

<b>Item 4j</b>	<b>13/00948/FULMAJ</b>
<b>Case Officer</b>	<b>Caron Taylor</b>
<b>Ward</b>	<b>Brindle And Hoghton</b>
<b>Proposal</b>	<b>Demolition of existing industrial units and erection of 18 no. (14 no. Semi-detached, 4 no. detached) three bedroom houses</b>
<b>Location</b>	<b>Finnington Industrial Estate Finnington Lane Feniscowles Withnell</b>
<b>Applicant</b>	<b>Units To Let (Northern) Ltd</b>

**Consultation expiry: 28 November 2013**

**Application expiry: 22 January 2014**

### **Proposal**

1. Demolition of existing industrial units and erection of 18 no. (14 no. Semi-detached, 4 no. detached) three bedroom houses.

### **Recommendation**

2. It is recommended that this application is approved subject to conditions and a Section 106 legal agreement.

### **Main Issues**

3. The main issues for consideration in respect of this planning application are:

- Background information
- Principle of the development
- Density
- Levels
- Impact on the neighbours
- Design and layout
- Open Space
- Trees and Landscape
- Ecology
- Flood Risk
- Traffic and Transport
- Contamination and Coal Mines
- Drainage and Sewers
- Affordable housing
- Legal agreement

### **Representations**

4. One letter of objection has been received from one of the terraced properties that fronts Finnington Lane. They state the proposal encompasses parts of their property and the boundary of the site includes their garage and parking bay, access to the rear of their property is blocked, two parking pays to the rear of their property and the shared septic tank that the terraced houses use. The access road is also located onto of the septic tank.
5. An amended plan has been received removing the garages from within the application red edge. Land ownership is covered in the 'other issues' section of this report.
6. Hoghton Parish Council  
Object on the grounds of inadequate access and road safety.

## Consultations

### 7. Blackburn with Darwen Borough Council

Have no objection to the proposal. They state that whilst the site is in the Green Belt it has been previously developed. It is considered the proposal will have no greater impact on the openness or amenity of the Green Belt than the existing industrial units and they have no greater environmental impact than that of the existing use.

8. It is considered that the traffic and activity from the proposed redevelopment would not unacceptably affect the amenity and character of the area. The proposal would be considered to satisfy the criteria on highway impact of their Local Plan. Sightlines and visibility splays onto Finnington Lane should ensure the free flow of traffic between the M65 and the A674 is not impaired.

### 9. Tree Officer

Confirm the preliminary tree survey schedule is an accurate assessment of the trees on the site. Many of the trees within the industrial site are of a low value, many multi-stemmed trees with no significant quality.

10. The group of trees to the rear of the properties on Finnington Lane are worthy of protection. Although some of the trees within the group do have some issues with them the retention value is very good in relation to the location on the site and the greater area. Several low value trees are to be removed to improve the landscape value of the mature and semi mature trees within the group. T3 a Goat willow growing through a fence is of very little value and should be removed.

### 11. The Environment Agency

Request a condition in relation to contaminated land. Without the condition, the proposed development on this site poses an unacceptable risk to the environment and they would object to the application.

They also request a planning condition is included requiring a method statement to be agreed to put appropriate control measures in place regarding the invasive species Japanese knotweed that is present.

### 12. Canal and Rivers Trust

Risk to Structural Integrity of Canal:

The eastern part of the application site lies below the level of the adjacent canal, which is retained by a steep embankment. The embankment lies within the development site and it is therefore essential that any risk to its structural integrity as a result of the proposed development is fully assessed and mitigated.

13. The indicative site section drawing appears to indicate the replacement of the embankment with a retaining wall in order to create a level rear garden area. The removal of the embankment would risk damaging the structural integrity of the adjacent canal towpath which, should it collapse, may result in a breach of the canal itself, causing extensive flood damage across the development site and the surrounding land and properties.

14. Prior to determination of the application, the Canal & River Trust therefore requests that the applicant provides fully detailed plans showing the existing and proposed ground levels across the site and full details of any works to re-profile the embankment or erect retaining structures.

### 15. Towpath Access:

It is essential that the existing vehicular access to the towpath for Canal & River Trust vehicles is retained, as this provides the only opportunity for maintenance and repair vehicles to gain access to this stretch of the canal. The use of this is long-standing and is controlled through the use of a removable bollard. The proposed pedestrian access onto the towpath is welcomed, although it is noted that this does not appear to correspond with the existing opening in the stone boundary wall, as shown on the existing site plan.

16. The Trust would therefore request that the layout is re-planned to retain the existing wider towpath access to the east of the existing building, in order to provide level access for towpath users and also for canal maintenance vehicles. The proposed area of public open space could be re-sited alongside the existing wider opening in the wall.

17. Site Layout:

The site plan shows the proposed dwellings backing-on to the canal towpath. The Trust is concerned that future occupiers are likely to feel that their rear gardens and windows are overlooked by canal users, particularly due to the difference in levels. This would be likely to result in the erection of screen fencing on the towpath boundary, which would further weaken the relationship between the development and the canal and be detrimental to the visual amenity of canal users. The Trust would advise that a more positive relationship with the canal could be created by siting the dwellings closer to the towpath boundary and fronting onto it, with pedestrian access to the front doors. This would improve views over the waterway and allow for private rear garden areas to be provided away from the canal boundary. An example of this approach to canal-side development can be found in the final phase of the recent Morris Homes development at Crosse Hall Lane in Chorley.

