Members of the public may ask a question, make a statement, or present a petition relating to any matter within the remit of the Committee.

Notice in writing of the subject matter must be given to the Head of the Chief Executive’s Office by 5.00pm three days before the meeting. Forms can be obtained for this purpose from the reception desk at Burnley Town Hall, Manchester Road or the Contact Centre, Parker Lane, Burnley or from the web at www.burnley.co.uk/meetings.

A G E N D A

1. Apologies

To receive any apologies for absence.

2. Minutes

To approve as a correct record the Minutes of the last meeting held on 15th May 2014 available at www.burnley.gov.uk.

3. Additional Items of Business

To determine whether there are any additional items of business which, by reason of special circumstances, the Chair decides should be considered at the meeting as a matter of urgency.

4. Declaration of Interest

To receive any declarations of interest from Members relating to any item on the agenda in accordance with the provision of the Code of Conduct and/or indicate if S106 of the Local Government Finance Act 1992 applies to them.
5. **Exclusion of the Public**

To determine during which items, if any, the public are to be excluded from the meeting.

**PUBLIC ITEMS**

6. **List of Deposited Plans and Applications**

To consider reports on planning applications for development permission:

   I. APP/2014/0031 Barden Mill, Barden Lane, Burnley (enclosed)

7. **Appeals and Other Decisions**

To consider, the outcome of appeals in relation to:
   (i) 16 Bentham Avenue, Burnley
   (ii) Land off Lower Timber Hill Lane, Burnley
   (iii) Washworx, Trafalgar Street, Burnley

**MEMBERSHIP OF COMMITTEE**

Charles Bullas  
Frank Cant (Vice Chair)  
Saeed Chaudhary  
Jean Cunningham  
Trish Ellis  
Roger Frost  
Sue Graham  
John Harbour

Anne Kelly  
Arif Khan (Chair)  
Elizabeth Monk  
Neil Mottershead  
Tom Porter  
Paul Reynolds  
Ann Royle  
Cosima Towneley

**PUBLISHED:** Wednesday, 11th June 2014
# DEVELOPMENT CONTROL COMMITTEE

## 19th June 2014

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<td>Redevelopment of existing retail mill site in order to erect 6no. 3 storey 4 bed houses; 3no. 3 storey 3 bed houses, 12no. 2 storey 3 bed houses and one 4 storey apartment building with 16no. 2 bedroom apartments and the creation of a visitors car parking area.</td>
<td>Barden Mill, Barden Lane, Burnley</td>
<td>Recommended for Delegation</td>
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Full Planning application
Redevelopment of existing retail mill site in order to erect 6no. 3 storey 4 bed houses; 3no. 3 storey 3 bed houses, 12no. 2 storey 3 bed houses and one 4 storey apartment building with 16no. 2 bedroom apartments and the creation of a visitors car parking area.

BARDEN MILL BARDEN LANE BURNLEY

Background:
Barden Mill was, at one stage, a successful textile mill until its closure in the 1970s. It was then re-opened in the mid-1990s as a retail/mill shop outlet and was run with varying success until its closure last year when the business moved to the Pendle Village Mill Outlet in Nelson, off Junction 12 of the M65. The site also gained consent for its use as a Spar retail unit (A1), however this never materialised. The site has been vacant since its closure over 12 months ago.

The site is bounded by Barden Lane, the Leeds and Liverpool Canal, and the train line which runs between Burnley and Colne. The site is very prominent when approached from the west and has the potential to be an attractive gateway to Burnley.

The site is defined within the Burnley Local Plan as being within the urban boundary, and the scheme has been discussed at Pre-Application Stage with Planning Officers.

Relevant Policies:
Burnley Local Plan Second Review
GP1 - Development within the Urban Boundary
GP3 - Design and Quality
GP5 - Access for All
GP6 - Landscaping and Incidental Open Space
GP7 - New Development and the Control of Pollution
GP8 - Energy Conservation and Efficiency
GP9 - Security and Planning Out Crime
GP10 - Developer Contributions

E3 - Wildlife links and corridors
E4 - Protection of other features of ecological value
E5 - Species protection
E6 - Trees, hedgerows and woodlands
E7 - Water bodies and water courses
E8 - Development and flood risk
E10 - Alterations, extensions, change of use and development affecting listed buildings
E26 - Development in the Green Belt
E27 - Landscape, character and local distinctiveness in Rural Areas and Green Belt

EW7 - Redevelopment of Existing Employment Land and Premises for Non Employment Uses

H2 - The sequential release of further housing land for development
H3 - Quality and design in new housing development
H4 - Providing a choice of housing in new development
H5 - Local housing needs
H7 - Open space in new housing development
H9 - Regenerating urban areas and neighbourhoods

TM4 - Transport hierarchy within development proposals
TM5 - Footpaths and walking within the urban boundary
TM6 - Walking and horse riding in the countryside
TM15 - Car parking standards

National Planning Policy Framework

Natural Environment and Rural Communities Act 2006.
Circular 06/05: Biodiversity and Geological Conservation - Statutory Obligations and Their Impact within the Planning System.
The Conservation of Habitats and Species Regulations 2010.
DEFRA Circular 01/2005.
Control of Pollution Act 1974.
Environmental Protection Act 1990.

Article 31 Statement

Following lengthy negotiations with the Agent and Applicant, the submission of amended plans, additional survey information and agreements regarding planning contributions, the application submitted is now considered to be generally in accordance with the local plan policies, the National Planning Policy Framework and the other documents highlighted above.
Site History:
APP/2014/0185 - Prior Approval - Proposed demolition of former weaving mill – Granted.
APP/2012/0504 – Variation of condition no. 2 of planning permission APP/2007/0700 to allow dual use of 1st floor meeting room as a café/restaurant for the use of general members of the public – Granted.
APP/2011/0175 – Proposed formation of 76 berth marina, slipway, facility building, utility building, car parking perimeter security fencing, retention of car park – Granted.
APP/2008/0732 – Variation of condition no. 2 of planning permission APP/2000/0107 relating to the use of the premises (re-sub of APP/2008/0434) – Refused.
APP/2008/0434 – Variation of condition no. 2 of planning permission APP/2000/0107 relating to the use of the premises – Withdrawn.
APP/2007/0700 – Construct 90 berth narrow boat non-residential marina, erection of facilities building with access off Barden Lane and provision of associated parking, access roads and landscaping – Granted.
APP/2001/0061 – Modification to front elevation – Granted.
APP/2000/0108 – Proposed extension to existing retail premises to provide new entrance area; children’s play area; office area and staff facilities – Granted.
APP/1996/0607 – Proposed demolition of part of mill, replacement with car parking provision and new vehicular access, and continuation of warehouse/retail uses together with tea room, sewing room etc. – Granted.
APP/1996/0128 – Retention of use of part of mill as mill shop – Granted.
APP/1995/0598 – Change of use of part of mill to retail use and use of part of existing retail area for staff canteen/tea room – Withdrawn.
APP/1994/0592 – Change of use of part of warehouse to retail use – Refused.
APP/1994/0172 – Change of use of part of pf warehouse to provide extension to existing mill shop – Granted.
APP/1993/0264 – Proposed mill shop within existing mill premises – Granted.

Consultation Responses:

Lancashire County Council (Highways Developer Support)
The Highways Officer advises that he has no objection in principle with the proposal subject to relevant conditions. He does however note that the section of Barden Lane between the 2 bridges (rail and canal) gives rise to road safety concerns. He notes that a previous application for a convenience store resulted in the introduction of a
footway beneath the rail bridge to accommodate the anticipated pedestrian movements to the new store, however as it transpired the store did not survive. Nevertheless the footway remains, and is seen as, a valid road safety measure, more so with the anticipated increase in the pedestrians trips generated by the proposed development. However, he considers that this development will require further road safety enhancements to improve the safety of traffic emerging from the site.

The Highways Officer initially requested a junction table and the introduction of a priority working system over the canal bridge, with the estimated cost of these measures being in the region of £30,000 (funded by the developer through a S278 agreement). However, following further discussions between the applicant’s Transport Planner and the County Highway’s Officer regarding the necessity for such improvements, a compromise was discussed and a S106 contribution of £3000 to fund the priority working system over the bridge was agreed. The Highways Officer is satisfied that the road safety concerns in this area will be mitigated by these works, and I am in agreement with this.

With regards to parking he is also conscious that the proposed apartments have only one allocated parking space per flat. He considers that any additional parking requirement is likely to take place on the access road near to the junction with Barden Lane, which may impede traffic movements into/out of the site and become a safety hazard. He considers the solution to be the introduction of waiting restrictions on both sides along the length of the access road to the visitor parking area. These details will also be subject to a planning condition.

Lancashire County Council (Education)
The application has been assessed by the LCC Education team and it has not resulted in a request for a planning contribution.

Environment Agency
No objections in principle to the proposed development subject to relevant conditions. Without these conditions, the proposed development on this site poses an unacceptable risk to the environment and the EA would object to the application.

