

Planning and Highways Committee

Thursday, 17 August 2017

18:30

Meeting Room A, Blackburn Town Hall

AGENDA

PART I: ITEMS FOR CONSIDERATION IN PUBLIC

- 1 Welcome and Apologies
 - 2 Minutes of the Previous Meeting
Minutes 12th July 2017 3 - 6
 - 3 Declarations of interest
If a Board Member requires advice on any items involving a possible Declaration of Interest which could affect his/her ability to speak and/or vote he/she is advised to contact Democratic Services at least 24 hours before the meeting
Declaration of Interest Form 7 - 7
- PLANNING MATTERS**
- Material Considerations 8 - 9
 - 4 Planning Application Summary 10 - 10
 - 4.1 Planning Application 10-17-0638 - Marsh House 11 - 28
Lane - Priory Drive - Ivinson Road, Darwen
 - 4.2 Planning Application 10-17-0774 - Darwen 3 Day 29 - 50
Market Building, School Street, Darwen BB3 1BH

PART 2: ITEMS FOR CONSIDERATION IN PRIVATE

THE PRESS AND THE PUBLIC MAY BE EXCLUDED DURING CONSIDERATION OF THE FOLLOWING ITEMS

- Enforcement - 238 Ramsgreave Drive, Blackburn, BB1 8LL**
A request for authorisation to take enforcement action
- 5 **PART 2 - Enforcement - 238 Ramsgreave Drive, Blackburn, BB1 8LL**

**PART 2 - Enforcement - 238 Ramsgreave Drive,
Blackburn, BB1 8LL - Location Plan**

**PART 2 - Enforcement - 238 Ramsgreave Drive,
Blackburn, BB1 8LL - Image**

**PART 2 - Enforcement - 238 Ramsgreave Drive,
Blackburn, BB1 8LL - Image (2)**

Date Published: Wednesday, 09 August 2017
Harry Catherall, Chief Executive

PLANNING AND HIGHWAYS COMMITTEE
12th July 2017

PRESENT – Councillors Dave Smith (in the Chair), Ali, Brookfield, Khonat, Groves, Marrow (substitute for Hardman), Jan-Virmani, Hussain I, Khan Z, Murray, Casey, Nuttall, Oates, Jacqueline Slater, Liddle (substitute for Riley).

OFFICERS – Ian Richardson ,Gavin Prescott (Planning) Asad Laher (Legal), Safina Alam (Highways), John Addison (Democratic Services).

RESOLUTIONS

1 Welcome and Apologies

The Chair welcomed everyone to the meeting. Apologies were received from Councillors Riley and Hardman.

2 Minutes of the last Meeting held on 27th April 2017

RESOLVED – That the minutes of the last meeting held on 27th April 2017 were confirmed and signed as a correct record.

3 Declarations of Interest

Councillor Jane Oates declared an interest in agenda item 4 (planning application 10/17/0584) (previously expressed comments in support of the application) and left the room prior to discussion and determination on the item.

4 Planning Applications

The Committee considered reports of the Director of Planning and Prosperity detailing the planning applications listed overleaf.

In considering the applications, the Committee took into account representations or submissions provided by individuals with the officers answering points raised during discussion thereon.

RESOLVED – (1) That the following decisions be made on the applications set out overleaf:

<u>Application No.</u>	<u>Applicant</u>	<u>Location and Description</u>	<u>Decision under Town and Country Planning Acts and Regulations</u>
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<u>Application No.</u>	<u>Applicant</u>	<u>Location and Description</u>	<u>Decision under Town and Country Planning Acts and Regulations</u>
10/17/0211	Story Homes Ltd Kensington House, Ackhurst Business Park Chorley PR7 1NY	Land West of Gib Lane Blackburn	Approved – Subject to a Section 106 Agreement relating to the provision of off-site highway works to facilitate the development, affordable housing contribution for off-site provision and sustainable transport initiatives.
10/17/0457	Mr D Owen Michigan House 17-19 Chorley New Road Bolton BL1 4QR Lancashire	Former 1 Middle Turn Edgworth BOLTON BL7 0PG	Approved – subject to conditions as outlined in the report
10/17/0584	Renea Cammish Prospect House Wharf Street Blackburn BB1 1JD	Elizabeth House Sudellside Street Darwen BB3 3EW	Approved – remove the Section 106 Agreement pursuant to application 10/13/0410

5 Petition- Full Planning Application 10/17/0321 - Proposed change of use to turn the existing empty building (previously a public house) into a community centre - Former Lockside Tavern, 197 Bolton Road, Blackburn

A report was submitted to advise the Committee of the receipt of a petition objecting to planning application 10/17/0321, the grounds for which were outlined in the report submitted.

