



Appeal Decision

Site visit made on 27 January 2020

by Gareth Wildgoose BSc (Hons) MSc MRTPI

an Inspector appointed by the Secretary of State

Decision date: 26 February 2020

Appeal Ref: APP/R2330/W/19/3240964

Land adjacent to Back Owen Street (adjacent to Brandwood Works), Accrington BB5 6AU

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a refusal to grant planning permission.
 - The appeal is made by J & R Plant Hire UK against the decision of Hyndburn Borough Council.
 - The application Ref 11/19/0211, dated 19 June 2019, was refused by notice dated 10 October 2019.
 - The development proposed is erection of 6no. supported living units (C2) with associated parking and communal area.
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Decision

1. The appeal is allowed and planning permission is granted for erection of 6no. supported living units (C2) with associated parking and communal area at Land adjacent to Back Owen Street (adjacent to Brandwood Works), Accrington BB5 6AU in accordance with the terms of the application, Ref 11/19/0211, dated 19 June 2019, subject to the conditions set out in the attached schedule.

Application for costs

2. An application for costs was made by J & R Plant Hire UK against Hyndburn Borough Council. This application is the subject of a separate Decision.

Procedural Matter

3. The site address provided by the application form has been updated in subsequent documents. I have adopted the site address given in the appeal statement accordingly as it provides greater certainty of the location of the proposal.

Main Issues

4. The main issues are:
 - whether the proposed development is consistent with policies relating to the location of housing, including whether the proposal makes adequate provision to ensure delivery of social housing;
 - whether the proposed development would provide for a satisfactory living environment for future residents and the effect on the living conditions of occupiers of neighbouring properties, and;
 - the effect on highway safety, with particular regard to local highway conditions and access arrangements.

Reasons

Location of Housing

5. The site consists of a vacant plot located to the rear of terraced rows of housing which face both Owen Street and Whalley Road. The previously developed land currently consists of some areas of overgrown vegetation following the demolition of previous workshops. The site is bounded at the front and western side by Back Owen Street which is a single-track cobbled road providing an existing access route from both Owen Street and Whalley Road to rear yards of residential properties and some garages and outbuildings. The remaining boundaries consist of a commercial unit to the opposite side and a railway line at the rear.
6. The proposal is for 6 one-bedroom supported living units. The main building would be of a single storey design that would front onto Back Owen Street with a U-shaped arrangement that would wrap around a detached single storey staff and communal building, together with intervening private and communal external areas.
7. Policy H1 of the Hyndburn Core Strategy (CS), adopted January 2012, amongst other things, supports new apartment development within 250m of Accrington Town Centre. The site falls within this distance and although the policy does not specifically refer to residential facilities such as the proposal, it is a permissive policy which should not be interpreted as a closed list of the only developments for housing which will be supported.
8. With regard to the above, Policy DM14 of the Hyndburn Local Plan Development Management DPD (DM DPD), adopted January 2018, relates specifically to housing with care for older people and people with disabilities. The policy aligns with the aims of Policy H1 of the CS, as it indicates support for proposals for the development of housing with care subject to criteria which includes that they are located within the urban area and in accessible locations. The further criteria are related to the provision of sufficient car parking and matters relating to the living environment which I deal with in the subsequent main issues. However, notwithstanding the subsequent assessment of those matters, it is evident that the site is within an accessible location relative to Accrington Town Centre and is close to local services, facilities and nearby bus stops on Whalley Road. Consequently, it would be a suitable location for the development in principle provided that the proposal is appropriately secured as housing for people with disabilities.
9. In seeking to overcome the concerns of a previous Inspector with respect to inadequate provision to deliver social housing as part of a preceding appeal¹, a planning obligation by way of Unilateral Undertaking under Section 106 of the Planning Act (UU) dated 23 January 2020 has been provided as part of this appeal. The completed and correctly executed UU would ensure that, prior to the commencement of development, a scheme of management of each of the supported living units would be agreed with a Registered Provider and submitted to and approved in writing by the Council. The UU also includes appropriate clauses to secure implementation of the approved management scheme before practical completion and that it would be maintained thereafter. I note that the UU for the purposes of identification of the site has a red edge

¹ Appeal Ref: APP/R2330/W/18/3207105 – Dismissed - 19 December 2018

plan that is different from the submitted plans insofar as it excludes the access road. However, I am satisfied that such a difference in this case would not affect the enforceability of the planning obligation in the UU as the red edge plan includes the part of the site which would be subject to the restrictions.