United Utilities
With reference to the above planning application, United Utilities wishes to draw attention to the following as a means to facilitate sustainable development within the region.

Drainage Comments
In accordance with the National Planning Policy Framework and Building Regulations, the site should be drained on a separate system with foul draining to the public sewer and surface water draining in the most sustainable way. Building Regulation H3 clearly outlines the hierarchy to be investigated by the developer when considering a surface water drainage strategy. They therefore ask the developer to consider the drainage options in the following order of priority:

a) an adequate soak away or some other adequate infiltration system, (approval must be obtained from local authority/building control/Environment Agency); or, where that is not reasonably practicable,

b) a watercourse (approval must be obtained from the riparian owner/land drainage authority/Environment Agency); or, where that is not reasonably practicable,
c) a sewer (approval must be obtained from United Utilities).
To reduce the volume of surface water draining from the site we would promote the use of permeable paving on all driveways and other hard-standing areas including footpaths and parking areas.

United Utilities will have no objection to the proposal subject to specific conditions being attached to any approval.

Canal and Rivers Trust
The Canal and Rivers note that that they previously provided comments to the Applicant at the pre-application stage and raised several issues relating to the impacts of the development on the waterway. However, in relation to the current application, the Canal & River Trust has no objections to the proposed development, subject to the imposition of suitably worded conditions. They also have the following specific comments to make relating to the following matters.

Design
It was advised at pre-application stage that brick should be utilised as a façade material as this would mirror the existing mill building’s vernacular. The proposed scheme will use brick and also include glass balustrades which will improve the aesthetic quality of the scheme from the canals outward perspective. However, due to the proximity of the canal and the adjacent listed bridge, we recommend a condition in relation to materials.

Landscaping
Furthermore, in relation to boundary treatment, the submitted plans indicate a small element of timber fencing shown on the sections. Timber fencing would be an incongruous addition and we recommend that hedging as proposed for boundary treatment on the rest of the site is preferable. It is also unclear from submitted plans the extent of the boundary treatment between the canal and car park area. Again we recommend hedging in this location. In light of these comments, we recommend a specific landscaping condition.

Works close to Canal
Due to the proposed works and the proximity of the canal, we recommend a specific condition relating to protective fencing.

Drainage
We note that the Applicant is considering discharging surface water into the canal. A previous agreement to discharge surface water into the canal from Barden Mill was terminated in 2013. Should the Applicant wish to discuss this matter, they are advised to contact the Canal and Rivers Trust directly.

The conditions suggested are considered to be consistent with paragraph 206 of the National Planning Policy Framework and paragraph 58 which requires new development to respond to local character and history, reflect the identity of local surroundings and materials and be visually attractive as a result of good architecture and appropriate landscaping. They are also consistent with paragraph 109 which aims to prevent new development from contributing to water pollution.

Burnley Civic Trust
Burnley Civic Trust makes the following comments,
1. The proposed apartment block looks most forbidding and will spoil the setting and skyline, and
2. The access is of particular interest as more houses will add competing factors to those already in existence due to,
   a. The canal bridge, and
   b. The railway bridge.
   There are already current issues with the free flow of traffic along Barden Lane, and if this development is to proceed then the access problem must be carefully resolved.

**Sustrans**

If this land use is approved by the council's planning committee our comments are as follows:

1) We would like to see the design include storage areas for residents' buggies/bicycles, and
2) The site lies adjacent to National Cycle Network route 68 on the Leeds and Liverpool canal towpath. Can this development make a contribution to any further improvements including local access to the route?

**Neighbour Consultation Responses**

Ten letters of objection from seven different households and a letter signed by 18 residents from the area have been received in response to this application. The points of objection have been summarised as follows,

1. The four storey apartment block will look out of keeping with the area,
2. The three storey houses will look out of keeping with the area,
3. Existing access out onto Barden Mill is not adequate,
4. The extra traffic coming out of the Barden Mill site will need traffic lights installing at this junction,
5. Impact on highway safety due to additional traffic,
6. This route into Burnley is extremely busy as it provides access to the College, Hospital and many businesses from the north of Burnley. The access to the site is a potential accident black spot,
7. Previous scheme to install a footway to make ‘safe’ the walkway under the railway bridge has failed,
8. Barden Lane is like a race track due to the previous traffic calming measures,
9. There are already queues of traffic at peak times in the area and there have been a number of accidents,
10. The Transport Statement does not cover the entire picture as there have been two accidents in the past three years with cars ending up in our garden,
11. A traffic light system should be introduced to the area to help the flow of traffic,
12. Also Blacker Street should remain one way, but one way in the opposite direction. This would prevent crossing oncoming traffic at both ends of the street and stop `rat run` type driving towards Barden Lane,
13. Concern that the houses may not be built as per the approved scheme due to the costs involved,
14. Concern that the properties may remain empty, and then sold as ‘affordable’ units, which there are too many of in the area,
15. The additional housing in this area will provide more custom for the noisy and intrusive Kingfisher Bar and Marina to the rear of the site,
16. The property prices are too high,
17. Concern about pollution and asbestos affecting neighbours during demolition,
18. The scheme has no benefits for the local area, and
19. We consider the application should be refused and something of a much smaller scale be presented, such as over 50’s accommodation?
A couple of letters do support the building of houses on this site, as they note it would enhance the area in the long run, however they feel that it would be remiss of them not to highlight the current highway/traffic situation.

Planning and Environmental Considerations:

The site subject to this application is that of the former Barden Mill Retail/Mill Store. The site measures approximately 0.86 hectares in area. The site seeks the redevelopment of the site for a residential use, by virtue of the demolition of the existing mill in order to erect 6no. 3 storey 4 bed houses, 3no. 3 storey 3 bed houses, 12no. 2 storey 3 bed houses and one 4 storey apartment building with 16no. 2 bedroom apartments. The scheme also includes parking for both the apartment block and the dwellings, with a car parking area for visitors and an open plan amenity area to the northern end of the site near the marina. The principle vehicular access to the site has been retained from Barden Lane. The existing access road that runs the full length of the development allows vehicles to enter the site and manoeuvre safely into and out of the parking spaces. The road provides access for emergency services and waste removal services, and the visitor car parking area provides a turning head at the top of the site.

Proposed site plan

The main considerations in respect to this application are the principle of the development of this site for housing, the schemes impact upon the openness of the Green Belt, the schemes impact on highway safety at this location, whether the schemes overall design, appearance, scale or massing are acceptable, the schemes visual impact upon this location, whether the scheme has an impact upon designated heritage assets, whether the scheme has an ecological impact, whether there are any issues relating to contaminated land, whether the lack of ‘affordable housing’ contribution is justified and an assessment of the proposed planning contributions.

PRINCIPLE OF DEVELOPMENT

The majority of the site lies within the Urban Boundary of Burnley, with a small portion of the site lying within the Green Belt. The proposed dwellings and apartment block all
lie outside the Green Belt with the proposed visitor car parking area and open plan amenity area lying within the Green Belt. The area within the Green Belt is currently used as part of the sites car parking facilities, so the schemes impact upon it will be considered separately.

The policy basis against which this scheme should be appraised is set out in the context of national and local development plan policies. At a national level the National Planning Policy Framework (NPPF) states that there is a presumption in favour of sustainable development. For decision-taking this means ‘approving development proposals that accord with the development plan without delay.’ The NPPF advocates a presumption in favour of sustainable development unless any adverse impacts of doing so would significantly and demonstrably outweigh the benefits. In addition, it notes that those relevant policies for the supply of housing should not be considered up to date if the LPA cannot demonstrate a five year supply of deliverable guidance (Paragraph 49 of the NPPF). Having considered the document ‘Housing Land in Burnley 2013’, published in June 2013, at present the LPA can demonstrate a 5 year supply of housing. The application should therefore be considered in the context of the presumption in favour of sustainable development with the Policies of the Burnley Local Plan having overriding consideration. There are no provisions within the NPPF to advocate resisting development ‘in principle’ once a five year supply of deliverable sites is achieved.

Despite the site being an undesignated area within the urban boundary of the Burnley Local Plan, there are a number of Local Plan Policies that must be considered given the sites existing and historic commercial use, and its location adjacent to the Green Belt and the rural fringe of Burnley. Local Plan Policy GP1 states that, The Council will locate all new development, except that appropriate to a rural area, within the urban boundary defined on the Proposals Map.

Where development of land and buildings is proposed within the urban boundary, but not identified on the Proposals Map, it will be permitted when it meets the following:

(a) Makes efficient use of land and buildings by following a sequential approach to meeting development needs by considering:
   (i) firstly, the re-use of existing buildings and infrastructure; then
   (ii) the use of previously developed land;
(b) minimises the use of water, air, soil and other natural resources;
(c) exploits existing services and facilities;
(d) reduces the need to travel;
(e) is accessible or potentially accessible by walking, cycling and public transport;
(f) is accessible to all and does not lead to social exclusion;
(g) does not have a detrimental effect on residential amenity by reason of noise or other nuisance;
(h) does not have a detrimental effect on the safe and efficient operation of the existing transport and road infrastructure;
(i) does not result in the loss of an area which makes a significant contribution to public amenity by virtue of its open space character, appearance and function or is proposed open space in a Neighbourhood Action Plan (see Policy H9); and
(j) does not have a detrimental effect on the Borough’s built and natural environment (see Environment policies E1 to E23).