The Committee was advised that the application had not yet been determined.

RESOLVED

That the report be noted and the issues raised inform the assessment of the proposal and that the lead petitioners be informed of the decision once made.

5.1 Application for a Definitive Map Modification Order (DMMO) at Church Meadows, Belmont

The Committee was presented with a report seeking Member approval for an application to add a Public Bridleway to the Definitive Map and Statement via a Definitive Map Modification Order (DMMO) at Church Meadows, Belmont.

Members were informed that it was the investigating Officer's view that there was a reasonable allegation in favour of the establishment of Public Footpath rights over the application route(s), which were currently unrecorded, and therefore a Definitive Map Modification Order could be promoted.

RESOLVED

That the Council makes a Definitive Map Modification Order (DMMO) at Church Meadows, Belmont and supports the application.

5.2 Diversion of Public Footpath 87 Edgworth

A report was presented to Committee, for a decision to assist Blackburn with Darwen Council in determination of an application to divert part of Public Footpath, Edgworth No 87.

RESOLVED

That the Committee agree to 'Promote the Order' in determination of an application to divert part of Public Footpath, Edgworth No 87

6 Exclusion of the Press and Public

RESOLVED – That the press and public be excluded from the meeting during consideration of the following item in view of the fact that the business to be transacted is exempt by virtue of paragraph 5 of Schedule 12A to the Local Government Act 1972.

7 Enforcement- London Terrace, Darwen, BB3 3DF

The Director of Growth and Development submitted a report seeking authorisation to take enforcement action against all persons having an interest in land at Higher London Terrace, Darwen, BB3 3DF.

Background information including grounds for the request were outlined in the report.

Resolved- That authorisation be given to the proposed enforcement action at Higher London Terrace, Darwen, BB3 3DF.

8 Enforcement- Entwistle Hall Lane, Turton, BL7 0LR.

The Director of Growth and Development submitted a report seeking authorisation to take enforcement action against all persons having an interest in land at Entwistle Hall Lane, Turton, BL7 0LR.

Background information including grounds for the request were outlined in the report.

Resolved- That authorisation be given to the proposed enforcement action at Entwistle Hall Lane, Turton, BL7 0LR.

Signed:

Date:

Chair of the meeting
at which the minutes were confirmed

**DECLARATIONS OF INTEREST IN
ITEMS ON THIS AGENDA**

Members attending a Council, Committee, Board or other meeting with a personal interest in a matter on the Agenda must disclose the existence and nature of the interest and, if it is a Disclosable Pecuniary Interest or an Other Interest under paragraph 16.1 of the Code of Conduct, should leave the meeting during discussion and voting on the item.

Members declaring an interest(s) should complete this form and hand it to the Democratic Services Officer at the commencement of the meeting and declare such an interest at the appropriate point on the agenda.

MEETING: **PLANNING AND HIGHWAYS COMMITTEE**

DATE:

AGENDA ITEM NO.:

DESCRIPTION (BRIEF):

NATURE OF INTEREST:

DISCLOSABLE PECUNIARY/OTHER (delete as appropriate)

SIGNED :

PRINT NAME:

(Paragraphs 8 to 17 of the Code of Conduct for Members of the Council refer)

Material Consideration

“Material Considerations” are not limited to matters relating to amenity and can cover a range of considerations, in regard to public or private interests, provided that there is some relationship to the use and development of land.

Where it is decided that a consideration is material to the determination of a planning application the courts have held that the assessment of weight is a matter for planning judgement by the planning authority, rather than the court. Materiality is a matter of law for the Court, weight is for the decision maker. Accordingly it is for the Committee to assess the weight to be attached to each material consideration, but if a Council does not take account of a material consideration or takes account of an immaterial consideration then the decision is vulnerable to challenge in the courts.

By section 38(6) of the Planning & Compensation Act 2004 Act every planning decision must be taken in accordance with the development plan (taken as a whole) **unless material considerations indicate otherwise**. The policies and guidance contained in the hierarchy of planning documents are important material considerations and the starting point for the Committee in its assessment of development proposals and most decisions are usually taken in line with them.