10. Having regard to the above and noting the policy basis for the planning obligation so as to accord with Policy DM14 of the DM DPD and to meet identified needs, I consider that this obligation would be fairly and reasonably related to the development proposed and that it passes the statutory tests contained in Regulation 122 of the Community Infrastructure Levy (CIL) Regulations 2010. The UU, therefore, overcomes the concerns of the previous Inspector and I afford significant weight to the planning obligations therein.
11. When having regard to all of the above, I conclude that the proposed development is consistent with policies relating to the location of housing, including delivery of social housing. The proposal, therefore, does not conflict with Policies H1 of the CS and Policy DM14 of the DM DPD in that respect. The policies are consistent with the National Planning Policy Framework (the Framework). Nevertheless, to conclude against Policy DM14 of the DM DPD and the other policies of the development plan as a whole I necessarily go on to assess the proposal relative to the other main issues.

Living environment - future residents and occupiers of neighbouring properties

12. Policy DM16 of the DM DPD relates specifically to housing standards and in doing so, adopts the nationally described space standard². In that respect, I note that the Council identified that based on the annotations on the submitted plans that Unit 4 comprises 48 sq.m Gross Internal Area (GIA) and therefore, is the only unit which falls below the required standard of 50 sq.m GIA for 1-storey 2-person 1-bedroom accommodation.
13. Notwithstanding the above, the bedroom sizes of both Units 3 and 4 would appear to be only marginally above the minimum size threshold of 11.5 sq.m for a double bedroom. In that respect, when taking account of the reasonable flexibility in the size and layout of single bedrooms that is necessary as part of the function of supported living units as housing with care for people with disabilities, it is appropriate that units 3 and 4 should be alternatively assessed against the minimum GIA and storage requirements of 39 sq.m for 1-storey 1-person 1-bedroom accommodation which is significantly exceeded in each case. Therefore, based on the particular circumstances of the proposal, it would accord with the nationally described space standard and would provide for adequate internal living space for future residents with adequate bedroom sizes and built in storage for the type of accommodation sought in each unit. The management of the development once occupied would fall within the responsibility of the Care Quality Commission, albeit that the planning use should reasonably be conditioned as for the purposes sought.
14. In reaching the above findings, I have taken into account that the habitable windows of units 2, 3, 4 and 5, including those serving bedrooms, are located close to Back Owen Street with a limited separation distance of around 5m to the rear boundary walls of the terraced properties facing Owen Street. The single storey nature of the proposal has been carefully designed to take account of the limited separation distances, as the requirements of

² Technical housing standards – nationally described space standard, DCLG 2015

- Policy DM29 of the DM DPD of 21m between single storey and two storey properties with facing windows of habitable rooms could not be achieved. In response, the facing windows would be obscure glazed to ensure no direct overlooking between the properties and from passers-by, with rooflights offering suitable light provision. In addition, clear glazed windows are incorporated in fins to ensure a suitable outlook from each habitable room and are orientated away from the neighbouring properties which would limit the sense of enclosure for future occupiers of the development.
15. Moreover, the single storey nature of the proposal when taken together with the separation distance to properties facing Owen Street, which are located on raised land levels approximately 1.5m higher, would ensure no significant loss of light, outlook or privacy to the occupiers of neighbouring properties. The Council have expressed concerns that the first-floor windows in the rear elevation of the terraced properties facing towards the site would be only 10m away and would look down on the development. However, the relationship between the properties and the significant difference in land levels would ensure that the interface between habitable windows and rooflights would be oblique and would not result in a harmful loss of privacy for future occupiers.
 16. Notwithstanding the above, Policy DM29 of the DM DPD also requires that sensitive new developments should be located an acceptable distance away from sources of pollution (including noise) from existing operational businesses. The approach aligns with Policy ENV7 of the CS which, amongst other things, seeks that material impacts arising from sources, including noise or other nuisance, will not give rise to unacceptable adverse impacts and can be properly controlled in accordance with best practice and recognised standards. In those respects, having regard to the proposal and its proximity to the adjacent railway line and adjoining businesses, the potential effect of noise and vibration is a relevant consideration.
 17. In response to the above, an acoustic and vibration survey prepared by Braiden Acoustics Ltd dated 4 April 2018 has been submitted. A full methodology is included for measurements taken during the morning and evening rush hours so to give a worst-case scenario between 1727 - 1852 hours on 1 April 2018, together with 0632 - 0700 hours and 0702 - 0931 hours on 3 April 2018. The surveys identified a noise climate mainly consisting of train movements, nearby passing road traffic on Whalley Road (including buses) and passing aircraft.
 18. The Council and interested parties have provided no contrary evidence. Furthermore, based on the evidence I have no reason to consider that the measurements are not representative given that I experienced a similar noise environment of passing trains and nearby road traffic during my visit. In that respect, it was clear that the highest levels of noise exposure experienced by future residents would be from trains passing on the adjacent railway line that is located on an embankment on land levels elevated above the site.
 19. With regard to the above, the acoustic and vibration survey reasonably assesses the noise level at the site in terms of continuous sound pressure levels for the daytime ($L_{Aeq,day}$) and night-time ($L_{Aeq,night}$). In doing so, it accounts for individual train passes using the Sound Exposure Level (SEL) technique utilising a Calculation of Railway Noise (CRN) methodology for train passes during the measurement periods. In that respect, the SEL values were all broadly close to a rounded value of 86 dB(A) with the number of train

