs and hedgerows shall be planted on the site in accordance with a landscape scheme to be submitted and approved in writing by the Local Planning Authority prior to the development being first brought into use. The approved scheme shall be implemented in full and carried out within 6 months of the occupation of any of the buildings or the completion of the development, whichever is the sooner, or in accordance with

phasing details included as part of the scheme and subsequently approved by the Local Planning Authority. Any trees and shrubs that die or are removed within five years of planting shall be replaced in the next available planting season with others of similar size and species.

19. Notwithstanding the submitted plans, prior to the development being first occupied or brought into use, details (including a brick or masonry specification and colour scheme) of the treatment to all boundaries to the site shall be submitted to and approved in writing by the Local Planning Authority. The approved scheme shall be implemented in full prior to occupation of the dwelling to which the boundary relates and shall be retained thereafter.
20. Prior to the first occupation of any dwelling hereby permitted, details regarding the provision of public art (including timescale) shall be submitted to and approved in writing by the Local Planning Authority. The development shall be carried out in accordance with the approved details.
21. Prior to first occupation of the development hereby approved, a "lighting design strategy for biodiversity" for the site shall be submitted to and approved in writing by the local planning authority. The strategy shall:
 - a) identify those areas/features on site that are particularly sensitive for nocturnal mammals such as bats, badgers and otters and that are likely to cause disturbance in or around their breeding sites and resting places or along important routes used to access key areas of their territory, for example, for foraging; and
 - b) show how and where external lighting will be installed (through the provision of appropriate lighting contour plans and technical specifications) so that it can be clearly demonstrated that areas to be lit will not disturb or prevent the above species using their territory or having access to their breeding sites and resting places.

All external lighting shall be installed in accordance with the specifications and locations set out in the strategy, and these shall be maintained thereafter in accordance with the strategy. No other external lighting be installed without prior consent from the local planning authority.

22. The development hereby permitted shall be constructed entirely of the materials details of which are shown on plan ref. 103 Rev D; "Materials & Enclosures Plan"; revision dated 22.06.20.
23. The development hereby approved shall be carried out in full accordance with the recommendations of the approved Noise Assessment: Mitigation Required, dated April 2020 (ref:AC108693-1R2) by REC.
24. The development hereby approved shall be carried out in full accordance with the recommendations of the approved Air Quality Assessment: Fugitive dust mitigation measure as detailed in table 13 of the report, dated April 2020 (ref: AQ109090R1) by Ensafe Consultants.

25. Any site clearance works or work which involves the creation of trenches or culverts or the presence of pipes on shall be carried out in line with the Reasonable Avoidance Measures identified in section 5.29, 5.35, 5.36, 5.37 and 5.38 of Lever Park, Horwich Ecological Appraisal – Updated 2020; by Bowland Ecology; dated July 2020.
26. Foul and surface water shall drain on separate systems.

End of schedule of conditions

Appearances

FOR THE APPELLANT;

David Manley QC

Kings Chambers

Kirstie Oakey MPlan; MRTPI

Associate Director, Lichfields

Jonathan Berry BA (Hons); DipLA; CMLI; AIEMA; M.Arbor.A

Director, Tyler Grange

Carly Goodman-Smith MBiolSci; MCIEEM

Director, Tyler Grange

Nick Bridgland MA; FSA Scot; IHBC; MCIfA

Director, Lichfields

Matt Grant MPlan; MRTPI

Senior Planner, Lichfields

John Matthews

Eccleston Homes Ltd

FOR THE COUNCIL;

Helen Williams

Sue Rigby

Jackie Whelan

Derek Richardson

INTERESTED PARTIES;

Cllr Grant

Cllr McKeon

Cllr Silvester