However, the Committee is legally obliged to consider all material matters in determining a planning application and this means that some decisions will not follow published policy or guidance. In other words, the Committee may occasionally depart from published policy when it considers this is outweighed by other factors and can be justified in the circumstances of the particular case. Similarly, in making a decision where there are competing priorities and policies the Committee must exercise its judgement in determining the balance of considerations

The following provides a broad guide of what may and may not be material, though as with any broad guidance there will on occasions be exceptions

<u>MATERIAL:</u>	<u>NOT MATERIAL:</u>
Policy (national, regional & local)	The identity of the applicant
development plans in course of preparation	Superceded development plans and withdrawn guidance
Views of consultees	Land ownership
Design	Private Rights (e.g. access)
Visual impact	Restrictive covenants
Privacy/overbearing/amenity impacts	Property value
Daylight/sunlight	Competition (save where it promotes a vital and viable town centre)
Noise, smell, pollution	Loss of a private view
Access/traffic/accessibility	“moral issues”
Health and safety	“Better” site or use”
Ecology, landscape	Change from previous scheme
Fear of Crime	Enforcement issues
Economic impact & general economic conditions	The need for the development (in most circumstances)
Planning history/related decisions	

Cumulative impact	
Need (in some circumstances – e.g. green belt)	
Impacts upon and provision of open/amenity space	
existing use/permitted development rights/fall back	
retention of existing use/heritage issues	
fear of setting a precedent	
composite or related developments	
Off-site benefits which are related to or are connected with the development	
In exceptional circumstances the availability of alternative sites	
Human Rights Act 1998 & Equality	

Before deciding a planning application members need to carefully consider an application against the provisions of the Human Rights Act 1998.

Protocol 1 of Article 1, and Article 8 confer(s) a right of respect for a person's private and family life, their possessions, home, other land; and business assets.

Article 6, the applicants (and those third parties, including local residents, who have made representations) have the right to a fair hearing and to this end the Committee must give full consideration to their representation, and comments,

In taking account of all material considerations, including Council policy as set out in the Core Strategy and saved policies of the Unitary Development Plan, the Head of Planning and Transport has concluded that some rights conferred by these Articles on the applicant(s)/objector(s)/resident(s) and other occupiers and owners of nearby land that might be affected may be interfered with but that interference is proportionate, in accordance with the law and justified by being in the public interest and on the basis of the planning merits of the development proposal. Furthermore he believes that any restriction on these rights posed by the approval of an application is proportionate to the wider benefits of approval and that such a decision falls within the margin of discretion afforded to the Council under the Town and Country Planning Acts.

Other duties have to be taken into account in determining planning applications for example the promotion of measures to reduce crime, the obligation not to act in a discriminatory manner and promote equality etc.

NB: Members should also be aware that each proposal is treated on its own merits!

Reasons for Decision

If members decide to go against officer recommendations then it is their responsibility to clearly set out their reasons for doing so, otherwise members should ask for the application to be deferred in order that a further report is presented setting out the background to the report, clarifying the reasons put forward in the debate for overriding the officer recommendation; the implications of the decision and the effect on policy; what conditions or agreements may be needed; or just to seek further information.

If Members move a motion contrary to the recommendations then members must give reasons before voting upon the motion. Alternatively members may seek to defer the application for a further report. However, if Members move a motion to follow the recommendation but the motion is lost. In these circumstances then members should be asked to state clearly their reasons for not following the recommendations or ask that a further report be presented to the next meeting

REPORT OF THE DIRECTOR OF GROWTH & DEVELOPMENT

LOCAL GOVERNMENT (ACCESS TO INFORMATION) ACT 1985
BACKGROUND PAPERS

There is a file for each planning application containing application forms, consultations, representations, Case Officer notes and other supporting information.
Gavin Prescott, Development Manager – Ext 5694.

NEIGHBOUR NOTIFICATION: The extent of neighbour notification is shown on the location plans which accompany each report. Where neighbours are notified by individual letter, their properties are marked with a dot. Where a site notice has been posted, its position is shown with a cross.

PLANNING APPLICATIONS FOR DETERMINATION Date: 17/08/2017

Application No	Applicant	Site Address	Ward	Application Type
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10/17/0638	Blackburn With Darwen Borough Council Mike Cliffe Strategic Transport, Room 411 Old Town Hall Blackburn BB17DY	Marsh House Lane/Priory Drive/Ivinson Road Darwen	Marsh House Sudell	
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Full Planning Application for Construction of the Darwen East Distributor Corridor Road with associated landscaping and lighting, and pedestrian link to neighbouring housing development.

