

**Item 4d 13/00948/FULMAJ**

**Case Officer Caron Taylor**

**Ward Brindle And Hoghton**

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

**Location Finnington Industrial Estate Finnington Lane Feniscowles Withnell**

**Applicant Units To Let (Northern) Ltd**

**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
- Trees and Landscape
- Ecology
- Flood Risk
- Traffic and Transport
- Contamination and Coal Mines
- Drainage and Sewers

- Planning Obligations and Viability
- Sustainable Resources
- Other Issues

## **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 bays 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 and allowing access to the rear of the existing terraced properties. The applicant states that they have checked land ownership and that the land to the rear of the terraced properties within the red edge of the application is under the applicants' control.
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 River Trust

It is essential that the existing link between the site and the canal towpath is maintained so that pedestrians and cyclists, including the occupiers of the proposed dwellings, can gain access to the waterway. In addition, the Canal and River Trust's staff and contractors need to gain access to the towpath in order to remove litter from the canal and manage vegetation on the edge of the towpath. Such ongoing maintenance is clearly essential and will be reasonably expected by the occupiers of the proposed dwellings that will overlook the canal. It may also be necessary to gain access to the canal with plant and machinery in the event that repairs or other construction works are required on this section of the canal. The revised site plan indicates the retention of an existing opening in the boundary wall *'to form gated emergency access to towpath subject to legal agreement between landowner and Canal & River Trust, with adjacent pedestrian access stile'*. The Trust is concerned to ensure that the openings in the boundary wall are maintained at all times in the future, and would therefore request a condition be imposed requiring details of the openings in the boundary wall to be submitted and approved in writing.

13. The Canal & River Trust does not believe that a legal agreement is required for their staff to continue to gain access to the canal. Any vehicular access can be controlled through the use of a lockable bollard or gate which our staff or contractors have the means to open. In addition, the applicant has indicated that he would seek payment from the Trust to gain access through the site. As a charity the Trust clearly does not have resources available to make such payments. As stated above, it is in the interests of the proposed development and its future occupiers that the Trust is able to continue to carry out the essential maintenance of the waterway. The overspill weir opposite the site, in particular, collects water-borne litter which needs to be removed regularly.
14. 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. The revised site sections indicate that the embankment will be incorporated into the rear garden areas of Plots 13 to 18. It is essential that the future occupiers do not carry out any work that may risk de-stabilising the embankment or damaging the towpath and canal. This would include any work to excavate or re-profile the embankment to create more level garden areas. The Trust requests a condition is imposed that no excavation or other engineering work to the embankment that retains the adjacent Leeds & Liverpool Canal shall be carried out in the rear garden areas of Plots 13 to 18, without express planning permission being granted.
15. The site lies immediately adjacent to the canal towpath and it is essential that the developer works with the Canal & River Trust to ensure that the demolition and construction phases are carried out with full consideration of the need to prevent any risk of pollution of the waterway or harm to users of the towpath. The Trust therefore request a condition be imposed requiring a canal protection plan to be submitted and approved including full details of measures to protect the canal and its users from any risk of harm or pollution during the demolition and construction phases.

## 16. 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.

17. 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 door sets and BS7950 window frames with laminated glass panels to the rear of the properties. All properties fitted with a security alarm.

## 18. 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

## 19. United Utilities

Have no objection to the proposed development.

## 20. Lancashire County Council (Highways)

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

21. 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.
22. 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.
23. 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].

24. 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.

25. They therefore have no objections to the proposal, subject to conditions and advice notes.

**26. Chorley's Waste & Contaminated Land Officer**

Request a condition in relation to ground contamination.

**27. Lancashire County Council (Ecology)**

Originally stated that the application 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 and no mitigation or compensation proposals had been submitted so the proposals do not therefore address the licensing tests. 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.

28. As a result of these comments the applicant submitted an updated report: *Finnington Industrial Estate. Mitigation in Relation to Bats & Swallows* (The Tyrer Partnership, 7th February 2014). The County Ecologist states that this has clarified the points raised in their original earlier consultation response (permanent provision for bats; the issue of the cellar/ lower ground floor and potential bat roosting opportunities).