18. Boundary Treatment:

Should the layout remain as currently proposed, the existing stone wall on the boundary of the towpath should be maintained and repaired where necessary. The wall should also be extended along the eastern part of the boundary where there is currently only a post and wire fence. In addition, permitted development rights should be removed for the erection of any additional boundary treatments at the rear of plots 11 to 18.

19. In the absence of the information requested relating to the structural integrity of the canal, the Canal & River Trust would object to planning permission being granted.

20. **The Police Architectural Design and Crime Reduction Advisor**

There are no objections to the proposal in principle. They support the junction improvement measures discussed at pre-application stage with Lancashire County Council Highways.

21. The site is in an isolated rural location close to the motorway network, both of those features will increase the risk of the properties becoming victims of burglary without some forms of enhanced security, this will be a requirement for the points to be awarded for the Code for Sustainable homes. It is strongly recommended that should this development be granted it should be a condition that the properties are developed to Secured by Design standard. Should this not be the case the properties should be fitted with PAS 24 doorsets and BS7950 window frames with laminated glass panels to the rear of the properties. All properties fitted with a security alarm.

22. **Policy on Public Open Space and Pitches**

The open space and pitch requirements for this site are as follows:

Amenity green space maintenance	= £53,000
Equipped play area	= £2,412
Parks/Gardens	= £0
Natural/semi-natural	= £0
Allotments	= £270
Playing Pitches	= £28,782
Total	= £84,464

23. **United Utilities**

Have no objection to the proposed development.

24. **Lancashire County Council (Highways)**

State the proposal has taken into account the highway comments/recommendations made in their pre-application response.

25. The recommendations include implementation of a local traffic safety scheme at and on the approach to the site access to mitigate any impact due to high vehicle speeds on Finnington Lane and the sub-standard visibility at the site access.
26. Comments relating to extension of the footway and provision of pedestrian access from the development to the canal tow path have been considered and provided for in the above plans and as recommended, the applicant has agreed to make a transport contribution of £38,700 towards the upgrade to quality standards of the two existing bus stops near the junction of Finnington Lane and the M65 Slip Road. The bus stop upgrade should be delivered through the Section 278 agreement of the Highways Act 1980.
27. The applicant has acknowledged that parking needs to accord with the Chorley Parking Standard and has made provision for 41 spaces in respect of the proposed 18no. 3-bed dwellings, which though slightly more than required is acceptable [see later section on parking].
28. They have no issues with the internal layout of the development, but development must be constructed in accordance with the Lancashire County Council's Specification for the Construction of Estate Roads (2011) in order to be acceptable for adoption under the Section 38 Agreement of the Highways Act 1980.
29. They therefore have no objections to the proposal, subject to conditions and advice notes.
30. **Chorley's Waste & Contaminated Land Officer**  
Request a condition in relation to ground contamination.
31. **Lancashire County Council (Ecology)**  
Object to the application as they state the proposals would destroy bat roosts, and building demolition would therefore result in a breach of The Conservation of Habitats and Species Regulations 2010 (as amended), unless a Natural England licence is issued prior to commencement of works. Chorley Council should not approve the application if there is reason to believe that such a licence would not be issued, and should therefore have regard to the requirements of the Habitats Directive in reaching the planning decision. Unfortunately the applicant does not appear to have submitted any proposals to mitigate or compensate impacts on bats and bat roosts, and the proposals do not therefore address the licensing tests. A licence would not be issued on the basis of the information submitted in support of this application, and Chorley Council should not therefore approve this application unless further information is submitted to demonstrate how the above three tests will be addressed. The applicant should also be required to demonstrate that bat foraging and commuting habitat will be maintained and enhanced as part of these proposals, and that the scheme of lighting will not result in an increase in artificial illumination of bat roosting and bat foraging habitat, and in particular the vegetated northern and southern boundaries, canal and brook corridors. In addition, and also prior to determination, the applicant should be required to clarify the following matter: earlier ecology surveys reported the presence of a basement/ cellar at the site, which could not be inspected, but which may or may not have been suitable to support hibernating bats. However, the 2013 ecology report does not appear to mention the presence of this cellar. Potential impacts on hibernating bats are therefore unknown [see 'Ecology' section of this report].
32. **Chorley Strategic Housing**  
Due to the remote location of the site in relation to amenities such as public transport, shops and schools it has been agreed that, so long as it could be supported on planning grounds, this site is not suitable for affordable housing. Consequently, the Council would be looking for the developer to pay a commuted sum in lieu of providing affordable homes on site.
33. Using the formula within the Affordable Housing SPD and data from Right Move's web site for the quarter ended 30/09/13 (freehold residential properties sold between quarter 01/07/13 to 30/09/13 within 3 miles of the site, excluding detached properties and one 'outlier' terraced

property sold for £50k) producing an average sale price of £136,166 I calculate the commuted sum to be £435,065.