RECOMMENDATION: Permits

10/17/0774	Blackburn With Darwen Borough Council One Cathedral Square Blackburn	Darwen 3 Day Market Building School Street Darwen BB3 1BH	Sunnyhurst	
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Full Planning Application for Demolition of hexagonal 3 Day Market Hall Building and creation of new town square together with proposed screening to the Market Hall loading bays

RECOMMENDATION: Permits

Proposed development: Full Planning Application for Construction of the Darwen East Distributor Corridor Road with associated landscaping and lighting, and pedestrian link to neighbouring housing development.

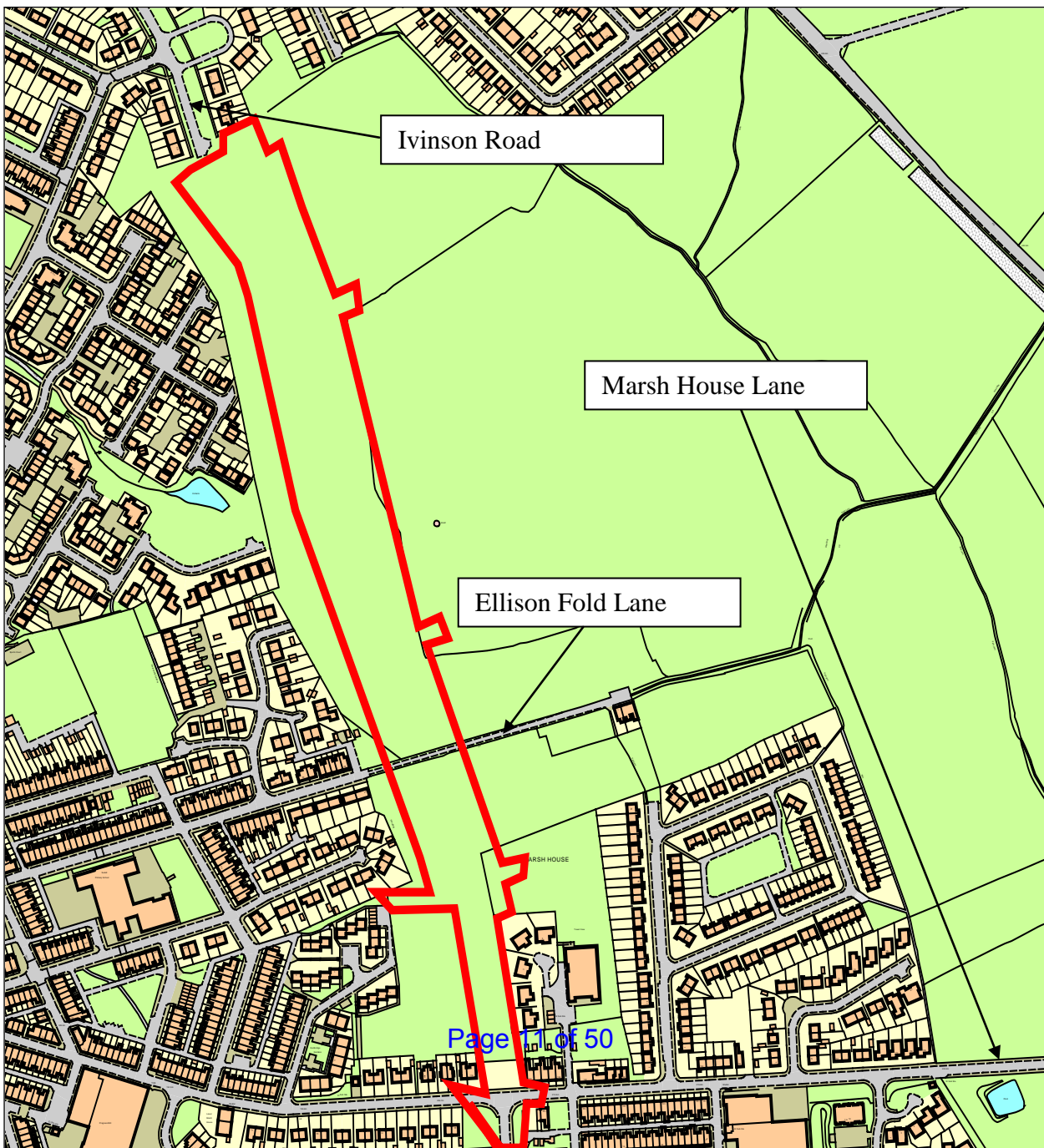
Site address: Marsh House Lane/Priory Drive/Ivinson Road Darwen

