

**13<sup>th</sup> October 2023**

**Final Position as agreed between Burnley Council and the Appellant**

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**1. The development must be begun within three years of the date of this decision.**

Reason: 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. Approved Plans**

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

- Topographical survey sheets 1,2, and 3: PRO.TS.13
- Site Location Plan WD20 90 LP01A
- Existing site Plan HCB ESP 001
- Planning Layout WD20-90-DL01 Rev J
- Landscaping proposals GL1942 01, GL1942 02, GL1942 03 and GL1942 04 Revisions F
- Boundary Treatments WD20 90 BT01 Rev J
- Material finishes WD20 90 MF01 Rev J
- Drainage Strategy 21061- 100- 1B
- Drainage Strategy 21061-100-2-B
- Drainage Strategy 21061 100 3 A
- Affordable Housing plan HCB AHP-01 Rev B
- Public Open Space HC-POS-001 Rev A
- Boundary Treatments Plan WD20-90-BT01 Rev K
- Refuse Layout WD20 90 RL 01 Rev J
- Garages SG 001
- House Type Booklet Dated Aug 2022
- Management and Maintenance Plan WD20-90-MP01 Rev H

Reason: To ensure the development is implemented in accordance with the approved plans and to avoid ambiguity.

**3. Phasing**

Prior to the commencement of built development above ground level, a Phasing Plan shall be submitted to and approved in writing by the Local Planning Authority. The Phasing Plan shall include details of the number of dwellings and other development to be implemented within each phase of the development including construction access, parking, boundary treatments, open space provision, landscaping and drainage. The development shall be carried out in accordance with the approved phasing contained within the Phasing Plan.

Reason: The Phasing Plan is required prior to the commencement of built development above ground level to clarify how the site is to be phased in order to ensure that infrastructure provision and agreed mitigation measures are provided in time to cater for the needs and impacts arising out of the development in accordance with Policies HS4, IC1 and IC4 of Burnley's Local Plan (July 2018).

**4. Ground and Floor Levels**

Prior to the commencement of each agreed phase of the development, details of existing and proposed ground levels and finished floor levels shall be submitted to and approved in writing by the Local Planning Authority. The development shall be built in accordance with the approved details.

Reason: To ensure the satisfactory implementation of the development having regard to the appearance of the development and its surroundings in accordance with the Policy SP5 of Burnley's Local Plan (July 2018). The details have not been submitted with the application and are required prior to the commencement of built development above ground level to ensure that the site is re-graded, and the dwellings constructed in accordance with the approved levels.

## **5. Materials**

Notwithstanding the approved drawings, no development above ground level shall take place until full details and representative samples of all external materials of construction shall be submitted to and approved in writing by the Local Planning Authority for the following:

- External walls and roofs of the dwelling houses and garages
- Rainwater Goods
- Windows and doors

The development shall thereafter only be carried out in accordance with the approved details.

Reason: To ensure a satisfactory appearance to the development, having regard to the character of the local area, in accordance with the provisions of Policy SP5 of the Burnley's Local Plan (July 2018). The materials details are required prior to the commencement of above ground level works to ensure that the approved materials are available for use at the appropriate stage of the development.

## **6. Access to Hollins Cross Farm, Hollins Cross Farm Barn and Hollins Cross Cottage**

Prior to the current access route to Hollins Cross Farm, Hollins Cross Farm Barn and Hollins Cross Cottage being severed, in accordance with the approved phasing plan (approved under Condition 3), a scheme and programme for the access and egress to those three properties shall be submitted to and approved in writing by the Local Planning Authority. The approved details shall be adhered to throughout the development process.

Reason: In the interest of traffic and highway safety in accordance with Policy IC1 of Burnley's Local Plan (July 2018).

## **7. Adaptable Homes**

The Appellant and Council are at a point of disagreement in relation to the number of M4(2) compliant homes to be provided, and therefore the content of Condition 7. The condition which was presented by Officers to the Committees, and which the Council wish to retain, is as follows:

The development hereby approved shall be constructed to comply with the optional technical standards of Part M4(2) of the Building Regulations 2010 to provide adaptable homes to 131 no. dwellings (as indicated on the approved drawing No. CHP-AHP01 (M4(2) Compliant House Types dated Dec 2002).