#### **34. Chorley Environmental Service**

Have no objections to the proposal. Over the past 10 years or so they state there have been complaints of burning from this site. Earlier this year the Environment Agency and the Council have been involved with an individual bringing material to the site with resultant noise and smoke issues. Removal of the industrial units and re-development for housing will undoubtedly remove the risks of further complaints of noise and smoke for the occupiers of the existing houses on Finnington Lane.

#### **35. Lancashire County Council (Education)**

State there is no requirement for a planning contribution towards education [it should be noted that this would now be covered by the Community Infrastructure Levy if it was required].

### **Assessment**

#### Background Information

36. The application relates to the redevelopment of an isolated site bounded by the Leeds and Liverpool Canal and Finnington Brook within the Green Belt. It is close to junction 3 of the M65 motorway on the A674 road to Feniscowles (Finnington Lane). The site at present has a collection of various industrial buildings on it which were previously used as a hatchery and prior to that as a sewage treatment works. The main building on the site was originally built as an isolation hospital for the then Blackburn Borough.

37. The site now comprises a number of dilapidated and poorly maintained buildings used for a variety of uses including car repairs, vehicle storage/dismantling and car sales. There is a short terrace of five houses on the road frontage to the northwest of the proposed development that back onto the site.

38. The site has outline planning permission for the demolition of the existing buildings and the erection of 15 units of mixed use office and living accommodation, formation of new access to Finnington Lane, landscaping and laying out of a new road and parking areas together with provision of a washroom/W.C. building for canal-boat users. Outline planning permission was originally granted for this on 12 February 2010 (ref: 09/00825/OUTMAJ). A three year extension of time was granted on 28 March 2013 (ref: 12/01211/OUTMAJ). The outline permission is therefore extant.

39. There are a number of residential moorings on the canal that bound with the site.

#### Principle of the development

40. This application proposes demolishing the existing employment premises and replacing them with housing. The employment premises are currently in use. There are two aspects to consider when assessing the acceptability of the principle of the development; i) the fact the site is in the Green Belt and ii) that it is an existing employment site.

#### Green Belt

41. In terms of the Green Belt Paragraph 89 of the NPPF allows for the complete redevelopment of previously developed sites in the Green Belt such as this (brownfield land), whether redundant or in continuing use, which would not have a greater impact on the openness of the Green Belt and the purpose of including land within it than the existing development.

42. This is reflected in policy BNE5 of the emerging Chorley Local Plan 2012- 26 (which is now given significant weight subject to the Inspector's Main Modifications) which states that the redevelopment of previously developed sites in the Green Belt will be permitted, providing the following criteria are met:

- the appearance of the site as a whole is maintained or enhanced and that all proposals, including those for partial redevelopment, are put forward in the context of a comprehensive plan for the site as a whole; and

- the new buildings would not have a greater impact on the openness of the Green Belt and the purpose of including land within it than the existing development.

43. Considering the proposal against the NPPF and Policy BNE5 there are two main buildings on the site at present, the large red brick building of the former isolation hospital and a steel portal framed, wooden clad building set at a lower level towards the brook.

44. In terms of assessing whether the proposal would have a greater impact on the openness of the Green Belt than the existing development a comparison between the size of the existing development on the site and what is currently proposed these is set out in the table below (a comparison with the extant permission is also provided):

	<b>Existing Development</b>	<b>Proposed Development</b>	<b>Extant Permission</b>
<b>Footprint</b>	1,585 sq m	1,348 sq m	965 sq m
<b>Volume</b>	8,900 cu m	10,000 cu m	7,300 cu m

45. Overall the footprint of the proposal is less than the footprint of the current buildings on the site, but the volume is greater. Although this is a useful starting point for assessment rather than relying on just a numerical calculation it is considered important to look at the overall context of the site. As well as the buildings there are a number of other structures on the site including a shipping containers, mobile homes as well as dumped tyres and rubble. Part of the site is in use as a used car sales business with associated large numbers of cars parked on the site and almost the whole site is covered in hard standing.

46. The site is in a rural location surrounded by fields and bounded by the canal and Finnington Brook. The current use does therefore has a negative impact on the visual amenity of the area. The redevelopment of the site with housing will remove the above and although the volume of building proposed will be greater than exists at present it is considered that visually overall it will have less impact on the Green Belt as it will also remove all the associated paraphernalia associated with the current uses that have a negative impact on the visual amenity of the Green Belt. Overall, it is considered that the proposal will not have a greater impact on the Green Belt than the current development on the site.

#### Employment Site

47. As this application proposes redevelopment of employment premises for redevelopment other than B use class employment uses it should be assessed under the criteria in Policy 10 of the Core Strategy and the provisions in the SPD on Controlling the Re-Use of Employment Premises, which aim to protect all existing employment premises and sites last used for employment uses.

48. The Planning Statement submitted with the application refers to Policy 10 and the SPD but does not deal specifically with the criteria in the Policy. Instead it highlights 3 material considerations in relation to the loss of employment land. These are set out below and responded to:

- i) That the site has extant permission for a mixed use scheme comprising of housing and live/work accommodation. The loss of B2 employment land at the site has therefore already been accepted.