Applicant: Blackburn with Darwen Borough Council

Ward: Marsh House/Sudell

Councillor Kevin Connor	
Councillor Neil Slater	
Councillor Eileen Entwistle	
Councillor Jane Oates	
Councillor Roy Davies	
Councillor Lynne Perkins	

INSERT LOCATION



1.0 SUMMARY OF RECOMMENDATION

Item 4.1

- 1.1 The proposed development is recommended to be granted planning permission for the reason as follows:
The proposal is in accordance with the following policies of the Blackburn with Darwen Borough Local Plan part 2 (December 2015):
- Policies 45 and 16 in ensuring the delivery of the planned major road scheme in East Darwen and opening up formerly safeguarded land for housing development.
 - Policies 8 and 9 in securing the amenity of existing residential areas through the provision of noise, flooding and land stability and contamination mitigation.
 - Policy 10 in securing the safe, efficient and convenient movement of vehicles into and through the site
 - Policy 40 in enhancing the setting through the provision of a landscaping scheme, replacement trees and public footpaths.
- These policies are in compliance with the Core Planning Principles set out in the National Planning Policy Framework.
- 1.2 It is recommended that the application be approved subject to the conditions listed in paragraph 4.1.

2.0 KEY ISSUES/SUMMARY OF PLANNING BALANCE

- 2.1 The application is before the Committee following the receipt of 18 letters of objection. A summary of the objections is provided at 6.1 below.
- 2.2 The application is also before the Committee since the proposal partially conflicts with adopted Council policy. Policy 16/14 of Local Plan 2 states that planning permission may not be granted for any part of the site north of Ellison Fold Lane without the Council having approved a masterplan for the site. The reasoning for the development of the road in advance of the adoption of a masterplan is set out at 3.5 below and Members will be recommended to approve the proposed scheme.
- 2.3 The key issues to be addressed are as follows:
- Adopted Council Policy concerning the site.
 - Route and impact of the road on the wider network.
 - Concerns over land stability.
 - Flooding and drainage.
 - Effect of the development on the environment.
 - Securing neighbouring residential amenity.

3.0 RATIONALE

Item 4.1

3.1 Site and Surroundings

- 3.1.1 The application site is open land bounded by Marsh House Lane to the south and Ivinson Road to the north. Land previously developed for residential use abuts the site to the west, including Cambridge Close, Sudell Close, Milton Close and Shelley Grove. To the east is located Tower View and open rough grassland land, designated for future housing development under Policy 16 (16/14) of Local Plan Part 2. The application for the link road includes a number of junctions that will provide links into future housing sites.
- 3.1.2 The application site includes part of the former colliery site at Ellison Fold, and contains a number of mine shafts and features associated with its former use.
- 3.1.3 The Darwen District Plan which was adopted in December 1983, was the statutory Local Plan for Darwen for the period up to 1991. The northern part of the site between Ellison Fold Lane and Ivinson Road, was allocated for new residential and related development under Policies 1.6 and 1.23, which explains the the road junction between Nos 120 and 127 Ivinson Road being reserved for future development. The appendix to the Local Plan showed a schedule of sites which were available for residential development going back to 1976, which included the northern part of the application site.
- 3.1.4 Under Policy RA2/2 of the Local Plan 1991 – 2006 the northern part of the site, between Ellison Fold and Ivinson Road, was included in land identified as ‘safeguarded land’ for future development. In safeguarding this site the Council’s aim was stated as being to balance the landscape quality surrounding Darwen with the need to protect the longer term interests of the town. It was considered that, being on the periphery of the built-up area, the allocation of the land for future development would reduce the pressure to amend Green Belt boundaries. Policy RA2 was subsequently ‘saved’ pending adoption of the new Local Plan Part 2 in 2015.
- 3.1.5 Similarly, the Local Plan 1991 – 2006 designated the southern section of the application site between Marsh House Lane and Ellison Fold as a future housing site (Policy H1/2). This Policy likewise was ‘saved’ pending the adoption of the current Local Plan Part 2. Schedule 2.1 commented that development here would be likely to require off-site highway improvements.

3.2 Proposed Development

- 3.2.1 The proposal is for a link road, 6 metres in width, from Marsh House Lane to the south and joining with Ivinson Road to the north. The proposal will include the formation of a mini roundabout at the link

road's junction with Marsh House Lane and Priory Drive. Three east-facing and one west-facing links off the road will serve as access points 4.1 openings into future housing development sites. A non-motorised user link to the north of Cambridge Street is also proposed, as are further footpaths and landscaping throughout the road link corridor.