Reason: To ensure that the development provides benefits to new occupiers by the provision of adaptable homes to meet lifetime needs, at the agreed level of 65% which exceeds the requirement in Policy HS4 of Burnley's Local Plan (July 2018).

The Condition which the Appellant consider is deliverable is as follows; the Justification for this is set out in detail at paragraphs 6.15 and 8.5, and Appendix J, of the Planning Proof of Evidence provided by Savills on behalf of the Appellant:

The development hereby approved shall be constructed to comply with the optional technical standards of Part M4(2) of the Building Regulations 2010 to provide adaptable homes to 40 no. dwellings (as indicated on the approved drawing No. XXX).

Reason: To ensure that the development provides benefits to new occupiers by the provision of adaptable homes to meet lifetime needs, at the agreed level of 20% in line with the requirement in Policy HS4 of Burnley's Local Plan (July 2018).

#### **8. Solar Photovoltaics/Panels**

Notwithstanding the approved drawings and submitted Energy Efficiency Statement (prepared by Element Sustainability and dated January 2021), details of the precise design and locations (including the number and positioning on the roofslope) of any solar photovoltaics/panels proposed to be used for the first 50 dwellings shall be submitted to and approved by the Local Planning Authority prior to their installation. Details of any solar photovoltaics/panels to be used on the remaining 150 dwellings shall be submitted to and approved by the Local Planning Authority prior to their installation. The equipment should, so far as practicable, be sited so as to minimise its effect on the visual amenity of the area.

The solar photovoltaics/panels or alternatives shall be installed to the agreed plots and to the agreed details prior to their first occupation.

Reason: To ensure the development meets a high standard of design, construction and sustainability in accordance with Policy SP5 and HS4 of Burnley's Local Plan and that achieves emission reductions at the agreed level of 31% above the Building Regulations 2021 Part L.

#### **9. Site Access**

No part of the development hereby approved shall commence until a scheme for the construction of the site access has been submitted to and approved in writing by the Local Planning Authority in consultation with the Highway Authority as part of a Section 278 Agreement, under the Highways Act 1980. Thereafter the site access shall be constructed and completed in accordance with the approved scheme prior to first occupation of the development hereby approved.

Reason: To ensure that satisfactory access is provided to the site and is made safe for all highway users and satisfactory provision is made to encourage use of public transport, having regard to sustainable travel and highway safety, in accordance with Policy IC1 of Burnley's Local Plan (July 2018). The scheme is required prior to the commencement of development in order that the works are satisfactory and can be implemented at the appropriate time and stages of the development in the interests of highway safety.

#### **10. Off-Site Highway Improvements**

No part of the development hereby approved shall be occupied until a scheme for the construction of the off-site works of highway improvements has been submitted to and approved in writing by the Local Planning Authority in consultation with the Highway Authority as part of a Section 278 Agreement, under the Highways Act 1980. Thereafter the off-site highway works shall be constructed and completed in accordance with the approved scheme prior to first occupation of the development hereby approved.

Reason: To ensure that satisfactory access is provided to the site and is made safe for all highway users and satisfactory provision is made to encourage use of public transport, having regard to sustainable travel and highway safety, in accordance with Policy IC1 of Burnley's Local Plan (July 2018).

#### **11. Estate Road Construction**

The new estate roads shall be constructed in accordance with the Lancashire County Council Specification for Construction of Estate Roads to at least base course level before any development within each phase, other than

demolition and site clearance, takes place in accordance with the approved phasing plan (approved under Condition 3).

Reason: To ensure that satisfactory access is provided to the site before the development hereby permitted becomes operative, in the interest of highway safety, in accordance with Policy IC1 of Burnley's Local Plan (July 2018).