49. It is correct that the site has extant permission for a mixed use scheme comprising of live/work accommodation and that therefore the loss of B2 employment use has been accepted. However, the extant permission comprises mixed uses of office and living accommodation. Therefore, whilst the Council accepted a loss of B2 use when permitted the previous application, the permitted proposal would have provided alternative employment opportunities in the form of live-work units. Therefore, there was no acceptance that all employment use would cease on site. The approved proposal was judged to provide benefits in the form of live/work units as well as environmental improvements.

- ii) The loss of B2 employment land at the site has been considered in the Employment Land Monitoring Report (May 2012), based on the extant outline planning permission described above.
50. The Employment Land Monitoring Report (2013) Table 9 (which deals with planning consents for the loss of employment land) simply records that there is a planning permission on the site that if implemented would result in a loss of 0.89 hectares of B2 employment land. However, Table 5 of the same report indicates that the extant permission provides for 0.89ha of B1 employment provision on the same site. This is not strictly correct as the units are live/work and not solely employment. However, this does reflect the fact that employment provision (in the form of live/work units is to be provided on site).
- iii) Thirdly, the removal of a “bad neighbour use” from the site has previously been considered by the Council as a very special circumstance to outweigh the harm on the Green Belt. As a result, the planning history of the site suggests that the Council wishes to see it redeveloped for alternative uses.
51. The Council accepted in the extant permission that the replacement buildings would bring about an environmental improvement and that this would be a benefit of the proposal.

52. The Planning Statement also states that:

*“Finally, it is of note that the existing occupiers of the site are to relocate locally.”*

53. There are existing occupiers on site, but no evidence has actually been supplied to demonstrate that they are to relocate locally.

54. Policy 10 states that all employment sites/premises for re-use of redevelopment (other than redevelopment for B class uses) will be addressed under the following criteria. These are assessed below:

**a) there would not be an unacceptable reduction in the type, quality or quantity of employment land supply:**

Although it is an existing employment site, it was not assessed in the 2009 Employment Land Review (ELR) so suggests the site had limited employment value at the time. In addition, whilst the site that could be re-used for employment purposes, the buildings are in need of redevelopment or repair/refurbishment. Although the site has good access to the M65, it is in a rural location and is not in or adjacent to a settlement. Within the Employment Land Review Abbey Village Mill is an identified employment site, as is Gregson Lane Industrial Estate in neighbouring Brindle Parish. Withnell Fold Mill is also identified, but permission has now been granted for office and residential use on this site, with the demolition of some of the industrial buildings. This proposal would result in the loss of some lower quality employment premises in a rural area, but the premises are not well located for local villages. Therefore weight is given in favour of the proposal in terms of this criterion.

**b) the provision and need for the proposed use:** The proposed use of the application site is for housing. The Council has a five year deliverable supply of housing plus 5% and there is no urgent requirement to release additional land for housing so little weight is given to this material consideration. However, housing requirements are not a maximum and this proposal is on a brownfield site and the Council has a target of 70% of all new housing developments to be provided on brownfield sites. The proposal is also of a scale where affordable housing is required (albeit this it to be provided off-site via a commuted sum – see later section) and could usefully help to address rural affordable housing needs. Weight is therefore given in favour of the application in this respect.

**c) the relative suitability of the site for employment and for the alternative use:** The site is in close proximity to an A road and to a motorway junction. However, it is in an isolated location away from local villages and there are some steep gradients on the site in some places;

**d) the location of the site and its relationship to other uses:**

The site is immediately adjacent to a row of existing terraced properties in residential use that front onto Finnington Lane. The Council's Environmental Health Officers have confirmed that complaints about noise and smoke from the site have been made to them and that its redevelopment with housing will remove the risk of further complaints of noise and smoke from the occupiers of the existing houses on Finnington Lane in future.

- e) **whether the ability to accommodate smaller scale requirements would be compromised:** The application site is currently used by smaller scale operators. This application does not propose any employment on the site and therefore this proposal would result in the loss of the accommodation used by these operators.
- f) **there would be a net improvement in amenity:** The site as a whole is in a run-down, dilapidated state. Therefore, redevelopment would provide a net improvement in visual amenity.
- g) **convincing evidence of lack of demand through a rigorous and active 12 month marketing period for employment re-use and employment redevelopment:** It is evident however that some marketing has taken place and there is a 'to let' marketing board up on the site frontage. Further information on this has been requested from the applicant on this and will be reported on the addendum.
- h) **an assessment of the viability of employment development including employment re-use and employment redevelopment.** This has not been undertaken.

55. Apart from in relation to criterion (f) the applicants have not specifically addressed the criterion in Policy 10 of the Core Strategy. In particular they have not provided any evidence in relation to criterion (g) which relates to providing convincing evidence of a lack of demand through a rigorous and active 12 month marketing period for employment re-use and employment redevelopment. They have also not made an assessment of the viability of employment development including employment re-use and employment redevelopment. They have not provided sufficient information on this or adequately justified why they have not addressed these requirements.