3.3 Development Plan

3.3.1 Blackburn with Darwen Borough Core Strategy (Local Plan Part 1 Jan 2011):

Policy CS1: A Targeted Growth Strategy
Policy CS13: Environmental Strategy

3.3.2 Blackburn with Darwen Borough Local Plan Part 2 (Dec 2015):

Policy 16: Housing Land Allocations
Policy 45: Major Road Schemes
Policy 10: Accessibility and Transport
Policy 40: Integrating Green Infrastructure and Ecological Networks
with New Development
Policy 9: Development and the Environment
Policy 8: Development and People

3.4 Other Material Planning Considerations

3.4.1 National Planning Policy Framework (NPPF):

Delivering Sustainable Development

3.5 Assessment

3.5.1 Adopted policy: In 2011 the Core Strategy recognised that, historically, commuter traffic into and out of Darwen Town Centre had presented a congestion problem for the town, particularly at major junctions and along key corridors (see CS1). At the time it was recognised that highway improvements had been carried out to ease this congestion. However, by 2015, the new Local Plan Part 2 was recognising the need to further improve the transport infrastructure – both to accommodate pressure from new development and to unlock areas for further development to take place, partly through the formation of new or improved road links.

3.5.2 The land through which the proposed road is scheduled to be routed was first scheduled as land 'safeguarded' for future residential development in the previous Local Plan (under Policy RA2/2). The adoption of Local Plan 2 in December 2015 brought the development of houses on the site into the current Plan period, with an estimated 350

houses to be built by 2026 (Policy 16/14). Parts 4 and 5 of 16/14 set out the proposals for the road network through the site: access to the housing area was to be provided from the north via Ivinson Road, and from the south via Marsh House Lane.

- 3.5.3 This vehicular link through the site is aimed not just at serving the housing on the land but also at avoiding additional traffic being routed from the new developments through Darwen Town Centre. It is intended to facilitate this by implementing improvements to the wider highway network, including junction improvements at Sough Road/Grimshaw Street and Oak Grove. These are not part of this current application, but it is intended that these be brought forward in the near future.
- 3.5.4 The line of the proposed road through the site is identified on the Adopted Policies Map which forms part of the Local Plan Part 2. Its route is set out and protected under Policy 45.
- 3.5.5 It is noted that Policy 16/14 requires a Masterplan to be agreed by the Council prior to the granting of planning permission for any part of the land between Ellison Fold Lane and Ivinson Road. The proposed road development would therefore, in the absence of an agreed Masterplan, appear to conflict with this aspect of the Council's own policy for the site. However, the Masterplan is normally the responsibility of the housing developer. Masterplanning work for the site came to a halt when the original housing developer withdrew from the scheme. The process will re-commence once a new developer is in place.
- 3.5.6 With regards to the current road application, whilst there is something of a conflict, significant weight needs to be given to the deliverability of the road, which is dependent on funding timescales in accordance with Growth Deal 2. Members are advised that this is a material consideration which outweighs the partial conflict with Policy 16/14. If the Council were to insist on adoption of a masterplan before the road is approved, the funding deadline would be missed and the road would not be delivered.
- 3.5.7 Moreover, the site is currently being marketed, and the feedback the Council is being given is that developers will be interested only once the road construction proposals have been finalised and development commenced.
- 3.5.8 In addition, the road has been designed to maximise the developable area of the remainder of the site, and is in accordance with masterplanning work so far. Members are therefore advised that, taken as a whole, the proposed road will be in accordance with Council Policy in terms of meeting the objectives set for the provision of additional road infrastructure for Darwen and for facilitating the delivery of the Council's housing targets in accordance with the Core Strategy and Local Plan Part 2.