Whereas a number of these points are covered later within this report, the fact that the site is previously developed, brownfield land within the urban boundary, and is close to
existing public transport infrastructure, are important points when considering the suitability of this site for housing.

The site is home to a former mill building, that has more recently been home to a retail/warehousing outlet that closed/re-located over 12 months ago. On this basis, Local Plan Policy EW7, Redevelopment of Existing Employment Land and Premises for Non-Employment Uses, is also a key consideration for the proposed development. It advises that,

Outside the town centres, major industrial estates and Economic Improvement Areas proposals to redevelop existing employment sites for other uses will be permitted when the applicant can demonstrate that:

a) the continued use of the site for the current employment use would cause unacceptable harm to the character and amenity of the surrounding area; or
b) the site is no longer suited in land use terms for continued employment use by reason of poor vehicular access, incompatibility with surrounding land uses, or poor access to public transport routes.

The business previously on site has relocated to a more accessible and financially more viable location, and despite there being another planning permission granted for the site to be used as a Spar Shop (A1 retail), there has been little or no interest with the site as a commercial venture. This view is also taken by Petty Chartered Surveyors who have supplied a recently commissioned Valuation Report for the site (dated 28th April 2014) to support the application process. They note that in terms of a modern commercial use, the site is impractical due to poor access onto the site for commercial vehicles and that accessibility to the motorway network or any main distribution road is extremely difficult. In addition, other than the nearby tourist attraction of Reedley Marina and the Mill opposite that is separated in individual units, the locality is populated by residential development and the continued use of the site for a medium/large scale commercial/retail use would have the potential to cause unacceptable harm to the character and amenity of the area.

On this basis, I consider that the continued use of the site for a commercial/retail use would be an incompatible use in relation to existing land uses that surround the site. This is not only due to its likely visual impact upon the character and amenity of the area, but also due to the site being no longer suitable for the type of uses this site would have previously attracted due to impractical access and accessibility. The scheme therefore complies with the requirements of Local Plan EW7.

In conclusion, when considering the principle of the development of this site for housing, subject to the other material considerations of the proposal being deemed acceptable, the site is considered to be a sustainable location for new housing development by virtue of its proximity to local bus routes as well as a variety of amenities, and as such, I have no objections in principle to the proposed use of the site.

IMPACT UPON THE GREEN BELT
As noted earlier in this report, the majority of the site lies outside the Green Belt however the proposed visitor car parking area and open plan amenity area do fall within the Green Belt. Local Plan Policy E26, Development in the Green Belt, advises that within the Green Belt other development, not including buildings, will be inappropriate unless it maintains openness and does not conflict with the purposes of including land in the Green Belt. Bearing in mind the area of the existing site that
currently lies within the Green Belt is part of Barden Mill's car park and delivery yard, I do not consider the proposed use of this portion of the site as a visitor car park and open amenity area would fall within the definition of being ‘inappropriate’, and nor would its use impact upon the local landscape character or openness of the Green Belt at this particular location. Indeed, the landscaping scheme outlined on the proposed plans is considered to significantly improve the visual appearance of the area, and on this basis there is no ‘in principle’ objection to the proposal when considering any impact upon the Green Belt.

IMPACT ON HIGHWAY SAFETY

Junction with Barden Lane

The principle vehicular access to the site has been retained from Barden Lane, and the existing access road, which follows through to Reedley Marina, runs the full length of the development. The direct access off this, for both the dwellings and the apartments, is considered to be safe and acceptable, and there is sufficient access for emergency services and waste removal services thanks to a turning head provided at the top of the site.

However, one of the main concerns raised by nearby neighbours in relation to this application is the main access out onto Barden Lane. The concern relates to extra/additional traffic using the junction, and the potential for further conflict with other road users entering Burnley. Whilst no objection to the proposal has been raised by the County Highways Developer Support Officer, in relation to the existing situation around this site, he considers that this development would require further road safety enhancements to improve the safety of traffic emerging from the site. However he did agree with the case presented by the Applicant’s Traffic Engineer that the proposed development is predicted to result in the following net reduction in trips when compared to the existing/extant uses it would replace (see below),
The road safety enhancements initially requested to improve the safety of traffic emerging from the site included a junction table and the introduction of a priority working system over the canal bridge, with the estimated cost of these measures being in the region of £30,000 (funded by the developer through a S278 agreement). Discussions between the applicant’s Transport Planner and the County Highway’s Officer regarding the necessity for such improvements, have been highlighted earlier in this report, and the Highways Officer is satisfied that the road safety concerns in this area will be mitigated by the creation of a priority working system over the canal bridge, and I am in agreement with this.

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<th>Weekday PM Peak Hour (16:30pm to 17:30pm)</th>
<th>Saturday Peak Hour (11:45am to 12:45pm)</th>
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<td>Departures</td>
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<tr>
<td>Net Difference</td>
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Approximate location of road safety improvements

The existing highway concerns/issues in this locality are not directly related to the existing use of the site, so the key consideration to make in this instance in relation to matters of highways safety is whether or not the proposed development would exacerbate these existing issues, or indeed add new issues. Having considered the evidence provided by the Applicant’s Traffic Engineer, the views given by the County Highways Officer and the offer of funding towards road safety enhancements at this locality, I am mindful of paragraph 32 of the NPPF. It advises that ‘Development
should only be prevented or refused on transport grounds where the residual cumulative impacts of development are severe’. The intention of NPPF is to allow development unless there is a severe impact caused by the development that cannot be mitigated. Bearing this in mind, subject to the S106 contribution and the adherence with the attached planning conditions, I do not consider that the proposed scheme will significantly impact upon the existing highway safety issues within this locality, but will actually mitigate and improve them. I therefore have no objections to the scheme from a highway safety point of view.

DESIGN, APPEARANCE, SCALE AND MASSING
In a historical context, most development adjacent to the Leeds/Liverpool canal was generally quite dense and Barden Mill was no exception. The original mill building was a 5 storey mill built tight up to Barden Lane and the canal with the North Light Mill behind. Whilst the main 5 storey element of the original building is no longer there, the remaining mill abuts the canal.

![Existing strong frontage to the canal](image)

The scheme proposed seeks to use the historical precedent and form of the site within the scale and massing of the dwellings and apartments on the site in order to connect with, and create a positive edge to, the canal and Barden Lane. The 4 storey apartment building has scale similar to the original Barden Mill, albeit set back from Barden Lane (Barden Mill was flush to the highway), and at this location and in the sites context, it is considered to form an appropriate statement building or gateway into Burnley. The apartment building was originally proposed with a pitched, slate roof however due to the complex layout of the footprint of the building, it was considered that this actually created an inappropriate level of scale and massing that would have dominated the streetscene. The scheme now reflects the more typical and historical style of a mill building, albeit with a more modern architectural style, that forms a strong anchor for the sites development.
East and west facing apartment elevations

North and South facing apartment elevations
From this height, the buildings then step down in scale to 3 and then 2 storeys as it leads in a linear form towards the marina development. The layout of the buildings has been dictated by the linear nature of the site. The dwellings are also contemporary in design with a mixture of large areas of glazing to take advantage of the views over the canal to the rear elevations with a more traditional design to the access road frontage. The orientation of the dwellings within the site has been designed to create an open street setting which draws occupants in and through the site with the use of public and planted areas. The layout has been designed to create a hierarchy of public and private space creating a quality and secure environment.

A - Canal side view of section closest to Barden Lane

B - Canal side view of section further along the Canal

The materials to be used in the construction of the dwellings include a mixture of natural stone, red brick, render and grey/blue slates/tiles, with a mixture of aluminium/upvc framed windows and doors, timber cladding and glass and steel balconies, and have been chosen to reflect the mixture of materials in the locality whilst at the same time offering a high quality design and gateway to this entrance to Burnley. The proposed scheme will significantly improve the aesthetic quality of the scheme from the canals outward perspective.

The private space for each dwelling comprises of a rear grassed garden and paved hard standing, and the public street will have quality surfaces and street lighting that will create a safe and quality environment. Inclusive access throughout the site has been provided with the use of public footpaths clearly differentiated from vehicular zones by the use of different materials. Bearing in mind the above design palette for the site, I have no objections to the proposal.

IMPACT ON VISUAL AND RESIDENTIAL AMENITY
The existing site has buildings that front directly onto the canal with the portion of the site closest to Barden Lane used as a car park. The scheme submitted proposes a
four storey apartment block adjacent to Barden Lane with three/two storey properties running in a linear line parallel to, albeit set back from, the canal. Whilst this layout and the overall design of the proposed housing scheme will have a visual impact upon the area due to the increase and change in massing of built form on the site, the question is whether this is significant enough to warrant a refusal of the scheme.