- passes derived from the Network Rail Working Time Table (WTT) factored into the calculation of a figure of 53 dB $L_{Aeq,night}$ and 58 dB $L_{Aeq,day}$, with a worst case scenario level of 82 dB L_{Amax} experienced by the nearest bedroom and lounge windows with a line of sight of the railway (i.e. the proposed Units 1 and 6).
20. The measurements are significantly above the recommended indoor ambient noise level thresholds in BS8233:2014³ (which reflects guidance from World Health Organisation "Guidelines for Community Noise") of 35 dB $L_{Aeq,T}$ during the day and 30 dB $L_{Aeq,T}$ at night-time. However, the evidence indicates that appropriate sound reduction could be achieved by specified double glazing including upgraded specifications to provide the necessary sound reduction index of 37 dB R_w+C_{tr} for bedrooms with direct line of sight of the railway and 25 dB R_w+C_{tr} for all other daytime habitable rooms.
 21. With regard to the above, the imposition of a condition to secure the aforementioned mitigation would provide suitable noise levels to provide a satisfactory living environment for future residents of each proposed unit when windows are closed. However, that of itself would not appropriately address noise effects in periods of hot weather when future occupiers may reasonably wish to have windows open. In such circumstances, I consider that it is also necessary that details of an alternative means of ventilation for approval by the Council would be required by condition to ensure that future residents would not be reliant on having to open windows for suitable ventilation.
 22. In terms of vibration from passing trains, the measurements identified only negligible effects within the site with a maximum level of only 0.2mm/s (peak particle velocity) which falls within the range of a low probability of adverse comment for human response to vibration in residential buildings during both periods of daytime and night-time as set out in BS6472:2008⁴. There is no contrary evidence or measurements in terms of vibration before me. I, therefore, find that future occupiers of the development would not experience unacceptable levels of vibration.
 23. Policy DM14 of the DM DPD, amongst other things, also requires that development for housing with care for older people and people with disabilities include adequate provision for open space / grounds that can be used by residents for sitting, relaxation and gentle exercise. In that respect, the layout of the proposal includes some areas of limited private open space to serve the units under a front canopy and at the rear of Units 5 and 6 which is supplemented by a larger communal area within the complex for all units. To my mind, those arrangements when taken together would constitute adequate provision of open space to meet the recreational needs of future residents.
 24. In reaching the above view, I have taken into account that the evidence indicates that the noise levels in the communal areas closest to the railway line is likely to exceed the recommended noise levels for outdoor areas in BS8233:2014 by around 3 dB $L_{Aeq,T}$ when predominantly in use during the daytime. However, when taking account of the flexibility afforded in BS8233:2014 for higher noise areas (including the strategic transport network), the circumstances of this case justify a compromise between the limited extent of elevated noise levels. In that respect, I have taken into account that a significant proportion of the communal area would be more

³ BS 8233:2014 Guidance on sound insulation and noise reduction for buildings

⁴ BS 6472:2008 Guide to evaluation of human exposure to vibration in buildings

distant from the railway line than the location where measurements were taken and would be partly screened by the detached single storey staff and communal building.