#### **12. Car Parking**

No dwelling shall be first occupied unless and until all its associated car parking including any dropped kerb and vehicle cross-over the footway and/or verge has been constructed, drained, surfaced (in black bitumen macadam or other bound material) and is available for use in accordance with the approved plans.- The car parking spaces associated with each dwelling, as set out in the submitted Parking Schedule (HCB-PS01), shall thereafter be retained for the purposes of car parking at all times

Reason: To ensure adequate off-street parking, in the interest of traffic and highways safety and amenity in accordance with Policy IC3 of Burnley's Local Plan (July 2018).

#### **13. Garage Parking**

Notwithstanding the provisions of the Town and Country Planning (General Permitted Development) (England) Order 2015 (as amended) (or any order revoking or re-enacting that Order with or without modification), the garages hereby approved (including integral/attached/detached garages) shall remain available at all times for the parking of a motor vehicle and shall not be altered to provide habitable space.

Reason: To ensure that car parking levels for each property are preserved to ensure the continued compliance with the Council's parking standards and avoid reliance on off-street parking, in accordance with Policy IC3 of Burnley's Local Plan (July 2018).

#### **14. Estate Roads and Streets Design**

No development shall proceed above ground level within any phase until the engineering, drainage, street lighting and constructional details of the proposed estate roads and details of the proposed arrangements for future management and maintenance of the proposed streets within the approved phase of the development have been submitted to and approved by the Local Planning Authority. The streets shall thereafter be constructed in accordance with the approved details and maintained in accordance with the approved management and maintenance details until such time as an agreement has been entered into under Section 38 of the Highways Act 1980 or a private management and maintenance company has been established.

Reason: In the interest of highway safety; to ensure a satisfactory appearance to the highway's infrastructure serving the approved development; and to safeguard the users of the highway and the visual amenities of the locality in accordance with Policy IC1 of Burnley's Local Plan (July 2018). The details are required prior to the commencement of development to ensure that the details are satisfactory and can be implemented at the appropriate time and stages of the development in the interests of highway safety.

#### **15. Travel Plan**

The Framework Travel Plan set out in Appendix Two of the Transport Assessment (prepared by Eddisons and dated September 2021) shall be implemented, monitored and reviewed in full accordance with the Action Plan and Timetable contained therein.

Reason: To support sustainable transport objectives including the increased use of public transport, walking and cycling in accordance with Policies IC1 and IC2 of Burnley's Local Plan (July 2018).

#### **16. Play Provision**

No dwelling shall be first occupied until a scheme and programme for the play areas to be provided on site has been submitted to and approved in writing by the Local Planning Authority. Details shall include but not be limited to the location, design, layout and specification of play equipment to include its surfacing, seating, bins and boundary treatment; timings of installations; and expected availability for each play area. The approved play areas shall thereafter be constructed and completed strictly in accordance with the approved timescales and details and retained as such for the duration of the development.

Reason: To ensure adequate open space/play areas are provided on site for the proposed development in accordance with Policy HS4 of the Burnley Local Plan and the provisions of the National Planning Policy Framework.

#### **17. Refuse and Recycling Storage Provision**

Prior to the first occupation of any dwelling, refuse bins and recyclable waste containers for each respective dwelling shall be provided within a concealed area of the curtilage in accordance with the approved plans. The refuse and recyclable waste storage provision for each dwelling shall thereafter be retained at all times.

Reason: To ensure adequate storage for refuse and recycling waste is provided away from public views, in the interests of residential amenities, in accordance with Policy SP5 of Burnley's Local Plan (July 2018).

#### **18. Ground Condition/Land Remediation**

No part of the development hereby approved shall commence until a remediation strategy, based on the principles, conclusions and recommendations set out in the submitted updated Geo-environmental Ground Investigation (report reference 21061/GEIR 01 prepared by REFA Consulting Engineers, dated December 2022), has been submitted to and approved in writing by the Local Planning Authority. The remediation strategy shall detail measures to be undertaken to avoid risk from contaminants and/or gases when the site is developed and proposals for future maintenance and monitoring, and shall include nomination of a suitably qualified person to oversee the implementation of the approved works.