Existing view of site from Barden Lane (near bus stop)

The NPPF advises that planning policies and decisions should not attempt to impose architectural styles or particular tastes and they should not stifle innovation, originality or initiative through unsubstantiated requirements to conform to certain development forms or styles. However, the advice is that it is proper to seek to promote or reinforce local distinctiveness (paragraph 60). Paragraph 61 continues this theme noting that although visual appearance and the architecture of individual buildings are very important factors, securing high quality and inclusive design goes beyond aesthetic considerations. Therefore, planning decisions should address the connections between people and places and the integration of new development into the natural, built and historic environment, and in determining applications, great weight should be given to outstanding or innovative designs which help raise the standard of design more generally in the area.

Local Plan Policy GP3 notes that Burnley has a distinctive character and that development will be permitted which would make a positive contribution to that distinctive character and be of good design and quality. The Local Plan also considers it essential to producing attractive, vibrant, sustainable places in which people want to live, work and relax, with an emphasis on improving the quality of the Borough’s environment by securing quality and good design throughout the Borough.

Bearing this in mind, the scheme submitted is considered to make a positive contribution to the distinctive character of this location, by virtue of its high quality and contemporary design, and the attractive and sustainable place making design theme that runs through the scheme. It is considered that the positioning of the dwellings South facing with a private garden space that fronts on to the canal not only maximises the views for the occupiers but also follows the historical context of edging the canal, that creates a real gateway feature when entering Burnley at this location.
The development is located over 35m away from the nearest residential property, and due to the orientation of both the proposed buildings and the existing properties nearby, there are no windows above first floor that face directly towards the amenity areas of this property. On this basis, the scheme will have an acceptable impact upon the residential amenity of the occupiers of nearby properties.

IMPACT ON DESIGNATED HERITAGE ASSETS
Alongside the Local Plan considerations of Policy E10 – Alterations, Extensions, Change of Use and Development affecting Listed Buildings, Chapter 12 of the NPPF must also be considered when assessing the proposals impact upon nearby Heritage Assets. Paragraph 132 of the NPPF advises that ‘When considering the impact of a proposed development on the significance of a designated heritage asset, great weight should be given to the asset’s conservation. The more important the asset, the greater the weight should be. Significance can be harmed or lost through alteration or destruction of the heritage asset or development within its setting. As heritage assets are irreplaceable, any harm or loss should require clear and convincing justification.’ Paragraph 137 of the NPPF advises that ‘Local planning authorities should look for opportunities for new development within the setting of heritage assets to enhance or better reveal their significance. Proposals that preserve those elements of the setting that make a positive contribution to or better reveal the significance of the asset should be treated favourably.’

In terms of the significance of the heritage asset in question, the Grade II Listed Lodge Canal Bridge no. 134 was constructed as part of the Leeds Liverpool Canal construction c1790-96 for the Leeds Liverpool Canal Company with Robert Whitworth as engineer. Barden Lane is a pre-Turnpike Road which was established as a route prior to the construction of the Leeds Liverpool Canal 1790-96 which crosses it at Barden Mill, the structure is located approximately 80m south of the railway bridge structure over Barden Lane, and also prior to the railway line 1848 which also crosses at this point. The Listed Bridge forms a narrowed vehicular crossing continuing Barden Lane.
At one side a modern C20 metal footbridge has been added, and access to the canal towpath is afforded at either side of the bridge but does not form part of the original structure. On either side of this section of highway are modified entrances to previous employment/retail sites. When approaching from south west the narrowing of the highway at the bridge visually and physically creates an entranceway, a view further reinforced by the elevated railway some circa 80m later. Historically this was further reinforced by the 3-4 storey red brick mill that fronted directly onto the highway and canal, however this is now demolished.

![Apartment building site adjacent to Listed Bridge](image)

The canal bridge forms an intrinsic part of the canal history and industrial landscape setting. It is utilitarian in function and aesthetic, and its southern elevation can be clearly read in its context of the canal and towpath below. The former Barden Mill site, once redeveloped will have a large multi storey ‘mill building’ on the canal edge that reinforces the canal edge. By doing so, it contributes positively to the setting of the listed structure by reinstating a clear and legible setting of building mass and boundaries, and by virtue of the position of the new building on site, causes less than substantial harm to the significance of this designated heritage asset, as there is no physical impact or alteration to the listed structure. In terms of the scheme it is considered to positively enhance and contribute to the setting of the listed structure, and when considering this proposal against Paragraph 137 of the NPPF, I have no hesitation in supporting this proposal.

ECOLOGICAL IMPACTS
To enable a thorough consideration of the schemes impact upon local ecological value of the area of land being used for the development, the following documents accompany the application,

1. Phase 1 Habitat Survey Report (dated July 2013),
2. Protected Species Investigation Surveys Report (Bats) (dated July 2013),
3. Protected Species Surveys Report (Bats) (Amended October 2013), and
Whilst the majority of the site is developed, either with buildings or car parking/delivery areas, the Leeds and Liverpool Canal adjacent to the proposed development is a Biological Heritage Site (Old Hall Street to M65 J12), designated for its Artificial Habitat (Ar1). Canals fall under Eutrophic Standing Water, a UK Habitat of Principal Importance under the NERC Act (2006) and any proposed development adjacent to it may have an ecological impact. In addition, the building or trees on site may also be home to wildlife species and these too must be protected from any potential development.

The development has the potential to directly and indirectly affect this BHS site and NERC habitat, if suitable protection measures are not put in place. The development also has the potential to indirectly impact several other BHS sites that are linked to the Leeds Liverpool Canal should a pollution incident occur, including demolition debris falling into the canal. The applicant has made contact with the Canal and Rivers Trust in relation to the proposed demolition works and has initially agreed the details required in relation to the conditions requested. This was to make sure that the banks are protected and replaced with a suitable structure, if required.

In brief, the National Planning Policy Framework (NPPF) asks the Local Planning Authority to have an aim to conserve and enhance biodiversity and that any new developments should ensure that there is a minimum of no net loss of biodiversity at a site and result in an overall biodiversity gain. The results and recommendations of the Phase 1 Habitat Survey indicate the following evaluation of each habitat that is impacted by, or adjacent to the site that may be impacted by the proposed development, and the following advice is given in relation to each habitat of ecological value and the species it is considered suitable to support.
Scrub Dense/Continuous & Scattered Including Introduced Shrub
Scrub areas are relatively sparse within the site but there are significant dense areas adjacent to the site. The loss of small areas of scrub is considered negligible.

Scattered Trees
The development work is retaining scattered trees along the Canal, with the exception of one area to the north of the site. Impacts to trees should be minimised where possible and if trees are to be retained, tree root protection measures need to be considered in order to avoid damage. The works should be carried out according to BS 5837:2012 Trees in relation to design, demolition and construction. Consideration for tree dwelling species such as breeding birds and roosting bats also needs to be taken into consideration if trees are impacted by the proposed development.

Semi-improved Grassland
Semi-improved grassland within the site can be classified as poor and containing relatively low ecological value. The loss of small areas of poor semi-improved grassland is considered negligible.

Tall Ruderal
The development site contains small areas of tall ruderal and the loss is considered to be negligible.

Standing Water
The development is located directly adjacent to the Leeds Liverpool Canal, and consideration for otters, water voles and breeding birds may need to be taken into consideration prior to any works.

Aquatic Vegetation
On the whole species diversity was not considered to be high within the survey area with only fourteen associated species recorded, however vegetation coverage throughout the survey area was good compared to other stretches along the Leeds Liverpool Canal. The development does have the potential to directly and indirectly affect this BHS site and NERC habitat, and as such the recommendations of the report highlight that the banks should be protected during the development and that Best Practice anti-pollution measures shall also be adopted. They also recommend that a monitoring survey is carried out within 6 months of completion of works, and thereafter annually until vegetation has been restored.

Species Impacts & Recommendations

Amphibians
Amphibians require both suitable terrestrial and aquatic habitats to survive. Although the wider survey area contains suitable terrestrial habitats to support great crested newts, aquatic habitats are of low value, therefore it is considered unlikely that great crested newts will be affected by the development. In the unlikely event that a great crested newt is suspected or found during the works, then all works must stop immediately and either Natural England or the acting ecological consultant is contacted for advice. Habitats within the site are of low value for amphibians in general, and taking into account the suitability of habitats within the site, it is considered that there are no apparent implications with regards to development and amphibians (inc. common toad) and no further action is required.
Badger
No signs of badger were found during the Extended Phase 1 Habitat Survey within the development site or within 30m of the proposed works, where access was permitted. Therefore, for the areas subject to survey, there are no apparent implications with regards to development and badgers at the time of survey. As badgers are a highly transient species, and as habitats are suitable within the 30m boundary, then as best practice any development must be mindful of the potential for badgers at all times. If a badger or badger sett is identified or suspected during the works then all works must cease and the Ecologist notified for advice.