25. The safety of potentially vulnerable future residents has also been raised due to the relatively secluded location of the site behind properties which face Whalley Road and Owen Street. However, based on the evidence before me, I am satisfied that the installation of CCTV cameras and associated lighting around the entrances to the individual properties and the communal area would ensure a safe and suitable environment for future residents and staff by providing suitable levels of surveillance that in my experience is often an effective deterrent to crime.
26. The existence of a previous appeal decision in 1997 has been drawn to my attention. The appeal related to an alternative use of the land for warehousing and distribution which was refused in part due to the impact on the amenity of neighbouring properties. The full details of that appeal are not before me, but in any case, a residential use of the site would be significantly different and based upon my previous findings would not have an unacceptable impact on the living conditions of occupiers of neighbouring properties.
27. Concerns have also been raised with respect to noise and disturbance during the construction phase and its potential impact upon the living conditions of occupiers of neighbouring properties. However, I am satisfied that an unacceptable effect would be prevented by imposition of conditions relating to agreement and implementation of a construction method statement and also to restrict construction works and associated deliveries to between 0800 and 1800 hours on Mondays to Fridays, 0800 and 1300 on Saturdays and no work on Sundays with all works to be undertaken in accordance with BS5228:2009.
28. When having regard to all of the above, I conclude that the proposed development would provide for a satisfactory living environment for future residents and would not have a harmful effect on the living conditions of occupiers of neighbouring properties. The proposal, therefore, would not conflict with Policy ENV7 of the CS and Policies DM14, DM16 and DM29 of the DM DPD in that respect. The policies are consistent with the Framework.

Highway safety

29. The access arrangements of the proposal are broadly similar to those considered by the previous Inspector in 2018. Based upon the evidence before me, there has not been a material change in circumstances in terms of the proposed access arrangements and local highway conditions aside from the inclusion of the site access within the red edge on the location plan submitted as part of this proposed development. In that respect, based upon the evidence before me and my own observations, I have no reason to take a different view to the previous Inspector that the proposal would not have an unacceptable effect upon the safety of drivers, cyclists and pedestrians.
30. In reaching the above findings, I have taken into account that the site is in an accessible location relative to Accrington Town Centre which offers either the ability to walk or cycle to local services and facilities or to access them via sustainable transport alternatives to the private car given the nearby presence of bus stops. In that regard and based on my experience, I am satisfied that the proposed development as informed by a transport statement indicating

6 residents and 3 full time employees would create a relatively low amount of vehicle movements to and from the site in circumstances where resident vehicle ownership is likely to be uncommon. I accept the Council's view that staffing levels and possible deliveries could result in peak movements of more than 1-2 vehicles per hour. Nonetheless, even if that were the case, any increase on the access road to serve the small-scale proposal is likely to be modest given the accessibility of the location by other forms of travel. I am, therefore, satisfied that vehicle movements along the access road are likely to be low in numbers and relatively infrequent.

31. The vehicular and pedestrian access to the site would be primarily via a cobble surfaced road at the side of No 106 Whalley Road, although other points of access would be available from Owen Street and along Back Owen Street particularly for pedestrians. The access route from Whalley Road (A680) is around 25m to the proposed car parking area that would be of a sufficient size to provide adequate off-street parking provision to serve the development once occupied. In that respect, irrespective of the conflicting measurements in the evidence before me relating to the width of the access road of between 2.6m and 3.6m at its narrowest point, I observed that it is clearly a narrow route where a vehicle could only travel in one direction at a time.
32. Notwithstanding the above, as observed by the previous Inspector, it is reasonable that for such routes that are of a relatively short distance and of a relatively narrow width that drivers of vehicles are generally cautious and travel more slowly which would reduce the risk of accidents between vehicles and pedestrians. Furthermore, conditions could also be imposed to mitigate the current unsuitable condition of the access route to ensure that it is resurfaced between Whalley Road and the site entrance, and to ensure that street lighting is added to improve visibility during periods of darkness.
33. Whilst ownership matters have been raised with respect to works taking place along the access road, the submitted plans include it within the red edge and the Council determined the planning application on that basis. In that respect, any ownership issues are a private matter between the parties and not within my jurisdiction. In any case, I see no reason why the grant of planning permission would negate or supersede any private legal rights relating to land ownership. Nor is there any substantive evidence which would lead me to conclude that there would be no prospect of the requirements of the aforementioned conditions being satisfied.
34. The absence of a separate pedestrian footway of adequate width could not be resolved due to the narrow width of the route which is constrained by the proximity between buildings, boundary walls and fencing of the adjacent railway line on the other side. However, in this particular case, a shared surface for pedestrians and vehicles in a relatively calm traffic environment would not introduce an unacceptable increase in the risk of accidents. To my mind, the limited increase in traffic movements along the short route and the low speeds would ensure that a vehicle, cyclist or pedestrian, including children, as part of common courtesy would reasonably wait for another to pass. Whilst pedestrians travelling on Whalley Road would need to check that the access road was clear before crossing the road, the alignment of the road is relatively straight with a splayed section that results in the access point at the junction being wider. Consequently, the visibility between vehicles and pedestrians would be suitable.