No dwelling shall be first occupied until a Verification Report (produced by the suitably qualified person) to evidence that all remediation works, as applicable, have been carried out in accordance with the approved remediation strategy has been submitted to and approved in writing by the Local Planning Authority. The report shall include results of sampling and monitoring carried out in accordance with the approved verification plan to demonstrate that the site remediation criteria have been met and the effectiveness of the remediation. The report shall also include a long-term plan for monitoring of pollutant linkages, maintenance and arrangements for contingency action, as identified in the Verification Report, and for the reporting of this in writing to the Local Planning Authority.

Reason: In order to deal appropriately and safely without unacceptable risks to workers, neighbours, other off site receptors and future occupiers posed by the historic use of the site and land uses in the surrounding area in accordance with Policy NE5 of Burnley's Local Plan (July 2018). The remediation strategy is required prior to the commencement of development in order to ensure that any mitigation measures that are found to be necessary can be carried out at the appropriate stage in the development process.

#### **19. Construction and Environmental Method Statement**

The development hereby permitted, including any works of demolition and site clearance, shall be carried out in full accordance with the approved Construction and Environmental Method Statement (prepared by Prospect Homes and dated April 2022) received 13 April 2022 to the satisfaction of the Local Planning Authority.

Reason: To ensure that the safety and amenities of occupiers of neighbouring properties and users of the local highway are satisfactorily protected, and to minimise the risks of adverse impacts on factors such as air, land quality and noise and land pollution in accordance with Policies NE5 and IC1 of Burnley's Local Plan (July 2018).

## **20. Material Management Plan (Peat)**

Condition to be addressed via an addendum following conclusion of discussions between BC and the Appellant.

## **21. Wheel Washing**

For the full period of construction facilities shall be available on site for the cleaning of the wheels of vehicles leaving the site and such equipment shall be used as necessary to prevent mud, stones and debris being carried onto the highway. The roads adjacent to the site shall be mechanically swept as required during the full construction period.

Reason: To avoid the deposit of mud or debris on the public highway, in order to protect highway safety, in accordance with Policy IC1 of Burnley's Local Plan (July 2018).

## **22. Construction Hours**

All works and ancillary operations in connection with the construction of the development, including deliveries to and removal of plant, equipment, machinery and waste from the site must only be carried out only between 08:00 hours and 18:00 hours on Mondays to Fridays and between 08:00 hours and 13:00 hours on Saturdays and at no time on Sundays, Bank Holidays or Public Holidays. Where permission is sought for works to be carried out outside the hours stated, applications in writing must be made with at least seven days' notice to the Local Planning Authority.

Reason: To manage traffic and protect the amenities of local residents in accordance with Policy IC1 of Burnley's Local Plan (July 2018).

## **23. Final Surface Water Drainage Strategy**

There is agreement in principle between the Council and Appellant that drainage matters can be addressed via a condition which requires that groundwater monitoring results inform the design of the drainage scheme. The draft condition is currently being reviewed by the appellant. We anticipate that this will be provided to the Inspectorate early next week and no later than Close of Play on the 17th October.

## **24. Construction Surface Water Management Plan**

No development shall commence until a Construction Surface Water Management Plan, detailing how surface water and stormwater will be managed on the site during construction, including demolition and site clearance operations, has been submitted to and approved in writing by the Local Planning Authority.

The details of the plan to be submitted for approval shall include for each phase, as a minimum:

- a. Measures taken to ensure surface water flows are retained on-site during the construction phase(s), including temporary drainage systems, and, if surface water flows are to be discharged, they are done so at a restricted rate that must not exceed the equivalent greenfield runoff rate from the site.
- b. Measures taken to prevent siltation and pollutants from the site into any receiving groundwater and/or surface waters, including watercourses, with reference to published guidance. The plan shall be implemented and thereafter managed and maintained in accordance with the approved plan for the duration of construction.