Bats
The desktop study identified bats in the local area, and the wider survey area contains habitats that provide ideal for bat species including roosting and foraging habitats. A specific Bat Inspection and Assessment Survey was carried out on this basis and this identified that further dusk emergence and pre-dawn entry surveys were required. This further survey was carried out and the findings have also been submitted. Two activity dusk emergence surveys were undertaken of Buildings A, B and C and the Popular sp. tree at the site. No emergence from the Buildings A, B or C or the Popular sp. tree was recorded. The activity surveys found Common pipistrelle, Daubenton’s bats and an unidentified Myotis species to be present at the site.

The ecologist recommends that areas of potential within Buildings A, B and C are subject to soft demolition, as a precautionary measure, and that if at any time during the demolition works a bat/s or a bat roost/s is/are suspected or found during the works, all works must stop immediately and advice sought from either Natural England or the acting consultant. Following no emergence of bats from the Popular sp. tree in line with BCT 2012 guidance, the tree can be downgraded to a Category 2. The tree may be felled taking reasonable avoidance measures. If at any time during the felling works a bat/s or a bat roost/s is/are suspected or found during the works, all works must stop immediately and advice sought from either Natural England or the acting consultant. As best practice, as bats are in the local area and have been detected foraging around the site, the development should adopt a sensitive lighting scheme and further lighting adjacent to the canal should be avoided completely.

Overall the scheme is considered to offer improved foraging habitat and the incorporation of bat bricks (or similar integrated bat box) into a couple of buildings will ensure that bat roosting potential remains at the site.

Breeding Birds
The development has the potential to cause disturbance to breeding birds within the Building at TN1, the scattered trees and scrub within the site. It is recommended that:
- All suitable breeding bird habitats are removed during the winter,
- If working during the bird breeding season is unavoidable, then a further survey for breeding birds is carried out prior to working in all areas. Breeding bird season runs from March through to August, inclusive.
- If breeding birds are identified, a species assessment should be made and options to minimise the likelihood of any nest being damaged or destroyed. Options to avoid disturbance for Schedule 1 species will need implementing or a Natural England licence applied for.
- Several swallow nest boxes need to be incorporated into the development to ensure no net loss.
**Water Vole and Otters**

Habitats suitable to support water vole and otters were located at TN3. The development is in close proximity to suitable banks in the north and south of the site. Therefore a water vole survey and an otter survey of these areas are required to determine if water voles are affected by the proposed works. If water voles or otters are present and their habitats are affected by the proposed works, a full mitigation method scheme will need to be designed and reasonable avoidance implemented prior to any development. If water voles or otters are affected, the mitigation method statement will be required to support a planning application. In addition to this, once planning permission is granted a Natural England EPS licence will be required to legally permit a development that affect otters.

**Planting Schemes**

It is recommended that any planting schemes within the development adhere to local planning policy and use native species of local provenance. Planting schemes should aim to meet Local BAP targets.

Having considered the results of the surveys and that there will be no likely or adverse impacts upon the ecological value of the site nor the adjacent Biological Heritage Site by allowing the proposed development, subject to the recommended conditions being complied with, the scheme submitted is considered to be acceptable and in compliance with the advice given by Local Plan Policies E2, E3 and E4.

**CONTAMINATED LAND**

A company called PWAG have provided a Phase 1 environmental review of the site to support this planning application. The objective of the review was to determine the presence and likely extent of any potential environmental liabilities associated with the current and past uses of the site, while providing a preliminary geotechnical assessment of the site. The Phase 1 report is primarily a desk based review of existing data including site walkover and preliminary environmental risk assessment.

The preliminary risk assessment identified potential sources of soil contamination associated with previous on-site uses including a former Cotton Mill and Made Ground, off-site sources include a railway. On the basis of the information reviewed it was considered that contaminants may be present, although that it was unlikely that significant contaminant risks would be present on site, which would be detrimental to the site and the proposed development and the adjoining canal. Intrusive investigations were carried out, in order to assess the risks and to address any likely request for planning conditions relating to the proposed development.

Given the sensitive end-use, the conclusions of the report identify the site as representing a moderate hazard to the end-users and generally to the wider environment. This level of risk has been assigned due to the lack of intrusive assessment of the ground conditions onsite. In this context, PWAG advise that the significance of the conditions identified and the likelihood that risk and liability cannot be fully determined from the findings of this Phase I environmental review alone, and uncertainty remains with respect to determination of actual risks presented. They therefore recommend that more detailed analysis of environmental risk and associated liabilities based on site specific data are undertaken, and that a further intrusive investigation is undertaken designed to:

- Adequately characterise the nature, degree and extent of potential contamination;
- Confirm whether potential pollutant linkages are actually present;
- Determine the severity of the impact of identified pollutant linkages on future redevelopment; and
- Adequately characterise the geological ground model to enable appropriate substructure design.

They recommend that these intrusive investigations are undertaken post demolition once floor slabs have and structures have been broken out and demolished.

In addition to the above, an Asbestos Survey of the building (dated July 2013) has been carried out and a report has been provided with this application. No issues have arisen from this report.

The Environment Agency have also considered the potential risks relating to contaminated land on this site and advise that no built development shall take place until a scheme that includes components to deal with the risks associated with contamination of the site is submitted to and approved, in writing, by the local planning authority. On this basis, I recommend appropriate conditions to allow further investigation to be carried out. The conditions are so consistent with paragraph 109 which aims to prevent new development from contributing to water pollution.

AFFORDABLE HOUSING AND VIABILITY
The application proposes a mixture of two, three and four bedroom properties, via a range of housing sizes, and on this basis the scheme is considered to be substantially in accordance with Local Plan Policy H4. However, Local Plan Policy H5 also requests that,

**Affordable and Special Needs Housing will be sought where:**

a) the proposed development is for 25 dwellings or more, or of 1 hectare or more in site area; or

b) the site is in a rural settlement of 3000 or fewer population where the development is for more than 15 dwellings or of 0.5 or more hectares in site area.

These developments will be expected to make provision for affordable and special needs housing by providing either:

a) at least 10% of dwellings for rent, part rent/buy, or some form of subsidised purchase;

Or:

b) at least 10% of dwellings for those with special needs, including the elderly.

This Policy remains substantially in accordance with the NPPF on the basis that the document ‘Housing Land in Burnley 2013’, published in June 2013 is less than 12 months old (at this moment in time). In relation to an Affordable housing contribution, the applicant has provided evidence that there are specific financial constraints relating to the development of the site in its entirety that prohibit any contribution being offered. This is of course not in compliance with Local Plan Policy H5, however the evidence provided, which included Viability Assessments and a Surveyors Site Valuation Report, has been considered by the Council’s Surveyors in the Property Team and been seen to be a true reflection of the likely costs involved in the development of the site, and that the introduction of ‘Affordable’ dwellings on this site would indeed make the scheme unviable.

Paragraph 173 of the NPPF, Ensuring viability and deliverability, advises that pursuing sustainable development requires careful attention to viability and costs in plan-making and decision-taking, and that schemes should be deliverable. It continues
noting that development should not be subject to such a scale of obligations and policy burdens that their ability to be developed viably is threatened, and 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.

The verified evidence makes it clear that if 'Affordable' units were made a condition of the approval of this scheme, it would not be a deliverable site and the development would not take place. The likely scenario then is that the site would then sit vacant until another developer or scheme came forward. However as the constraints to developing the site remain the same, it is my opinion that it is unlikely that the site would be developed for the foreseeable future. The above report outlines the consideration that the scheme as a whole is considered to be a sustainable and suitable development that has little or no significant impact upon the locality, whether visually or in terms of highways safety, therefore the question is whether the adverse impact of the lack of affordable housing provision on this site would be so significant that it would outweigh the benefits of the proposal as a whole? In my opinion, the above report supports a number of benefits that the development of this aspirational housing scheme proposed on this site offers that would outweigh the requirement for ‘Affordable’ units in this particular situation, and on this basis whilst the scheme does not conform with the relevant Local Plan Policy, the NPPF presumption in favour of sustainable development is considered to carry more weight, and I consider it acceptable that there is no ‘Affordable’ housing contribution.

OTHER CONSIDERATIONS

With regards to the Public Open Space Provision provided on site, Local Plan Policy H7 advises that proposals for new housing developments of between 10 and 49 dwellings inclusively, will be expected to provide recreational public open space to a minimum standard of 0.3 Ha (0.74 acres), and that where Public Open Space is provided in new housing development the space must be usable, and easily accessible by all residents, including those with disabilities, and provide a safe place to play and relax, whilst not causing a nuisance to nearby residents. The area of POS shown on the plan, within the Green Belt measures 0.3 hectares in size, and is kept completely open and therefore usable for all. The applicant has also agreed to pay £8000 towards off-site works to significantly improve the pedestrian pathway that begins under the railway bridge and heads up to the allotments off Windermere Avenue.