- 3.5.9 Route and Impact on the highway network: The National Planning Policy Framework and the Local Plan Part 2 both require a ~~Transport~~ Assessment to be submitted for an application for a new development having to affect the transport network significantly (NPPF paragraph 32; Local Plan 2 Policy 10). A Transport Assessment has been submitted, and its findings are deemed acceptable. The proposed road is demonstrated to address both the safe, efficient and convenient movement of all highway users and the need to contribute to wider sustainability and health objectives.
- 3.5.10 The new link road provides for a two-way single carriageway approximately 6 metres wide along its entire length, between Marsh House Lane to the south and Ivinson Road to the north. The junction between Ivinson Road and Oak Grove will be subject to a revised priority arrangement as part of the programme for improvements to the wider highway network. To the south, the proposed road will feed into a junction formed by a mini-roundabout arrangement between the link road, Marsh House Lane and Priory Drive, acting as a gateway feature to the new site.
- 3.5.11 The proposals include three access points along the east side of the road and one on the west side, providing links between the road and sites allocated for future housing development.
- 3.5.12 Along the route the proposals include dropped kerbs and tactile paving where pedestrian desire lines cross the carriageway and residential side streets. An existing public right of way runs across Baileys Field between Ellison Fold to the west and Roman Road to the east. Pedestrian crossing facilities, dropped kerbs and tactile paving are to be provided here also. Along a section of the route, a 3 metre shared footway/cycleway will run alongside the north-bound carriageway. This will link into the existing pedestrian infrastructure on the surrounding highway network.
- 3.5.13 Traffic calming measures, including speed humps and speed tables will be designed to help provide a safe and convenient environment for walking.
- 3.5.14 Cycling access is facilitated to provide a choice of transport mode and to help reduce reliance upon the car for shorter journeys. Darwen Town Centre is located within an acceptable cycling distance for the proposed link road; and, as noted in 3.5.12, a cycleway/footway is proposed for a section of the proposed link road.
- 3.5.15 The proposed link road is to be connected to the wider highway network through a range of improvements to the infrastructure aimed at serving six housing allocation sites within the Darwen Urban boundary. The link road and the associated highways improvements outside of the site (and not included in this application) will aim to keep these developments from displacing additional vehicles onto the A666. Highway. Improvements are anticipated to a number of junctions,

including Sough Road/Grimshaw Street/Pole Lane junction; A666/Grimshaw Street; A666 Grimshaw Street; A666 Watery Lane and Ivinson Road/Oak Grove.

- 3.5.16 The proposals for the highway between Marsh House Lane and Ivinson Road are therefore considered to be in accordance with Policy 10 of the Blackburn with Darwen Borough Local Plan Part 2 through providing for the safe, efficient and convenient movement of all highway users (including cyclists and pedestrians), providing measures to encouraging access on foot and by bicycle and by proposals to retain and improve public rights of way.
- 3.5.17 Land stability: The relevant policies are CS13 of the Core Strategy and 9 of the Local Plan 2 which state that development at risk of ground instability will not be permitted, unless that instability can be addressed through appropriate remediation or mitigation measures.
- 3.5.18 The site is in a surface area that could be affected by underground mining in two seams of coal at 110m to 130m in depth and last worked in 1913.
- 3.5.19 The ground stability report states that any movement in the ground due to coal mining activity should have ceased. Nine shafts have been investigated. Two were found not to have the potential to affect the site, the road not being in the area of possible ground movement. The statistical risk of damage to the site caused by subsidence connected with the other seven is, in the opinion of the Coal Authority, likely to be 'very small'. The potential presence of coal workings at or close to the surface would require further investigation prior to the commencement of site works.
- 3.5.20 The site lies in a Development High Risk Area. Mine entries are potentially located within the site and shallow mine workings may pose a risk to public safety and the stability of the proposed road development. However, The Coal Authority does not object to the proposed road. Further intrusive site investigation works are needed to be undertaken prior to the commencement of development, and the Council would be required to submit for approval and then implement a scheme for remedial works should the investigation highlight the need to consolidate any shallow mine workings.
- 3.5.21 The Core Strategy Policy 13 and Policy 8 of Local Plan 2 state that development at risk of ground instability would not be acceptable unless it can be demonstrated that unstable land can be remediated to a standard which provides a safe environment for users and occupiers. It is therefore recommended to members to approve a condition requiring the intrusive investigation to be undertaken and its findings acted upon to ensure that the proposed development is in accordance with these Policies.