35. In terms of access at the junction, on occasion, vehicles may be required to wait on Whalley Road to turn left or right into the access road in close proximity to a bus stop on the far-side carriageway and where cars may be overtaking parked cars within the oncoming lane and therefore, may be close to the centre line. However, it is not an unusual situation for vehicles to wait on a highway for short periods of time to turn. Furthermore, in the particular circumstances of the site, it would be in a location with a straight alignment which offers suitable forward visibility for vehicles travelling in both directions. There is a theoretical possibility that a vehicle overtaking a stationary bus and then stopping to wait to enter the site could be subject of a rear shunt should a vehicle behind not anticipate such a manoeuvre. The possibility of side swipes has also been raised should a vehicle be exiting the site to the right. However, based on the evidence and the low number of increased traffic movements that would arise from the proposal, the risk of those combination of circumstances occurring would be so minimal that it does not present an unacceptable increase in the risk of accidents.
36. In reaching that view, I have taken into account that the access road is already capable of being used by vehicles as an access point to and from Back Owen Street and it is reasonable that on occasion the manoeuvres to which concerns have been raised would have already taken place. The accident record along Whalley Road over the 5 year period up to October 2018 provided to me indicates that there have been 7 accidents causing injury in total, including 5 to the north of the junction and 2 to the south. In addition, a further serious accident that has occurred more recently involving a fatality at the Milnshaw Lane/Whalley Road junction has also been drawn to my attention. However, based upon the evidence, none of the accidents which have taken place had any relationship with the use of the proposed site access. Furthermore, when taking into account that Whalley Road is a busy movement corridor with around 20,000 two-way daily traffic flows and that the vehicle movements arising from the proposal in that context would be comparatively low, the proposal would have little effect upon existing local highway conditions. Consequently, the use of the access for the proposal and the associated additional traffic movements on the surrounding highway network would not have an unacceptable effect on highway safety.
37. The evidence before me includes a swept path analysis which shows that a fire vehicle would be capable of entering the site from Whalley Road and turning and leaving in forward gear, and based on my observations I am satisfied that access to the site could be obtained to accommodate larger service and construction vehicles. In reaching that view, I have taken into account that the narrowest point of the access is below the route specification of 3.7m width sought by the Lancashire Fire and Rescue Service. However, it is evident that fire appliances are not standardised, and different dimensions may be adopted. Furthermore, the installation of a residential sprinkler system may offer a reasonable alternative if necessary as part of a subsequent Building Regulations approval. I, am, therefore, satisfied that the access arrangements for emergency vehicles would not present an unacceptable risk to the safety of future residents.
38. The Council's refuse section have indicated that refuse collections would occur through existing arrangements with bin wagons serving a collection point for the rear of the terraced row facing Whalley Road. The waste arising from the proposal would be added to the existing collection and therefore, the

development would be adequately served by the existing arrangements. Concerns have been raised in terms of lack of parking for construction workers on Back Owen Street. However, during my visit I observed sufficient availability of on-street parking on surrounding streets to accommodate the levels of parking demand generated during periods of construction so as to not encourage parking on Back Owen Street, restrict access to surrounding properties or cause inconvenience for existing residents.

39. Having regard to all of the above, I conclude that the proposal would not have an unacceptable impact upon highway safety. The proposal, therefore, would not conflict with Policy ENV7 of the CS or Policy DM32 of the DM DPD. The policies when taken together and amongst other things, seek to prevent a material impact arising from traffic, enable ease of access to, around and within a development for all potential users, that the safety of highway users is properly taken into consideration and that any new development would not have an adverse impact on highway safety. The policies are consistent with the Framework in those respects.

Other Matters

40. The design of the proposed single storey development, although departing from the architectural style, scale and form of buildings which face Whalley Road and Owen Street, would assimilate into the more varied character of buildings visible on Back Owen Street including the industrial buildings and premises close by. The development itself would be of a modest height with appropriate materials and detailing to respect the industrial heritage of its immediate surroundings and therefore, would not harm the character and appearance of the area when replacing a currently derelict site. Whilst concerns have been raised with respect to the impact on heritage arising from the loss of a cobbled area of the access road following re-surfacing, the evidence before me indicates that the site does not fall within a Conservation Area and that a large number of cobbled streets remain elsewhere in Hyndburn. Consequently, I am satisfied that the benefits of upgrading the access route to the site to enable it to be developed outweighs the loss of the cobbled section of road.
41. The Ecology Report prepared by Bowland Ecology Ltd as submitted with the application found the potential for bat roosting along the adjacent wall of a disused building and some moderately suitable bat foraging/commuting habitat. Furthermore, an invasive species was identified in the central area of the site. In that respect, I am satisfied that the habitat enhancement (bat boxes, additional planting for foraging habitats and log/brush piles for invertebrates and fungi) and precautionary measures identified relating to bats, birds, other mammals and reptiles, together with the removal of invasive species prior to commencement of works, would be suitable and could be secured through conditions. I, therefore, find that the proposed development would not have an adverse impact upon ecology and biodiversity subject to the imposition of conditions including an update to the existing assessment and a Biodiversity Method Statement to provide full details of the recommendations including any subsequent updates.
42. There is no evidence before me that the capacity of infrastructure could not accommodate the development and whilst concerns have been raised by local residents in terms of the effect on utilities along the access road and within the back alley, I am satisfied that any harm in that respect would be avoidable