The applicant has supplied a noise assessment that was undertaken to predict the potential impact of existing road and rail noise sources on the proposed residential development. Noise measurements were made in the vicinity of the proposed development and this data was used to populate a computer noise model of the site. The assessment indicated that the noise climate in the vicinity of the proposed development levels was dominated by road traffic on Barden Lane and infrequent train movements on the adjacent Blackpool to Colne railway line. It recommends glazing and ventilation specifications to enable the recommended internal noise limit to be achieved, and with the implementation of these recommendations, it is considered that a suitable and commensurate level of protection against noise will be provided to the occupants of the proposed accommodation. As such, subject to a condition relating to
these measures being incorporated within the scheme, there is no reason why planning permission for the development cannot be approved.

Finally, with regards to a comment made by Sustran, the applicant has sought to include secure storage areas for residents' bicycles, thereby adding to the sustainable benefits of the development.

SECTION 106 AGREEMENTS
As highlighted earlier in this report, a highways contribution has been requested and agreed to for £3000 to fund a priority working system on the highway bridge over the canal. The provision of this road safety improvement will be a significant safety benefit to the area.

In addition, as part of the Public Open Space Contribution the Council’s Engineers/Streetscene Team requested improvements to the path between the subway and Windermere Avenue that lies opposite the site. The improvements would be as follows,

- Scrape of existing track, re-grade and apply 100mm layer of crushed road planings (app 175x3.5x0.1),
- Construct edged and surface bypass adjacent main gate off Windermere Ave,
- Clean out beneath subway and landing around flood drain on Mill side,
- Patch surfacing beneath subway to prevent water holding, and
- Provide land drain/soak away between allotments gate and drain on mill side of subway.

A contribution request of £8000 was agreed with the Applicant for these off-site works as part of the Public Open Space provision as the works will significantly improve the pedestrian route up to the allotments off Windermere Avenue, as well as providing a more usable pathway from residents beyond Windermere Avenue down to the Leeds/Liverpool Canal pathway, the Marina and beyond.

PLANNING BALANCE AND CONCLUSION
The purpose of the planning system is to contribute to the achievement of sustainable development. There are three dimensions to sustainable development: economic, social and environmental. These dimensions give rise to the need for the planning system to perform a number of roles:

- an economic role – contributing to building a strong, responsive and competitive economy, by ensuring that sufficient land of the right type is available in the right places and at the right time to support growth and innovation;
- a social role – supporting strong, vibrant and healthy communities, by providing the supply of housing required to meet the needs of present and future generations; and by creating a high quality built environment, with accessible local services; and
- an environmental role – contributing to protecting and enhancing our natural, built and historic environment; and, as part of this, helping to improve biodiversity and minimise waste and pollution.

On the basis of the above assessment contained within my report, when considering the planning balance of the scheme submitted I have the following view.

When determining whether the site represented sustainable development, it is important to consider that all the above elements contribute to assessing whether or
not a site can be considered ‘sustainable’. Sustainability includes such matters as meeting housing needs in general, acceptable impact upon the Green Belt, safeguarding of heritage assets, improvements to and safeguarding of ecological habitats, economic development; ensuring adequate highway safety and providing improved access routes for pedestrians. Many of these aspects are consistent with the concept of sustainability, and it is clear that this proposed scheme is substantially in accordance with this view.

The only areas of sustainability that appear to be contested relate to the visual impact of the four storey apartment block and highway safety concerns. National Guidance advises that separate elements combine to meet the definition of a sustainable development; therefore a proposal can be a sustainable one even if it suffers from limitations in terms of its perceived impact. The site is previously developed, brownfield land within the urban boundary, previously home to four storey mill building, and is close to existing public transport infrastructure, therefore it is in a location where growth would be expected to be directed. The Council accepts that in land use terms the site could be appropriately developed for housing purposes, and that with the agreed road safety improvements could adequately mitigate the road safety concerns the residents have in this locality. With specific regards to the four storey apartment building, the scheme seeks to use the historical precedent and form of the site within the scale and massing of the dwellings and apartments on the site in order to connect with, and create a positive edge to, the canal and Barden Lane. The 4 storey apartment building has scale similar to the original Barden Mill, albeit set back from Barden Lane (Barden Mill was flush to the highway), and at this location and in the sites context, it is considered to form an appropriate statement building or gateway into Burnley. The scheme reflects the more typical and historical style of a mill building, albeit with a more modern architectural style, and this is considered to form a strong context for the sites development.

Given that the site can be considered as sustainable in NPPF terms, the benefits include:
- A deliverable site;
- medium term economic benefits relating to work carried out during the construction phase of the development;
- long term economic benefits by virtue of a likely increase in annual spend in the Borough by future residents in the new houses;
- long terms economic benefits of supporting local tradesmen in the Borough;
- the boosting of the supply of market housing;
- improvements to footpaths in the area; and
- the delivery of a high quality sustainable development on an accessible and well-located site.

The main detractors in this instance are highlighted above, however having considered the issues raised within this report, I consider these impacts are not considered to be so significant as to represent a sustainable reason for refusal of the application, and I consider the benefits to this proposal significantly outweigh these minor adverse impacts, and the proposal is therefore recommended accordingly.

**Recommendation:**
That the decision to approve planning permission be DELEGATED to the Head of Housing and Development Control following the satisfactory completion of a legal
agreement in the terms outlined in the Section 106 Agreement sub-heading within this report and subject to the following conditions:

**Conditions**

1. The development must be begun within three years of the date of this decision.
2. The permission shall relate to the development as shown on plan drawing numbers 13.127 07, 13.127 06, 13.127 03 Rev. C, 13.127 01 (received 27 Jan 14), amended drawing no. 13.127 05 Rev. D (received 5 Mar 14), and amended drawing no’s 13.127 02 Rev. H and 13.127 04 Rev. D (received 27 Mar 14).
3. Notwithstanding the plans submitted, prior to the commencement of development details of the proposed materials to be used in the construction of the external surfaces, fenestration, balconies and doorways of the development shall be submitted to and agreed in writing by the Local Planning Authority and thereafter implemented in accordance with the agreed details unless otherwise agreed in writing.
4. Prior to the commencement of development, a detailed landscaping and boundary treatments scheme shall be submitted to and agreed in writing by the Local Planning Authority. The scheme shall indicate the size, species and spacing of planting, the areas to be grassed, and the treatment of hardsurfaccd areas, and native species of local provenance shall be used. Any such planting which within a period of 5 years of implementation of the landscaping die, removed, or become seriously damaged or diseased shall be replaced in the next planting season with others of a similar size or species, unless the Local Planning Authority gives written consent to the variation. The approved scheme shall be carried out in accordance with the approved details and shall be implemented in full in accordance with a timetable agreed in writing with the local planning authority.
5. Prior to the commencement of built development, a scheme that includes the following components to deal with the risks associated with contamination of the site shall each be submitted to and approved, in writing, by the local planning authority:
   1) A preliminary risk assessment which has identified:
      - all previous uses;
      - potential contaminants associated with those uses;
      - a conceptual model of the site indicating sources, pathways and receptors; and
      - potentially unacceptable risks arising from contamination at the site.
   2) A site investigation scheme, based on (1) to provide information for a detailed assessment of the risk to all receptors that may be affected, including those off site.
   3) The results of the site investigation and detailed risk assessment referred to in (2) and, based on these, an options appraisal and remediation strategy giving full details of the remediation measures required and how they are to be undertaken.
   4) A verification plan providing details of the data that will be collected in order to demonstrate that the works set out in the remediation strategy in (3) are complete and identifying any requirements for longer-term monitoring of pollutant linkages, maintenance and arrangements for contingency action. Any changes to these components require the express written consent of the local planning authority. The scheme shall be implemented as approved.
6. If, during development, contamination not previously identified is found to be present at the site then no further development (unless otherwise agreed in writing with the local planning authority) shall be carried out until the developer has submitted a remediation strategy to the local planning authority detailing how this unsuspected contamination shall be dealt with and obtained written approval from the local planning authority. The remediation strategy shall be implemented as approved.

7. Prior to the commencement of built development hereby approved, a scheme for the construction of the offsite works of highway improvement has been submitted to and approved by the local planning authority in consultation with the highway authority.

8. The new estate road/access between the site and Barden Lane shall be constructed in accordance with the Lancashire County Council Specification for the Construction of Estate Roads to at least base course level before any development takes place within the site.

9. No part of the development hereby approved shall be occupied until the approved scheme referred to in Condition 7 above has been constructed and completed in accordance with the scheme details.

10. No built 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. It shall provide for:
   a) The parking of vehicles of site operatives and visitors
   b) The loading and unloading of plant and materials
   c) The storage of plant and materials used in constructing the development
   d) The erection and maintenance of security hoarding
   e) Wheel washing facilities
   f) Measures to control the emission of dust and dirt during construction
   g) Details of working hours
   h) Details of the delivery regime for materials and plant to the site.