56. Therefore, at present without further information the proposal does not strictly comply with Policy 1, however there are factors in favour of the development. That the site was not assessed in the 2009 Employment Land Review which suggests the site had limited employment value at the time, in addition the site is an eye-sore in the Green Belt, it would involve redevelopment of a brownfield site, would contribute towards off-site affordable housing and remove a 'bad neighbour' from the adjoining properties.

57. These are all material planning considerations that carry significant weight. On balance, together they are considered to outweigh the ways in which the proposal does not strictly comply with parts of Policy 10 of the Core Strategy.

58. The proposal is therefore considered acceptable in principle.

#### Density

59. The proposal is equivalent to 19.2 dwellings per hectare. Although this is a low density it is considered acceptable in this location as it is in an isolated rural location surrounded by fields and it is considered a lower density would be more appropriate to its rural location as it allows the development to be more spaced out, having less impact on the Green Belt and improving views of the site.

#### Levels

60. The site slopes down from south to north, the highest point of the site being adjacent to the canal. There is a significant level difference between the red brick building on the site and level of the steel portal framed building as the land drops away to the north of the access road that runs through the site and then drops away again to the brook that runs along the northern boundary of the site. More info on how levels will be dealt with requested and will be reported on the addendum.



### Impact on the neighbours

61. There are five terraced properties that front Finnington Lane. The nearest proposed property to these will be plots 1 and 9. Plot 1 will face towards the side of 1A Finnington Lane, which has a porch and the site and two windows, one at ground floor and one at first floor.
62. There will be approximately 28m from the first floor windows in Plot 1 and side elevation of 1A Finnington Lane which exceeds the Council's interface distance of 21m. The rear elevations of the existing cottages will face towards the side elevation of Plot 9, although will be separated by the existing garage block belonging to the cottages. There will be approximately 27m between the rear first floor windows of the cottages and the boundary/side elevation of Plot 9 (which only has a small non-habitable window in its side elevation). This exceeds the interface distance of 12m.
63. The proposal will also move the current access point to the site further away from the side elevation of 1A Finnington Lane and create an area of landscaping adjacent to it. It is considered this will be of benefit to this property.
64. It is considered that overall the proposal will be a much better neighbouring land use for the existing properties causing less noise and disturbance to them.
65. It is also noted that there are a number of residential moorings on the canal immediately bounding with the site, however it is considered that the proposal will also be a better neighbouring use for these than the present site.
66. The proposal is therefore considered acceptable in terms of neighbour amenity.
67. The issues raised by a neighbour regarding ownership and access have been raised with the applicant and will be reported on the addendum.

### Design and Layout

68. The layout of the proposal is set around a small area of green space with properties facing towards this and the access road. As a result properties will back on to Finnington Brook and the canal.
69. There are three house types proposed. Type 1 is a semi-detached property that will back onto the canal. There will be three pairs on the site. It will be two and a half storey by using room in the roof space and incorporating dormers. A terrace will be incorporated into the rear gable in the roof of the property with a finial at its apex. The front of the property will incorporate a double height bay window and a balcony terrace in the gable.
70. There are six examples of house type 2 proposed (three pairs of semis) positioned against the northern boundary of the site backing onto the brook. The design will take account of the change in levels on the site as they drop away to the brook, being two-storey at the front and three-storey at the rear. They will have a front gable and to the rear it will reflect house type 1 with rear dormers (though in the eaves) and a roof terrace within the rear gable.
71. House type 3 is proposed on four plots, one at the entrance to the site and three on the west boundary. It is a detached, two-storey property type (which also uses the roof space) with a front gable and flat roof bay window and attached single storey garage. To the rear there is a small dormer in the roof and a terrace in the rear gable as per the other house types.
72. Views of the site from the north will be restricted by vegetation adjacent to the brook and trees along Finnington Lane itself. There will be clear views of the rear of the properties that back onto the canal from its towpath however. Normally, it would be desirable to avoid properties backing onto the site boundary where it is adjacent to a canal as it can result in a poor visual relationship. However in this case the properties have been designed so they have significant detailing on their rear elevations, most notably through the use of rear terraces in the rear gables and through the use of small pitched roof dormers. The properties will also have artificial stone cills on both their front and the rear elevations. It is considered that the properties have sufficient detailing on their rear elevations so that their relationship with the canal is acceptable.

73. The existing stone boundary wall with the canal will be retained. Clarification has been sought on whether this will be extended to where there is currently a post and wire fence with the towpath and this will be clarified on the addendum. This will form the rear boundary between the gardens of plots 11 to 18 and the canal towpath. It is considered that the erection of further fencing by occupiers of the new properties, such as close boarded fences along this boundary, would not be acceptable visually and it is therefore considered necessary to remove Permitted Development Rights for fences, walls and gates so the Council have control over this in the future.
74. Amended plans have been requested to alter the proposed boundary details at the entrance to the site and along the side boundary of plot 9 to avoid the use of close boarded fences in prominent visual locations within the site. Confirmation of whether these amended plans have been received will be reported on the addendum.
75. It is proposed that the facing material of the proposed properties will be red brick and render. The existing main building on the site is currently red brick and render and the cottages are all rendered, painted in various colours. The use of these materials is therefore considered acceptable subject to final details being approved via a condition.