when taking into account the absence of objection from utilities companies. Furthermore, I am satisfied that there would be no unacceptable impacts in terms of contaminated land or drainage subject to the imposition of conditions.

43. Interested parties have raised a number of other concerns including matters that are unrelated to the development itself within the wider area, perceived inaccuracies with the submitted details of the application, the Council's approach when dealing with applications at the site and reference to legislation that falls outside of the Planning Act. However, based on my previous findings, none of those matters or the strength of objections reflected in the submission of individual letters and a petition are reason to withhold planning permission in circumstances where I have identified no harm or unacceptable impacts as part of the main issues and other planning considerations that could not be suitably addressed and overcome by the imposition of conditions.

Conditions

44. I have had regard to the planning conditions that have been suggested by the Council and in consultee responses. Where necessary I have reordered the conditions, amended the wording to ensure consistency with paragraph 55 of the Framework and consolidated the conditions where possible.
45. Conditions 1 and 2 relate to the time limit for the planning permission and compliance with approved details to provide certainty of the development for which permission is granted. Conditions 3 and 4 are pre-commencement conditions to secure highway works to ensure that the site access is suitable for vehicles, pedestrians and cyclists to ensure that the development does not have an unacceptable impact in terms of highway safety. The reason for the pre-commencement conditions are to ensure that the full details of the highway works are approved with any necessary agreements for the works in place before the development commences and to ensure a pre-development survey to allow post-development assessment of any damage on the surrounding access roads to allow for timely repairs.
46. Condition 5 is a pre-commencement condition to secure full details of a sound attenuation scheme which is necessary to ensure that the development is constructed in accordance with the recommendations of the acoustic and vibration survey and would provide for a satisfactory living environment for future residents, which is necessary before development commences due to the close proximity of the nearby railway line.
47. Condition 6 is a pre-commencement condition to ensure that a full assessment of the risks posed by contamination and ground gases has been carried out following the evidence which accompanied the application. It is necessary to ensure that any potential land contamination within the site as identified in the evidence can be suitably remediated before the development commences so as to ensure that there would be no pollution of ground and surface waters both on and off site, and to remove any risk associated with land contamination and ground gases for construction workers and future occupiers of the development.
48. Condition 7 is imposed to secure a construction method statement pre-commencement which is necessary to ensure that a satisfactory method of construction is provided to avoid unacceptable impacts upon the living conditions of occupiers of neighbouring properties during the construction

phase. The condition omits reference to details of working hours to avoid duplication with Condition 8 relating to restrictions on construction works and delivery hours that were previously identified as necessary to avoid harm to the living conditions of occupiers of neighbouring properties. The reference to routing of delivery vehicles to/from the site has also been removed as it would unreasonably impose controls on the highway network as I am satisfied that appropriate access could be secured to the site.

49. Conditions 9 and 10 are also pre-commencement conditions that are necessary to ensure that the site ecology evidence and any required mitigation is kept up-to-date prior to the commencement of the development and to remove invasive species, so as to ensure the protection and enhancement of the natural environment. Those conditions are supplemented by conditions 11 and 12 which are necessarily imposed to provide safeguards and a precautionary approach in terms of vegetation removal between 1 March and 31 August inclusive to prevent any impact to nesting birds and to provide habitat enhancements for nesting birds and roosting bats.
50. Condition 13 is imposed to secure details of foul and surface water drainage to serve the development and combines the requirements of conditions suggested by the Council that are necessary to secure proper drainage and to manage the risk of flooding and pollution. However, the full details are not necessary prior to commencement of development as requested by the Council and only need to be agreed before any works above slab level take place. Condition 14 is necessarily imposed to secure full details of hard and soft landscaping to be provided, including landscaping planting and boundary treatments, in the interest of the character and appearance of the development.
51. Conditions 15, 16 and 17 are necessary to secure full details of external lighting, CCTV and obscure glazing to be installed which are required in the interest of a suitable living environment for future residents, to prevent an unacceptable impact upon the living conditions of occupiers of neighbouring properties and to provide a deterrent to crime and anti-social behaviour. Conditions 18 and 19 are imposed to ensure that the car parking and turning areas within the site are implemented and cycle storage is installed in accordance with the approved details to serve the development before it is occupied in the interest of highway safety and enhancing sustainable transport options. Condition 20 is necessarily imposed to ensure that the specific use of the premises falls within Class C2 as proposed to reflect the nature of accommodation for which permission is sought and the basis upon which this appeal was determined.