11. The demolition method statement received on the 5th of June 2014 shall be adhered to throughout the process of demolition and removal of the mill building from the site.

12. Notwithstanding the plans submitted, prior to the commencement of development, details of the proposed protective fencing to be erected to safeguard the waterway infrastructure during construction of the development shall be submitted to and agreed in writing by the Local Planning Authority and thereafter implemented in accordance with the agreed details unless otherwise agreed in writing.

13. Notwithstanding any indication on the approved plans, no built development approved by this permission shall commence until a scheme for the disposal of foul and surface waters for the entire site has been submitted to and approved in writing by the Local Planning Authority. For the avoidance of doubt, surface water must drain separate from the foul and no surface water will be permitted to discharge directly or indirectly into existing sewerage systems. The development shall be completed, maintained and managed in accordance with the approved details.

14. If surface water run-off is proposed to drain into the waterway full details shall be submitted to and agreed in writing by the Local Planning Authority prior to the commencement of development and thereafter implemented in accordance with the agreed details, unless otherwise agreed in writing.
15. No dwelling shall be occupied until the allocated parking space(s) for the dwelling have been laid out within the site [in accordance with plan reference number 13.127 02 Rev. H].

16. The garages of the dwellings hereby approved shall not be converted or altered to form an additional room without the submission and grant of a further planning permission.

17. Prior to the commencement of built development on site, details of proposed biodiversity enhancement measures to be implemented on site shall be submitted to the Local Planning Authority and approved in writing. The measures shall then be included within the development. These shall include such features as bat or bird roosting boxes (as advised within the surveys produced by Ecology Services Ltd).

18. All tree felling, scrub and general vegetation clearance must be undertaken outside of the bird breeding season (March to August inclusive). If vegetation removal outside the breeding season is not possible, then it must be subjected to a nesting bird survey, by an experienced ecologist, immediately prior to removal or works within the nesting season. Results of this survey must be submitted to and approved in writing with the Local Planning Authority prior to work commencing on site.

19. Prior to the commencement of built development on site, a water vole survey and an otter survey shall be carried out, and the results and survey methodology details shall be submitted to and approved in writing with the Local Planning Authority before works commences. If water voles or otters are present and their habitats are affected by the proposed works, a full mitigation method scheme and statement will then need to be designed and reasonable avoidance implemented prior to any development. These details will also need to be submitted to and agreed in writing with the Local Planning Authority prior to works commencing.

20. The canal banks adjacent to the site shall be protected during the development and Best Practice anti-pollution measures shall also be adopted. A monitoring survey relating to Aquatic Vegetation shall be carried out within 6 months of completion of works, and thereafter annually until vegetation has been restored. Copies of these surveys and a summary report shall be submitted to the Local Planning Authority to ensure any remedial measures required are subsequently carried out.

21. No external lighting shall be installed on either the dwellings or the apartment block, or within the curtilage of the site, until plans showing the type of light appliance, the height and position of fitting, illumination levels and light spillage have been submitted to and approved in writing by the Local Planning Authority. The lighting approved shall be installed and shall be maintained in accordance with the approved details.

22. A scheme of noise mitigation measures, as recommended by Chapter 9 of the Noise Assessment carried out by Miller Goodall dated the 10th of June 2013, shall be incorporated into the dwellings hereby approved, the details of which shall be submitted to and agreed in writing by the Local Planning Authority prior to completion. The scheme shall be fully implemented in accordance with the approved details.

23. Notwithstanding the provisions of the Town and Country Planning (General Permitted Development) Order 1995 (as amended by the Town and Country Planning (General Permitted Development) (Amendment) (No.2) (England) Order 2008 (or any Order revoking or re-enacting or amending those Orders
with or without modification), no development within Part 1, Classes A-E shall take place on the dwellinghouse(s) hereby permitted or within their curtilage.

Reasons
1. Required to be imposed by Section 91 of the Town and Country Planning Act 1990, as amended by Section 51 of the Planning and Compulsory Purchase Act 2004.
2. For the avoidance of doubt and to ensure that the development is carried out in accordance with the submitted plans.
3. Waterside developments should be designed to provide an attractive façade and poor choice of materials to be used in the construction of the external surfaces of a development can affect how the waterway corridor is perceived, particularly when viewed from the water, the towpath and neighbouring land. In accordance with guidance contained within the NPPF, and Burnley local Plan Policies GP3, E7, E26 and E27.
4. To improve the appearance of the site when viewed from the waterside and to enhance the biodiversity of an area. Landscaping also has the potential to impact on the integrity of the waterway and it is necessary to assess this and determine future maintenance responsibilities for the planting. Landscaping affects how the waterway is perceived. In accordance with guidance contained within the NPPF, and Burnley local Plan Policies GP3, GP6, E3, E5, E7, E26 and E27.
5. National Planning Policy Framework (NPPF) paragraph 109 states that the planning system should contribute to and enhance the natural and local environment by preventing both new and existing development from contributing to or being put at unacceptable risk from, or being adversely affected by unacceptable levels of water pollution. Government policy also states that planning policies and decisions should ensure that adequate site investigation information, prepared by a competent person, is presented (NPPF, paragraph 121).
6. National Planning Policy Framework (NPPF) paragraph 109 states that the planning system should contribute to and enhance the natural and local environment by preventing both new and existing development from contributing to or being put at unacceptable risk from, or being adversely affected by unacceptable levels of water pollution. Government policy also states that planning policies and decisions should ensure that adequate site investigation information, prepared by a competent person, is presented (NPPF, paragraph 121).
7. In order to satisfy the local planning and highway authorities that the highway scheme is acceptable before work commences on site.
8. To ensure that satisfactory access is provided to the site before the development hereby permitted becomes operative.
9. For the avoidance of doubt the highway works shall include the construction of priority working on the canal bridge and the introduction of a traffic regulation Order on the access road.
10. In the interests of protecting the amenity of neighbouring businesses and residents from noise and disturbance, and in order to ensure the construction phase has no significant impact upon highway safety at this location.
11. In the interests of protecting the amenity of neighbouring businesses and residents from noise and disturbance.
12. The ecological environment in this location is sensitive and should be protected from disturbance, dust, run off, waste etc. entering the canal.
13. To ensure a satisfactory form of development and to prevent an undue increase in surface water run-off and to reduce the risk of flooding.

14. There is the potential for pollution of the waterway only clean surface water run-off will be allowed to discharge into the waterway, and, if necessary, include interceptors to prevent pollution.

15. In order that the traffic generated by the development does not exacerbate unsatisfactory highway conditions in advance of the completion of the highway works.

16. To allow the local planning authority to assess the proposal against the parking standards to ensure there is adequate parking space and that no congestion is caused by vehicles parked on the highway, in accordance with policy TM16 of the Burnley Local Plan.

17. In order to secure measures to enhance the biodiversity of the site in accordance with guidance within the NPPF and the NERC Act 2006.


19. To ensure no habitats are disturbed or damaged in accordance with the requirements of the NPPF, the Wildlife and Countryside Act 1981, DEFRA Circular 01/2005, Circular 06/05: Biodiversity and Geological Conservation - Statutory Obligations and Their Impact within the Planning System, and The Conservation of Habitats and Species Regulations 2010.

20. To ensure the BHS in question is protected in accordance with the requirements of the NPPF, the Wildlife and Countryside Act 1981, DEFRA Circular 01/2005, Circular 06/05: Biodiversity and Geological Conservation - Statutory Obligations and Their Impact within the Planning System, and The Conservation of Habitats and Species Regulations 2010.

21. In the interests of the amenities of the area, to minimise unnecessary light spillage above and outside the development site and to mitigate for any potential impact upon European Protected Species (Bats). This is in accordance with Policy GP1 of the Burnley Local Plan Second Review, and the principles of relevant guidance provided by the Bat Conservation Trust and Institution of Lighting Engineers guidance Bats and Lighting in the UK, 2009.

22. To ensure a satisfactory level of amenity for the future occupiers of the proposed dwelling in order to comply with Policy GP7 of the Burnley Local Plan.

23. In the interests of the protection the character of the canal side visual amenity and to enable the Local Planning Authority to consider individually whether planning permission should be granted for additions, extensions or enlargements of dwellings, as well as development within the curtilage. In accordance with Local Plan Policies GP3 and E27.
DEVELOPMENT CONTROL COMMITTEE
Date: 19th June 2014

PART III
Town and Country Planning Act 1990
Appeal by Mr Mohammad Afzal

Planning application APP/2013/0487 – 16 Bentham Avenue, Burnley.

The appeal was made against the refusal of planning permission for the erection of single-storey extensions at 16 Bentham Avenue, Burnley.

The appeal was dealt with under the Householder Scheme procedure and was DISMISSED.

Officer Recommendation – That planning permission be granted, however the matter was considered to be finely balanced on matters relating to visual amenity impact on neighbouring residents. The application was refused at Development Control Committee.


1. The Inspector considered the main issues to be the effect of the proposal on the character and appearance of the host property and the local area as well as the living conditions of present and future occupants of 18 Bentham Avenue.