Reason: To ensure satisfactory sustainable drainage facilities are provided to serve the site in accordance with Policy CC4 of the adopted Burnley Local Plan and the provisions of the National Planning Policy Framework

## **25. Surface Water Drainage System Operation and Maintenance Manual**

The occupation of the development shall not be permitted until a site-specific Operation and Maintenance Manual for the lifetime of the development, pertaining to the surface water drainage system and prepared by a

suitably competent person, has been submitted to and approved in writing by the Local Planning Authority. The details of the manual to be submitted for approval shall include, as a minimum:

- a. A timetable for its implementation;
- b. Details of SuDS components and connecting drainage structures, including watercourses and their ownership, and maintenance, operational and access requirement for each component;
- c. Pro-forma to allow the recording of each inspection and maintenance activity, as well as allowing any faults to be recorded and actions taken to rectify issues;
- d. The arrangements for adoption by any public body or statutory undertaker, or any other arrangements to secure the operation of the sustainable drainage scheme in perpetuity;
- e. Details of financial management including arrangements for the replacement of major components at the end of the manufacturer's recommended design life;
- f. Details of whom to contact if pollution is seen in the system or if it is not working correctly; and
- g. Means of access for maintenance and easements. Thereafter the drainage system shall be retained, managed, and maintained in accordance with the approved details.

Reason: To ensure satisfactory sustainable drainage facilities are provided to serve the site in accordance with Policy CC4 of the adopted Burnley Local Plan and the provisions of the National Planning Policy Framework.

## **26. Surface Water Drainage System Verification Report**

Condition to be addressed via an addendum following conclusion of discussions between BC and the Appellant.

## **27. Updated Preliminary Ecological Survey**

No development shall commence until the following information has been submitted to and approved in writing by the Local Planning Authority:

- a. New and/or updated phase two surveys determined as being necessary through an update to the approved Preliminary Ecological Appraisal (prepared by BWB and dated Nov 2019) and Additional Ecological Surveys Report (prepared by BWB and dated October 2020); and
- b. avoidance, compensation or mitigation measures provided for any new ecological value or constraint not identified in the original reports. Any additional mitigation shall be provided in accordance with the approved additional surveys.

Reason: For the protection of biodiversity and ecological interests in accordance with Policy NE1 of Burnley's Local Plan (July 2018). The submitted ecological survey data is becoming dated and updated surveys are required prior to commencement of development to ensure that acceptable mitigation or measures can be agreed before works start and can then be implemented at an appropriate stage in the development

## **28. Reasonable Avoidance Measures Method Statement**

No development shall commence until a method statement detailing the Reasonable Avoidance Measures (RAMs) to be adopted in order to avoid and/or minimize any unforeseen disturbance impacts on local hedgehog, brown hare and common toad populations during the course of the development for that phase has been submitted to and approved in writing by the Local Planning Authority. The development shall only be carried out in accordance with the RAMs detailed in the approved method statement.

Reason: To safeguard the local mammal and amphibian populations which are known to be within the locality in the interest of protection of biodiversity in accordance with the provisions of Policy NE1 of Burnley's Local Plan (July 2018). The RAMs Statement is required prior to the commencement of development to ensure that acceptable measures can be agreed before works start and can then be implemented at an appropriate stage in the development.

### **29. Ecological Enhancements: Bird Nesting and Bat Roosting Features and Hedgehog Gaps**

Prior to first occupation of any dwelling, details showing the type, location and timescale for implementation of bird and bat boxes/bricks and hedgehog gaps on site as recommended in the approved Preliminary Ecology Appraisal (prepared by BWB and dated Nov 2019) shall be submitted to and approved in writing by the Local Planning Authority. The approved bird and bat boxes and hedgehog gaps shall then be carried out in strict accordance with the approved details and retained in situ in perpetuity.

Reason: To provide on-site mitigation for priority species and to ensure appropriate integration of biodiversity enhancement measures in accordance with Policy NE1 of Burnley's Local Plan (July 2018).