#### Open Space

76. Amenity open space is to be provided on site. There is justification for a commuted sum towards other types of open space (equipped plan areas and allotments) and playing pitch requirements along with maintenance of the amenity open space in accordance with policies HS4A and HS4B of the emerging Local Plan 25012-2026, which comes to £84,464. This will need to be secured via a Section 106 legal agreement.

#### Trees and Landscape

77. There are a number of trees on the site and several will be removed to allow for the development. These include four category C trees but also two category B trees which are unavoidable to allow for the development. There are other category A and B trees on or immediately adjacent to the site that will be retained as part of the development. Clarification from the agent has been requested on exactly which trees are to be removed. This will be updated on the addendum.

#### Ecology

78. Lancashire County Council Ecology have objected to the application as the demolition of the existing buildings would destroy bat roosts and building demolition would therefore result in a breach of The Conservation of Habitats and Species Regulations 2010 (as amended), unless a Natural England licence is issued prior to commencement of works. They advise this licence would not be issued as no proposals to mitigate or compensate impacts on bats and bat roosts have been submitted. They advise the Council should not approve the application without this information amongst other things. The agent has been made aware of the additional ecological information required and this will be updated on the addendum.

#### Flood Risk

79. The site is less than 1 hectare in size and it is not in Flood Zone 2 or 3 as identified by the Environment Agency. A Flood Risk Assessment is therefore not required.

#### Traffic and Transport

80. Lancashire County Council Highways do not object to the application and consider the internal layout and access to be acceptable. The highway alterations will involve moving the existing access further north to improve visibility and providing a red textured road surface at the junction with red bars across the road on the approach along with 'slow' markings on the approach from each direction. An LCD 'slow down' sign will also be constructed that will be activated by vehicles approaching the junction. Subject to a condition requiring this to be implemented the access is considered acceptable in highway safety terms.
81. In terms of parking the properties are shown as having three bedrooms, however each has a room at first floor marked 'study' which is clearly capable of being used as a bedroom and is

likely to be used as such. Four bed properties are required to have three off-road parking spaces in line with Policy ST4 of the emerging Local Plan. However, house types 2 and 3 benefit from a garage that is of a size that is capable of being counted as a parking space so they meet this standard. House type 1 is proposed on plots 9 - 16 and several of these plots have longer driveways allowing three cars to be parked off-road. The type 1 properties with shorter driveways only capable of parking two cars (plots 13-16) are located towards the east of the site and it is considered that there is sufficient space to park vehicles on-street without causing highway safety or nuisance issues. Therefore it is considered the parking proposed is acceptable. The garages of house types 2 and 3 are proposed to be conditioned to be retained for parking on any approval.

#### Contamination and Coal Mines

82. A condition is proposed in relation to ground contamination as requested by the Council's Contaminated Land Officer.

83. The site is not within a Coal Area as identified by The Coal Authority.

#### Drainage and Sewers

84. United Utilities do not object to the application. A condition is proposed requiring a foul and surface water drainage system to be submitted and approved.

#### Affordable Housing

85. 30% affordable housing would normally be provided on a site of this size in accordance with Policy 7 of the Core Strategy. The associated Supplementary Planning Document (SPD) on Affordable Housing states that the presumption is that affordable housing will be provided on the application site so that it contributes towards creating a mix of housing. However, where it can be robustly justified, off-site provision or a financial contribution in lieu of on-site provision may be accepted as long as the agreed approach contributes to the creation of mixed communities.

86. In this case it is considered that an off-site financial contribution is more appropriate. The site is in a remote location in relation to amenities such as public transport, shops and schools and it is not therefore considered to be a site that would be suitable for affordable housing.

87. Using the formula within the Affordable Housing SPD the commuted sum will be £435,065 and this will need to be secured via a Section 106 legal agreement.

#### Legal Agreement

88. A Section 106 legal agreement will be required to secure the public open space and playing pitch contributions and the off-site affordable housing contribution.

#### Sustainable Resources

89. Policy 27 of the Joint Core Strategy requires new residential properties to be built to level 4 of the Code for Sustainable Homes if commenced now or Level 6 if commenced from 1<sup>st</sup> January 2016. It also requires developments of over five properties to have either additional building fabric insulation measures or appropriate decentralised, renewable or low carbon energy sources installed and implemented to reduce the carbon emissions of predicted energy use by at least 15%. A Pre-assessment has been submitted with the application and shows that the dwellings will meet Level 4 and meet the 15% reduction. The proposal will therefore comply with Policy 27 and will be enforced through conditions.

#### Other Issues

90. The comments of the Police Liaison Officer requesting a condition that the development be required to meet the Secured by Design standard are noted, however it is not considered that this is something that can be secured by a condition as it is not necessary to make the development acceptable in planning terms. An informative note relating to this will however be imposed on any permission.

91. In relation to land ownership issues, this was raised with the agent for the application. They state that the applicant is confident the red edge location plan is accurate but to ensure the

application covers all eventualities Notice has been served on the named lease holders and the freehold owners showing on the Land Registry search. They also state the area to the rear of the terraced houses (that is to remain untouched by the proposal) is also owned under the same freehold as the rest of the land and is therefore under the applicants' control.