Conclusion

52. For the reasons given above and taking all other matters into account, I conclude that the proposal is in accordance with the development plan and the Framework when taken as a whole. The appeal, therefore, should be allowed and planning permission granted subject to the conditions set out in the attached schedule.

Gareth Wildgoose

INSPECTOR

SCHEDULE

CONDITIONS

- 1) The development hereby permitted shall begin not later than 3 years from the date of this decision.
- 2) The development hereby permitted shall be carried out in accordance with the following approved plans: BLJT-00600948; PHA/042/100; PHA/042/200 rev B; PHA/042/300 & sss-7741 rev A.
- 3) No development shall take place until full details of a scheme for the highway works to provide the site access have been submitted to and approved in writing by the local planning authority. The scheme of works shall include the re-surfacing of the side street adjacent to 106 Whalley Road, addition of street lighting and any agreements required thereto. The approved scheme shall be implemented in full before the first occupation of any supported living unit hereby approved.
- 4) No development shall take place until pre-commencement photographic surveys of the sett-paved streets of Whalley Road, Owen Street and Back Owen Street have been submitted to and approved in writing by the local planning authority. Within one month of completion of the development or prior to the occupation of the final supported living unit whichever is sooner, a post-development survey (including a scheme, programme and timetable of works to reinstate or repair any damage arising from the development) shall be submitted to and agreed in writing by the local planning authority. Any works arising from the post-development survey shall be implemented in accordance with the approved details and the agreed timetable.
- 5) No development shall take place until full details of a sound attenuation scheme for the building envelope of unit nos. 1-6 have been submitted to and approved in writing by the local planning authority. The scheme shall provide for sound attenuation against external noise of not less than a sound reduction index of 37 dB R_w+C_{tr} for bedrooms with direct line of sight of the railway and 25 dB R_w+C_{tr} for all other daytime habitable rooms with windows shut and it shall also include full details of other means of ventilation to be provided. The approved sound attenuation works and ventilation system shall be completed in full before the supported living units are occupied and shall be retained thereafter.
- 6) No development shall take place until a full assessment of the risks posed by contamination and ground gases has been carried out in accordance with British Standard BS 10175: Investigation of potentially contaminated sites - Code of Practice and the Environment Agency's Model Procedures for the Management of Land Contamination (CLR 11) (or equivalent British Standard and Model Procedures if replaced), and it has been submitted to and approved in writing by the local planning authority. If any contamination is found, a report specifying the measures to be taken, including the timescale to remediate the site to render it suitable for the approved development, shall be submitted to and approved in writing by the local planning authority. The site shall be remediated in accordance with the approved measures and timescale and a verification report relating to the remedial works shall be submitted to and approved in writing by the local planning authority before any development takes place. If, during the course of development, any contamination is found which has not been previously identified, work shall

be suspended and additional measures for its remediation shall be submitted to and approved in writing by the local planning authority. The remediation of the site shall incorporate the approved additional measures and a verification report for all the remediation works shall be submitted to the local planning authority within 14 days of the works being completed for approval in writing by the local planning authority.