29. In their opinion, the proposed mitigation (subject to maintenance of habitat and assuming that light pollution can be avoided, as mentioned in my earlier response), should be sufficient to ensure that the third licensing (legal) test set out in the Conservation of Habitats and Species Regulations 2010 (as amended) (*i.e.* maintenance of the population of bats) is addressed. Chorley Council will need to consider the remaining two licensing tests (as set out in my earlier consultation response).

30. Unless Chorley Council has reason to believe that a Natural England licence (bats) would not be issued, the application should not be refused on the grounds of impacts on European protected species. Maintenance of swallow nesting opportunities, and protection of nesting birds, control of invasive species, landscaping need to be secured.

**31. 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.

32. 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.

### 33. 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.

### 34. 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

35. 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.

36. 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.

37. 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.

38. There are a number of non-permanent moorings on the canal that bound with the site.

### Principle of the development

39. 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

40. 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.
41. 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.
42. 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.
43. 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

44. 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.
45. The site is in a rural location surrounded by fields and bounded by the canal and Finnington Brook. The current use does therefore have 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

46. 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.

47. 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.

48. 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.

49. 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.

50. 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.

51. The Planning Statement also states that:

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

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

53. 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. Although there is some employment on the site at present, it is mainly in the form of low key car sales and storage so has limited local employment opportunities.
- 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 and in terms of noise and nuisance to the adjacent existing residential properties;
- 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.
- h) **an assessment of the viability of employment development including employment re-use and employment redevelopment.** This has not been undertaken.

54. 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 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 under (h). They have not provided sufficient information on this or adequately justified why they have not addressed these requirements.
55. Therefore, at present the proposal does not strictly comply with Policy 1 in terms of criteria (g) and (h), however there are other 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.
56. 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 and because of this more information on these matters is therefore not considered necessary.
57. The proposal is therefore considered acceptable in principle.

#### Density

58. 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 surrounding 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

59. 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.
60. Cross-sections have been received from the applicant showing how the land will be re-graded on the site but still maintaining the overall fall from the canal to the south of the site, to the brook to the north. The cross-sections are considered acceptable subject to finished floor levels of each of the properties being agreed by condition.

#### 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 non-permanent 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.

### Design and Layout

67. 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.
68. 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 storeys 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.
69. 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.
70. 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.
71. 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.
72. Boundary details have been amended along the side boundaries of plots 1 and 9 which are prominent within the site (particularly plot 1 which is at the entrance to the site) so that these boundaries are made up of a 1.8m boundary hedge with a green chain-link fence on the house side of the boundary. This avoids the use of close boarded fences in prominent locations which is considered acceptable. On the boundary with the canal the original stone boundary wall will be retained. The existing opening to the canal towpath will be increased in size by retaining and

moving the existing stone gate posts to form a gated access. To the rear of plots 16 -18 the height of the existing stone wall will be raised to match the existing taller element and to the rear of plot 18 where part of the boundary currently only has a post and rail fence a new stone wall will be built to match that adjacent. This is considered acceptable.

73. It is considered that the erection of further fencing by occupiers of the new properties, such as close boarded fences along this boundary, may 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. 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.

### Trees and Landscape

75. 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 that have a low retention value and a dead sycamore, but also one category B tree. The loss of the B category trees is unavoidable due to its location on site but is considered acceptable as new trees are to be planted as part of the scheme. A landscaping scheme condition is proposed. Other category A and B trees on or immediately adjacent to the site that will be retained as part of the development.

### Ecology

76. The updated report submitted in response to the original comments from Lancashire County Council Ecology sets out mitigation measures proposed in relation to ecology.
77. Local Planning Authority have a legal duty to determine whether the three 'derogation tests' of the Habitats Directive implemented by the Conservation (Natural Habitats &c.) Regulations 1994 have been met when determining whether to grant planning permission for a development which could harm a European Protected Species. The three tests include:
- (a) the activity must be for imperative reasons of overriding public interest or for public health and safety;
  - (b) there must be no satisfactory alternative and
  - (c) favourable conservation status of the species must be maintained.
78. It is considered that the proposal is in the public interest in terms of the first test, the site at present detracts from the visual amenity of the landscape and greenbelt. In terms of the second test it is not considered that there is an alternative as the buildings are in a poor state of repair and would not lend themselves easily to another use. It is considered the proposed mitigation will be sufficient to ensure that the third licensing (legal) test is addressed.
79. The above does not remove the requirement for the need for a Licence from Natural England but it is not considered there is reason to believe that Natural England would not grant a licence.
80. The proposal is therefore considered acceptable on ecology grounds subject to conditions securing maintenance of swallow nesting opportunities, protection of nesting birds, control of invasive species and landscaping.