### **Overall Conclusion**

92. The application is recommended for approval subject to conditions and a Section 106 agreement and the additional information reported on the addendum being acceptable.

### **Planning Policies**

#### National Planning Policies:

The National Planning Policy Framework

#### Joint Core Strategy

Policies, 7, 17 and 27

Supplementary Planning Document: Affordable Housing

#### Emerging Local Plan

Policies: BNE5, ST4

### **Planning History**

**08/00796/FULMAJ** Demolition of existing buildings, erection of 5 office units with ancillary residential use, erection of 5 affordable housing units, formation of a new access to Finnington Lane, landscaping, new road and parking areas. Including the provision of washroom/WC building for canal boat users. Application withdrawn 7 October 2008.

**09/00332/FULMAJ** Demolition of existing buildings, erection of 5 office units with ancillary residential use, erection of 5 live/work units, erection of 5 affordable housing units, formation of new access to Finnington Lane, landscaping, laying out of new road and parking areas together with the provision of washroom/wc building for canal boat users. Refused 16 July 2009.

**09/00825/OUTMAJ** Demolition of existing buildings, erection of 15 units for mixed use of office and living accommodation, formation of new access to Finnington Lane, landscaping and laying out of new road and parking areas together with provision of washroom/W.C. building for canal-boat users. Outline permission granted 12 February 2010.

**12/01211/OUTMAJ** Application to extend the time limit to implement previous permission ref: 09/00825/OUTMAJ which was an outline permission for demolition of existing buildings, erection of 15 units for mixed use of office and living accommodation, formation of new access to Finnington Lane, landscaping and laying out of new road and parking areas together with provision of washroom/W.C. building for canal-boat users (Section 73 application). Renewal of permission granted March 2013.

### **Recommendation: Permit (Subject to Legal Agreement) Conditions**

1. The proposed development must be begun not later than three years from the date of this permission. *Reason: Required to be imposed by Section 51 of the Planning and Compulsory Purchase Act 2004.*

2. Notwithstanding Schedule 2 Part 2 Class A of the Town and Country Planning (General Permitted Development) Order 1995 or any subsequent re-enactment thereof no walls, fences or other boundary treatments shall be constructed or erected (other than those expressly authorised by this permission) on the rear boundaries of plots 11-18 inclusive that bound with the canal. *Reason: To prevent a proliferation of boundary treatments against the canal tow path having a detrimental impact on the visual amenity of the canal.*

3. The dwellings hereby permitted shall not be commenced until all the highway works as shown on plan ref: 1459-01-GA101 Rev A (Proposed Site Access Improvements Including Proposed Works to Finnington Lane) have been constructed in accordance with this approved plan. *Reason: To enable all traffic (including construction traffic) to enter and leave the premises in a safe manner without causing a hazard to other road users.*

4. 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. Construction and delivery vehicle routing to the site
- ii. the parking of vehicles of site operatives and visitors
- iii. hours of operation (including deliveries) during construction
- iv. loading and unloading of plant and materials
- v. storage of plant and materials used in constructing the development, including site compounds
- vi. wheel washing facilities

*Reason: in the interests of highway safety and to protect the amenities of the nearby residents.*

5. The new estate road/access between the site and Finnington Lane shall be constructed in accordance with the Lancashire County Council Specification for Construction of Estate Roads to at least base course level before any development (other than demolition) takes place within the site. *Reason: To ensure that satisfactory access is provided to the site before the development hereby permitted becomes operative.*

6. There is potential for ground contamination at this site (industrial site). Due to the size of development and sensitive end-use (residential housing with gardens), no development shall take place until:

- a) a methodology for investigation and assessment of ground contamination has been submitted to and agreed in writing with the Local Planning Authority. The investigation and assessment shall be carried in accordance with current best practice including British Standard 10175:2011 'Investigation of potentially contaminated sites - Code of Practice'. The objectives of the investigation shall be, but not limited to, identifying the type(s), nature and extent of contamination present to the site, risks to receptors and potential for migration within and beyond the site boundary;
- b) all testing specified in the approved scheme (submitted under a) and the results of the investigation and risk assessment, together with remediation proposals to render the site capable of development have been submitted to the Local Planning Authority;
- c) the Local Planning Authority has given written approval to any remediation proposals (submitted under b), which shall include an implementation timetable and monitoring proposals. Upon completion of remediation works a validation report containing any validation sampling results shall be submitted to the Local Authority.

Thereafter, the development shall only be carried out in full accordance with the approved remediation proposals.

Should, during the course of the development, any contaminated material other than that referred to in the investigation and risk assessment report and identified for treatment in the remediation proposals be discovered, then the development should cease until such time as further remediation proposals have been submitted to and approved in writing by the Local Planning Authority.