- 7) No development shall take place until a Construction Method Statement has been submitted to and approved in writing by the local planning authority. The Statement shall provide for:
- i) the parking of vehicles of site operatives and visitors;
 - ii) loading and unloading of plant and materials;
 - iii) storage of plant and materials used in constructing the development;
 - iv) the erection and maintenance of security hoarding;
 - v) wheel washing facilities;
 - vi) measures to control the emission of dust and dirt during construction;
 - vii) a scheme for recycling/disposing of waste resulting from demolition and construction works;
- The approved Construction Method Statement shall be adhered to throughout the construction period for the development.
- 8) Construction works and associated deliveries shall take place only between 0800 - 1800 hours on Mondays to Fridays, 0800 - 1300 hours on Saturdays and shall not take place at any time on Sundays or on Bank or Public Holidays. All works shall be undertaken in accordance with BS5228:2009.
- 9) No development shall take place until an updated ecological survey of the site by a qualified ecologist working to CIEEM standards is completed and submitted for approval by the local planning authority, and a revised Biodiversity Method Statement, including full details of a scheme and programme to protect amphibians and small mammals during construction, shall also be submitted to and approved in writing by the local planning authority. There will be a requirement to re-survey the site every year from the date of any agreed ecological survey if the development has not commenced. The approved Biodiversity Method Statement and any associated programme shall be implemented in full prior to any construction works within the site or in accordance with any timetable otherwise agreed in writing by the local planning authority.
- 10) No development shall take place until an invasive non-native species protocol has been submitted to and approved in writing by the local planning authority. The details shall include the containment, control and removal of any non-invasive species within the site and a timetable for those works to take place. The measures shall be carried out strictly in accordance with the approved details.
- 11) No removal of hedgerows, trees, shrubs or undergrowth shall take place between 1 March and 31 August inclusive, unless a competent ecologist has undertaken a detailed check of vegetation for active bird nests immediately before the vegetation is cleared and provided written confirmation that no birds will be harmed and/or appropriate measures are in place to protect

nesting birds on site. Any such written confirmation must be submitted to the local planning authority before any removal works take place.

- 12) No development above slab level shall take place until full details for the installation of building integrated Sparrow nest boxes and building integrated bat boxes, including specifications and the location of installation, have been submitted to and approved in writing by the local planning authority. The works shall be carried out in accordance with the approved details and shall be retained thereafter.
- 13) No development above slab level shall take place until a scheme for foul and surface water drainage has been submitted to and approved in writing by the local planning authority. The scheme shall be implemented in accordance with the approved details prior to the first occupation of a supported living unit and shall be maintained as such thereafter.
- 14) Notwithstanding condition 2, no development above slab level shall take place until full details of all proposed hard and soft landscape works, including full details of boundary treatments, any paved areas and other hard surfaces and landscape planting, have been submitted to and approved in writing by the local planning authority. All landscaping works shall be carried out in accordance with the approved details before the end of the first planting season either following the first occupation of a supported living unit or the substantial completion of development, whichever is sooner. Any trees or plants which within a period of 5 years from substantial completion of the development, die, are removed or become seriously damaged or diseased shall be replaced in the next planting season with others of similar size and species to those originally planted.
- 15) No development above slab level shall take place until an external lighting scheme is submitted to and approved in writing by the local planning authority. The design shall:
 - i) Identify the features on site that are likely to be used by light sensitive species; the impact which might cause disturbance to the normal activities of the species.
 - ii) Identify how and where external lighting is to be installed through the provision of appropriate lighting contour plans and technical specifications so that it can be demonstrated that areas to be lit will not have a detrimental impact on the normal activities of the species.
 - iii) Provide details of when/ durations the external lighting will be operated, including seasonal variations.
 - iv) The scheme shall comply with appropriate guidance (Bat Conservation Trust & Institution Lighting Engineers 2009) to minimise the impact on protected species.

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

- 16) Prior to the first occupation of the development hereby approved, details of CCTV cameras to be installed shall have been submitted and approved in writing by the local planning authority. The residential care/supported living units shall not be brought into use or occupied until the CCTV cameras have

been installed in accordance with the approved details and they shall be retained as such thereafter.

- 17) The windows of the supported living units 2 - 6 hereby permitted shall be fitted with obscure glazing where required to accord with drg.no. PHA/042/200 rev B. Details of the type of obscure glazing shall be submitted to and approved in writing by the local planning authority before each obscure glazed window is installed and once installed the obscure glazing of the window shall be retained thereafter in accordance with the approved details.
- 18) Prior to the first occupation of the development hereby approved, the parking spaces and forecourt and turning area as detailed on the approved plans shall be constructed and laid out in accordance with the approved details using a porous bound material and it shall be retained as such thereafter. No fencing shall be erected along the boundaries of the forecourt/turning area with adjoining streets, unless otherwise approved in writing by the local planning authority.
- 19) Prior to the first occupation of the development hereby approved, the cycle store as indicated on the approved plans shall be provided and it shall remain available for use thereafter.
- 20) The residential care/supported living units shall not be used for any purpose other than purposes within Class C2 of the Schedule to the Town and Country Planning (Use Classes) Order 1987 (or in any provision equivalent to that Class in any statutory instrument revoking and re-enacting that Order with or without modification).