Character and appearance

2. The proposed kitchen extension, to the rear of the property, would occupy most of the rear garden area and result in a cramped overdeveloped appearance owing to the proximity of the adjacent garden boundaries and the existing garage. The height of the roof would be clearly visible not only from Bentham Avenue but also from neighbouring properties. When the proposed bedroom extension to the side of the property is also taken into consideration, their combined mass would form a disproportionate addition to the host property that would unbalance its symmetry with the adjoining dwelling, no.18. This would introduce an incongruous feature that would have a detrimental effect on the largely unmodified character of the street scene.

3. As a result of the above, the inspector concludes that the proposal would cause significant harm to the character and appearance of the host property and the local area, contrary to policy H13 of the Local Plan.
Living Conditions

4. The low-rise nature of the surrounding development and associated garden boundaries help to create an open outlook from the habitable rooms and garden of no.18. Given the mass of the proposed rear extension and its proximity to the boundary of these two dwellings, the inspector finds that it would not only be detrimental to the south-facing outlook from the garden of no. 18 but that it would also have an unacceptable overbearing effect on the outlook from the kitchen and bedroom windows of this dwelling.

5. As a result of the above, the inspector concludes that the proposal would cause significant harm to the living conditions of present and future occupants of no.18 Bentham Avenue, contrary to policy H13 of the Burnley Local Plan.

Conclusion

6. For the above reasons, and having regard to all other matters raised, the inspector concludes that the appeal should be dismissed.

Background Papers
Planning Application file APP/2013/0487. The above papers are available for inspection from Planning and Environment Services, Contact Burnley, 9, Parker Lane, Burnley, BB11 2DT (Telephone 01282 425011 Extension 3293).
BURNLEY BOROUGH COUNCIL
DEVELOPMENT CONTROL COMMITTEE

Date: 19 June 2014

PART 3

Town and Country Planning Act 1990
Planning Appeal by Mrs Mary Jo Pinder

APP/2013/0261 Appeal against the refusal of outline planning permission for the erection of four dwellings
Land off Lower Timber Hill Lane, Burnley

Background

The appeal was made to the Secretary of State against the Council's refusal of planning permission for 4 dwellings on land currently used as a paddock which contains a small building and a riding arena. The reason for refusal was:

The development would be contrary to the Council's aims to promote sustainability and urban renaissance, having regard to Policy GP1 and H2 of the Burnley Local Plan Second Review, which seek to ensure that brownfield land is redeveloped for housing before greenfield development takes place. The Council can demonstrate a deliverable five year supply of housing provision and there is no shortage of sites on brownfield land within the urban boundary in more sustainable locations, to warrant allowing the development of a sequentially less preferable greenfield site.

The decision was made by officers under the Scheme of Delegation.

Appeal Decision – The appeal was ALLOWED. Approximate cost of appeal: £350

The appeal was dealt with by written representations.

Inspector’s Considerations

The Inspector determined the main issue to be whether or not the proposal would provide a suitable site for housing, having particular regard to local planning policy which seeks to prioritise the reuse of previously developed, brownfield land.

Both parties agreed that the land on which the stables are situated is previously developed land. However, there was disagreement regarding the riding arena and grassed areas on the remainder of the site. The Council considered that the site was predominantly greenfield, as the riding arena is open land that should not be classed as developed land. The appellant disputed that and considered the arena to be a man-made structure that should be classed as brownfield land. The Inspector agreed that the arena formed part of the curtilage of the stables and should therefore be considered to be brownfield land. He therefore concluded that the site was acceptable in principle for housing.
He took into account concerns raised by consultees regarding highway safety and traffic, but as the Highway Authority (Lancashire County Council) had raised no objection, and no evidence was put forward to demonstrate why visibility onto Moseley Road was inadequate, or that this had resulted in accidents in the past, he was not persuaded that the scale of development would exacerbate the situation.

He also took into account a number of other factors, including the sustainability of the site; impact on protected species; impact on nearby residents; and the fact that the Council has a five-year supply of land. However, he did not consider that any of these factors justified dismissing the appeal.

He therefore allowed the appeal and granted planning permission subject to the following conditions:

1) Details of the appearance, landscaping, layout and scale, (hereinafter called "the reserved matters") shall be submitted to and approved in writing by the local planning authority before any development begins and the development shall be carried out as approved.

2) Application for approval of the reserved matters shall be made to the local planning authority not later than three years from the date of this permission.

3) The development hereby permitted shall begin not later than two years from the date of approval of the last of the reserved matters to be approved.

4) The development hereby permitted shall be carried out in accordance with the following approved plans: Site Location Plan dated 9 August 2013 and Drawing No. 2011/12/02 insofar as it relates to the access to the site.

5) No development shall take place until a scheme for the construction of the site access has been submitted to and approved in writing by the local planning authority. Development shall be carried out in accordance with the approved scheme.

6) No development shall take place until samples of the materials to be used in the construction of the external surfaces of the dwellings hereby permitted have been submitted to and approved in writing by the local planning authority. Development shall be carried out in accordance with the approved details.

7) No development shall take place until details of the existing and proposed ground levels across the site have been submitted to and approved in writing by the local planning authority. Development shall be carried out in accordance with the approved details.

8) No development shall take place until a scheme for the disposal of foul and surface waters has been submitted to and approved in writing by the local planning authority. Development shall be carried out in accordance with the approved scheme.

Background Papers
Planning application and appeal file APP/2013/0367

The above papers are available for inspection from Housing & Development Control, Parker Lane Offices, Burnley, BB11 2DY. Telephone (01282) 425011
PART III

Town and Country Planning Act 1990
Planning Appeal By Mr B Wilson
APP/2013/0279 Appeal against the refusal of planning permission for the siting of the food cabin within the car wash site.

Washworx, Trafalgar Street, Burnley, BB11 1RA

Background

The application was refused in October 2013 for the following reasons:

‘The appearance and unsympathetic design of the mobile food van would have a detrimental impact on the character and appearance of the adjacent Canalside Conservation Area and the setting of Victoria Mill a Grade II Listed Building, contrary to Policies E10 and E12 of the Burnley Local Plan and, having regard to its prominent location on an identified throughroute in the Town, it would be harmful to the appearance of the streetscene along that throughroute, contrary to Policies GP3 and BTC9 of the Burnley Local Plan Second Review’.

‘The proposal will lead to increased pedestrian movement across Trafalgar Street; and there is potential for conflict between vehicles visiting the mobile food van and those visiting the car wash. This would be to the detriment of highway and pedestrian safety, contrary to Policies GP1 and CF13 of the Burnley Local Plan Second Review.

The applicant then lodged an appeal to the Secretary of State in October 2013.

Appeal Decision – The appeal was ALLOWED.

The appeal was determined under written representation and the site visit was unaccompanied by the inspector which was carried out on 18 March 2014.

Inspector’s Considerations

The Inspector determined the main issues to be:
- The effect of the proposal on the character and appearance of the nearby Canalside Conservation Area (CCA);
- Setting of Victoria Mill – Grade II Listed Building;
- Appearance of the street scene on Trafalgar street; and
- Highway/Pedestrian safety.
On the first issue the Inspector states that the Washworx car wash operation occupies the majority of the narrow site along Trafalgar Street and that there are two vehicular access points off the highway. The south-east of the site is gravelled for the siting of the mobile food van.

The opposite side of the street is Victoria Mill, recently converted to a university technical college (UTC). The listed building is within the CCA.

The site is bounded by high brick walls and has an open frontage, neatly laid out for the car wash operation. The use of the site also adds visual interest and activity to the street scene in an area where interest and activity is in short supply.

He considered that the food van, its tables/chairs at one end of the site would complement the existing car wash operation and would not adversely affect the character and appearance of the nearby CCA or cause harm to the setting of Victoria Mill.

The proposed change of use therefore does not conflict with policies E10, E12, GP3 and BTC9 of the Burnley Local Plan.

On second issue of highway and pedestrian safety, the Inspector states that the food van is likely to attract passing trade and the gravelled area provides adequate space to accommodate a number of customers visiting by car and there is ample room for manoeuvring. Taking in account of any additional vehicular activity on the site and given clear visibility in both directions at the exit, it is not likely to cause concern for highway safety nor will it cause traffic congestion.

The Inspector considers the food van is likely to be popular with UTC students and that there is also a safe means of access from the UTC building to the food van. He does not see there being a conflict with vehicles entering the site.

On this basis, he considered that the proposed change of use of the site to allow the siting of a mobile food van would not have a significant adverse effect on highway or pedestrian safety, and it would not thus conflict with Policies GP1 and CF13.

For the above reasons he concluded that the appeal should be ALLOWED and granted and there are no conditions necessary.

Background Papers
Planning application and appeal file APP/2013/0358
The above papers are available for inspection from Housing & Development Control, Parker Lane Offices, Burnley, BB11 2DY. Telephone (01282) 425011