*Reason: To protect the environment and prevent harm to human health, by ensuring the site is suitable for the proposed end-use, in accordance with Paragraph 121 of the National Planning Policy Framework (DCLG, 2012).*

7. No development shall commence until a detailed method statement for removing or the long-term management/control of Japanese knotweed on the site has been submitted to and approved in writing by the local planning authority. The method statement shall include proposed measures that will be used to prevent the spread of Japanese knotweed during any operations, such as mowing, strimming or soil movement. It shall also contain measures to ensure that any soils brought to the site are free of the seeds / root / stem of any invasive plant covered under the Wildlife and Countryside Act 1981 (as amended). Development shall proceed in accordance with

the approved method statement. *Reason: To prevent the spread of Japanese knotweed, which is prohibited under the Wildlife and Countryside Act 1981.*

8. Before the development hereby permitted is first commenced, other than demolition, full details of existing and proposed ground levels and proposed building finished floor levels (all relative to ground levels adjoining the site) shall have been submitted to and approved in writing by the Local Planning Authority, notwithstanding any such detail shown on previously submitted plan(s). The development shall be carried out strictly in conformity with the approved details. *Reason: To protect the appearance of the locality and in the interests of the amenities of local residents.*

9. Prior to the commencement of development, other than site preparation works or demolition, samples of all external facing and roofing materials (notwithstanding any details shown on previously submitted plan(s) and specification) shall be submitted to and approved in writing by the Local Planning Authority. All works shall be undertaken strictly in accordance with the details as approved. *Reason: To ensure that the materials used are visually appropriate to the locality.*

10. The dwellings hereby permitted shall meet Code Level 4 of the Code for Sustainable Homes or Level 6 if commenced after 1<sup>st</sup> January 2016 and shall have either additional building fabric insulation measures or have installed appropriate decentralised, renewable or low carbon energy sources and implemented to reduce the carbon emission of predicted energy use by at least 15%. No dwelling shall be occupied until a letter of assurance; detailing how that plot has met the relevant Code Level has been issued by a Code for Sustainable Homes Assessor. Within 6 months of occupation of each dwelling a Final Certificate, demonstrating that the relevant Code for Sustainable Homes Level for that dwelling has been achieved, shall be submitted to the Local Planning Authority. *Reason: In the interests of minimising the environmental impact of the development.*

11. The development hereby permitted shall not commence, other than site preparation works or demolition, until full details of the colour, form and texture of all hard ground-surfacing materials (notwithstanding any such detail shown on previously submitted plans and specification) have been submitted to and approved in writing by the Local Planning Authority. The development shall only be carried out in conformity with the approved details. *Reason: To ensure a satisfactory form of development in the interest of the visual amenity of the area.*

12. The driveways for each dwelling hereby approved shall be surfaced or paved and made available for parking in accordance with the approved plans prior to the occupation of any of the dwellings. Such parking facilities shall thereafter be permanently retained for that purpose (notwithstanding the Town and Country Planning (General Permitted Development) Order 1995). *Reason: To ensure provision of adequate off-street parking facilities within the site.*

13. No dwelling shall be occupied until all fences and walls shown in the approved details to bound its plot, have been erected in conformity with the approved details. Other fences and walls shown in the approved details shall have been erected in conformity with the approved details prior to substantial completion of the development. *Reason: To ensure a visually satisfactory form of development and to provide reasonable standards of privacy to residents.*

14. The development hereby permitted shall be carried out in accordance with the following approved plans:

<b>Title</b>	<b>Drawing Reference</b>	<b>Received date</b>
Proposed Site Plan (location plan)	715.01-P01 Rev B	6 <sup>th</sup> January 2013
Proposed Site Plan	717.01-P10 Rev B	16 <sup>th</sup> December 2013
Site Section	717.01-P17 Rev A	16 <sup>th</sup> December 2013
Proposed House Type 1 Floor Plans	717.01-P11	9 <sup>th</sup> October 2013
Proposed House Type 1 Elevations	717.01-P12	9 <sup>th</sup> October 2013
Proposed House Type 2 Floor Plans	717.01-P13	9 <sup>th</sup> October 2013

Proposed House Type 2 Elevations	717.01-P14	9 <sup>th</sup> October 2013
Proposed House Type 3 Floor Plans	717.01-P15	9 <sup>th</sup> October 2013
Proposed House Type 2 Elevations	717.01-P16	9 <sup>th</sup> October 2013
Proposed Site Access Improvements Including Proposed Works to Finnington Lane	1459-01-GA101 Rev A	9 <sup>th</sup> October 2013

*Reason: For the avoidance of doubt and in the interests of proper planning.*

15. The integral garages hereby approved on plots 1-8 and 17-18 inclusive (house types 2 and 3) shall be kept freely available for the parking of cars and no works, whether or not permitted by the provisions of the Town and Country Planning (General Permitted Development) Order 1995 or any order amending or revoking and re-enacting that order, shall be undertaken to alter convert the space into living or other accommodation. *Reason: To ensure adequate garaging/off street parking provision is made/maintained and thereby avoid hazards caused by on-street parking*

16. Prior to the commencement of any development (other than demolition or site preparation works), plans and particulars showing a scheme of foul sewers and surface water drains, shall be submitted to, and approved in writing by, the Local Planning Authority. Such works shall be carried out in accordance with the approved details concurrently with the rest of the development and in any event shall be finished before the building is occupied. *Reason: To ensure a satisfactory means of drainage.*