### Flood Risk

81. 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

82. 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.

83. 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

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

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

### Drainage and Sewers

86. 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.

### Planning Obligations and Viability

#### Affordable Housing

87. 30% affordable housing would normally be provided on a site of this size in accordance with Policy 7 of the Joint 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.

88. 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 as it is not considered to be a site that would be suitable for affordable housing.
89. Using the formula within the Affordable Housing SPD the off-site commuted sum will be £435,065

#### Public Open Space

90. Amenity open space is to be provided on site and maintained privately. There is justification for a commuted sum towards other types of open space (equipped play areas and allotments) and playing pitch requirements in accordance with policies HS4A and HS4B of the emerging Local Plan 25012-2026 which comes to £31,464.

#### Viability

91. On top to these LCC Highways have requested £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 which would be delivered through a S278 agreement under the Highways act 1980. The scheme would also be liable for a Community Infrastructure Levy (CIL) payment of £64,350.
92. The applicant has submitted a viability report with the application stating that the scheme would not be viable if they paid the required off-site affordable housing contribution, public open-space payments, highways contribution and the Community Infrastructure Levy (CIL).
93. The CIL payment is not negotiable so must be paid. The applicant has therefore put forward a reduced contribution towards off-site affordable housing of £42,000, along with full payments towards public open space and highways.
94. Viability is a material planning consideration. Paragraph 173 of the National Planning Policy Framework states that to ensure viability, the costs of any requirements likely to be applied to development, such as requirements for affordable housing, standards, infrastructure contributions or other requirements should, when taking account of the normal cost of development and mitigation, provide competitive returns to a willing land owner and willing developer to enable the development to be deliverable.
95. The applicant's viability report has been assessed by the Council's Property Service Surveyor and they agree with the figures put forward and that it is not possible to justify further sums for planning obligations. It is therefore accepted that the scheme would not be viable with all the contributions normally required on top of CIL.
96. It is considered that the scheme will result in the removal of a poor neighbour from the adjacent neighbouring terraced properties and redevelop a site that currently has an adverse impact visually on the immediate area. The redevelopment of the site is therefore encouraged and the lower level of affordable housing contribution accepted to ensure that the scheme is viable and will proceed.

#### Sustainable Resources

97. 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 are 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

98. 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.
99. 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.
100. The comments of the Canal and Rivers Trust regarding the structural integrity of the canal towpath are noted. Updated cross-sections have been received and sent to the Canal and River Trust. A condition is proposed requiring levels details to be provided including details of any works to re-profile the embankment or erect retaining structures.
101. Their comments on access to the canal are also noted. Although the applicant is willing to enter into a legal agreement with The Canal and River Trust in relation to access through the site The Canal and River Trust does not believe that a legal agreement is required for their staff to continue to gain access to the canal providing a gate is provided. A condition is proposed requiring details of an opening(s) to be provided. Although they state that the applicant has indicated that he would seek payment from the Trust to gain access through the site this is not a planning matter but rather a private matter between the parties. The Trust does not have a legal right of access at present, so any planning approval would not change this situation.
102. The conditions requested by The Canal and River Trust are proposed.

### **Overall Conclusion**

103. It is accepted that the proposal does not comply with all the elements of Policy 10 of the Core Strategy, however in this instance it is considered that there are other material considerations in favour of the application that outweigh this. The application is recommended for approval subject to conditions and a Section 106 agreement.

### **Planning Policies**

#### National Planning Policies:

The National Planning Policy Framework

#### Joint Core Strategy

Policies 7, 17, 10 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 across the site 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 details shall also include full details of any works to re-profile the canal

embankment or erect retaining structures adjacent to it. 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 C	10 <sup>th</sup> January 2014
Site Section	717.01-P17 Rev A	10 <sup>th</sup> January 2014
Proposed House Type 1 Floor	717.01-P11	9 <sup>th</sup> October 2013

Plans		
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.*

17. Prior to the commencement of development (other than demolition), full details of the opening(s) in the boundary wall to provide access to the canal towpath shall be submitted to and agreed in writing by the Local Planning Authority. The opening(s) shall be provided in accordance with the approved details and retained as such at all times thereafter, unless otherwise agreed in writing by the Local Planning Authority. *Reason: To ensure that pedestrian and cycle access to the Leeds and Liverpool Canal towpath is maintained.*