### **30. Protection of Nesting Birds**

No demolition, site works or removals of trees, hedges or shrubs on the site shall take place between the 1st March and 31st August inclusive in any year unless a qualified ecologist has inspected the area no more than 24 hours prior to the works/removal and provides written confirmation to the Local Planning Authority that no nests or breeding birds will be affected by the development.

Reason: To ensure that nesting birds which are protected by the Wildlife and Countryside Act 1981 are not harmed by the development, in accordance with Policy NE1 of Burnley's Local Plan (July 2018). This must be carried out prior to the commencement of the stated works in order to prevent any potential harm to nesting birds.

### **31. Fences/Walls: Removal of Permitted Development Rights (Plots 49 to 61)**

Notwithstanding the provisions of The Town and Country Planning (General Permitted Development) (England) Order 2015 (as amended) (or any order revoking or re-enacting that Order with or without modification), no fences, gates or walls as may otherwise be permitted by virtue of Class A of Part 2, Schedule 2 of the Order shall be erected within the rear curtilage of the dwellinghouses hereby approved at Plots 49-61 (as shown in drawing no WD20-90-DL01 rev J) without the prior grant of planning permission by the local planning authority.

Reason: In the interest of protecting the landscape character and visual amenity in accordance with Policies SP5 and NE3 of Burnley's Local Plan (July 2018).

### **32. Landscape Planting Plan**

Notwithstanding the approved drawings, prior to the commencement of built development above ground level, a detailed planting plan for the landscaped areas of the site shall be submitted to and approved in writing by the Local Planning Authority. The Plan shall include a scale drawing showing all existing vegetation to be retained and all proposed trees/plants; and a schedule detailing species plant sizes, proposed number/densities and planting method of any trees where appropriate.

The approved Planting Plan shall be carried out in the first planting and seeding seasons following the first occupation of the approved development or the completion of the development, whichever is the sooner. Any trees or shrubs planted or retained in accordance with this condition which are removed, uprooted, destroyed, die or become severely damaged or become seriously diseased within five years of planting shall be replaced within the next planting season by trees or shrubs of similar size and species to those originally required to be planted.

Reason: To ensure that the landscape planting includes suitable species and contributes to a satisfactory standard of completed development which mitigates its impact on landscape character and contributes to biodiversity enhancement, in accordance with Policies SP5, NE1 and NE3 of Burnley's Local Plan (July 2018). The details are required prior to the commencement of development above ground level in order to ensure protection measures and planting are carried out at the appropriate stage of the development.

### **33. Boundary Treatments**

The boundary treatment for each plot/ dwelling indicated on the approved plans (WD20-90-BT01) Rev K) shall be carried out and completed prior to the completion or the occupation of the relevant plot / dwelling (whichever is the sooner) and for all other boundary treatments indicated on the approved plan (WD20-90-BT01) Rev K), prior to the practical completion of the development. The approved boundary treatment shall thereafter be retained at all times.

Reason: To ensure adequate and sensitive boundary treatment to provide a satisfactory appearance to the development and provide screening where appropriate, in accordance with Policy SP5 of Burnley`s Local Plan (July 2018).

**34. Tree Protection Measures:**

No part of the development hereby approved shall commence until a scheme for the means of protecting the trees and hedges to be retained on or adjacent to the site, in accordance with BS 5837 (2012), including the protection of root structures from injury or damage prior to and during the development works, has been submitted to and approved in writing by the Local Planning Authority. The submitted scheme shall also provide for no excavation, site works, trenches or channels to be cut or laid or soil waste or other materials deposited so as to cause damage or injury to the root structure of the retained trees or hedges. The approved scheme of protection measures shall be implemented in its entirety before any works are carried out, including any site clearance work, and thereafter retained during building operations until the completion of the development.

Reason: To ensure adequate protection for the long term health of trees/hedges which are located on or close to boundaries and should be retained in the interests of visual amenities, in accordance with Policy NE4 of Burnley's Local Plan (July 2018). The details are required prior to the commencement of development to ensure that provision can be made for their implementation at the appropriate stage of the development process.