18. No excavation or other engineering work to the embankment that retains the adjacent Leeds and Liverpool Canal shall be carried out in the rear garden areas of Plots 13 to 18, without express planning permission being granted. *Reason: To prevent any risk of damage to the Leeds and Liverpool Canal embankment.*

19. Prior to the demolition of the existing buildings, a canal protection plan including full details of measures to protect the canal and its users from any risk of harm or pollution during the demolition and construction phases shall be submitted to and agreed in writing by the Local Planning Authority. The development shall be carried out in full accordance with the approved measures, unless otherwise agreed in writing by the Local Planning Authority. *Reason: To protect the Leeds*

*and Liverpool Canal and its users from any risk of damage or harm during demolition and construction.*

20. 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.*

21. The following ecology mitigation measures as set out in The Tyrer Partnership Report – Finnington Industrial Estate Mitigation in Relation to Bats & Swallows shall be implemented in full and includes the following:

- vii. Demolition shall take place outside the hibernation season (end of October – End of March);
- viii. 4 x Schwegler 2F bat boxes and 1 FS box shall be erected on the trees at the north boundary of the site (as shown on the plan in section 3.0 of the above report) prior to any demolition and retained in perpetuity;
- ix. The following shall be erected/created within the properties hereby permitted as follows:
  - a) Integral bat boxes at Type 3 Building on Plots 8 and 18;
  - b) Ridge tile access at Type 2 Building at Plots 4/5 and 15/16The above shall be provided as shown on the plans and details in Section 3 of the above report and shall be retained in perpetuity and no lighting shall be directed or installed on gable elevations where the integral bat boxes are located.

*Reason: To safeguard protected species.*

22. A scheme for the landscaping of the development and its surroundings shall be submitted prior to the commencement of the development (other demolition). These details shall include all existing trees and hedgerows on the land; detail any to be retained, together with measures for their protection in the course of development; indicate the types and numbers of trees and shrubs to be planted, their distribution on site, those areas to be seeded, paved or hard landscaped; and detail any changes of ground level or landform, proposed finished levels, means of enclosure, minor artefacts and structures. Landscaping proposals shall include hedge planting as detailed in Section 3.0 of The Tyrer Partnership Report – Finnington Industrial Estate Mitigation in Relation to Bats & Swallows (10 January 2014: Updated 7th February 2014).

All hard and soft landscape works shall be carried out in accordance with the approved details within the first planting and seeding seasons following the occupation of any buildings or the completion of the development, whichever is the sooner, and any trees or plants which within a period of 5 years from the completion of the development die, are removed or become seriously damaged or diseased shall be replaced in the next planting season with others of similar size and species. *Reason: To ensure that a satisfactory landscaping scheme for the development is carried out to mitigate the impact of the development and secure a high quality design.*

23. Any trees and scrub to be removed, it should be removed outside of the breeding season of birds (March - August) unless it can be conclusively established, by an ecologist, that nesting birds are absent. *Reason: To protect breeding birds which are a protected species.*

24. Before the development hereby permitted commences (other than any demolition) a lighting scheme for the development shall be submitted to and approved in writing by the Local Planning Authority. The scheme should avoid light pollution to habitat features that have been identified as being used by bats (notably at the north and south boundaries of the site and the canal). The scheme shall be implemented as per the approved details. *Reason: To prevent unacceptable lighting disturbing bat features.*

25. During the development of the site low angle sloping boards of approximately 300mm wide should be placed within any excavations at the end of each working day if the excavations are not covered over. *Reason: To facilitate a means of escape for mammals such as hedgehogs.*

26. Before the development hereby permitted commences (other than demolition) details of replacement swallow nesting opportunities shall be submitted to and approved in writing by the Local Planning Authority. The details shall include the number, position and details of the replacement nesting opportunities and who will be responsible for their security and maintenance. The replacement swallow nesting opportunities shall be implemented as per the approved details and retained in perpetuity. *Reason: To safeguard the swallow population.*

27. There shall be gap of at least 12cm between the ground and the bottom of the fence panels on the site. *Reason: To allow hedgehogs to move between gardens.*