- 3.5.22 Flooding and Drainage: The relevant Policies are CS13 of the Core Strategy and 9 of the Local Plan 2. These state that development in areas of high flood risk or which will exacerbate problems elsewhere will not be permitted unless mitigation measures are available.
- 3.5.23 The area of saturated ground in the low point of Bailey's Field adjacent to the western boundary of the site is caused by shallow perched groundwater flows on top of the clay horizon (source: Flood Risk Assessment dated 19th May 2017). It is proposed to intercept the flows by a filter drain to the east of the new link road which is expected to prevent the ground at the base of the slope becoming saturated.
- 3.5.24 There is an existing ditch along the western boundary of the development site that discharges into an existing pond/storage basin in the adjacent development. It is not proposed to alter the existing water course, and risk of flooding to the site from surface water flooding is considered low.
- 3.5.25 The development of the site includes the use of swales and a detention basin to provide adequate conveyance, storage and treatment of storm water prior to discharge of the water course.
- 3.5.26 The Flood Risk Assessment makes a number of recommendations which Members are recommended to agree to include as a condition of planning approval, should permission be granted. These include the incorporation of a filter drain into the drainage design upslope of the proposed link road to intercept the pluvial and shallow perched water flows flowing down Bailey's Field. The three existing ditches/pluvial watercourses that currently cross the proposed link road alignment are recommended to be formalised and culverted under the new highway. A suitable maintenance strategy is recommended to be adopted, to ensure that the SuDS is checked and cleaned regularly and that this routine is documented.
- 3.5.27 Policy CS13 of the Core Strategy and Policy 9 of Local Plan 2 require development to demonstrate that it will not be at an unacceptable risk of flooding. Development with the potential to create significant amounts of new surface water run-off are required by the Policy to implement a sustainable drainage system or other options for the management of the surface water at source. The proposed development, with the mitigation measures proposed by the Flood Risk Assessment, is considered to be in accordance with these Policies.
- 3.5.28 Environmental effects: The relevant Policies are CS13 of the Core Strategy and 9 of the Local Plan Part 2. Development which results in the loss or unacceptable damage to environmental resources including habitats and networks of habitats will not be permitted, unless the impact is outweighed by other considerations. Where the impact is outweighed by other considerations, proposals will be required to mitigate the overall environmental impact and maximise further opportunities to improve the environmental outcomes.

- 3.5.29 The construction of a road with artificial lighting in a currently undeveloped landscape is considered likely to sever habitat connectivity, restricting wildlife movement and increasing the risk of pollution and degradation of habitats. Bats and amphibians are likely to be affected by the severing of habitat connectivity, whilst a net loss of habitat is caused to species such as reed bunting and meadow pipit – birds which are unlikely to nest in the habitats proposed under the landscaping scheme directly adjacent to the road in an increasingly urbanised landscape.
- 3.5.30 In terms of both the Core Strategy and the Local Plan it is considered that the harm caused to the environment is significantly outweighed by other planning considerations – principally to facilitate the implementation of the Council’s housing strategy for the site and to alleviate the pressure on the A666 from new traffic generated by housing development at this and other sites in East Darwen.
- 3.5.31 However, it is considered that the development should incorporate the mitigation measures detailed in Section 6 of the Ecological Impact Assessment report. Mitigation measures include trees to be replaced at a 1:1 ratio using a mix of native species or of local provenance. The Council’s Tree Officer is to advise. Wetter areas and marshy grassland will be replaced using swales and seeded with wet grassland mix. A number of 2F Schwegler Bat Boxes are to be placed on suitable trees at the site and in locations least affected by light spill and disturbance from the road.
- 3.5.32 Ellison Fold Lane has been observed to be a commuting and foraging corridor for bats, and it is recommended in the Ecology report that a dark corridor be created along the lane to assist in the retention of this route.
- 3.5.33 In order to ensure that suitable mitigation is carried out, Members are recommended to adopt a condition to the planning permission, if granted, that would require the implementation of the mitigation measures set out in Section 6 of the Ecological Impact Assessment report. Whilst these are not considered to avoid harm to the ecological assets of the site, nevertheless they are considered to sufficiently mitigate the harm in the light of this harm being outweighed by other planning considerations. With the implementation of the measures, the proposed road would be considered to be in accordance with both CS13 of the Core Strategy and Policy 9 of the Local Plan 2.
- 3.5.34 In order for the landscaping scheme to relate to the site conditions and the species to be supported, and to support the habitat mitigation strategy, a landscaping scheme is recommended to be conditioned, detailing the trees and grasses to be used in the replanting scheme.
- 3.5.35 Policies CS13 of the Core Strategy and 9 of the Local Plan Part 2 require the development to demonstrably outweigh the harm caused

and for mitigation to be provided. The proposals for the new link road are considered to be in accordance with these Policies. Item 4.1

3.5.36 Impact on neighbouring residential areas: At the south end of the site, the proposed road enters Bailey's Field between Nos. 116 and 130 Marsh House Lane. The road passes Tower View at an approximate distance of 20 metres and 60 metres from the north end of Cambridge Street. Its distance from the east end of Sudell Close is approximately 39 metres; and from Ellison Fold Terrace, approximately 46 metres. The closest properties on Milton Close, Shelley Grove and Coulthurst Gardens are about 50 metres away. the closest properties on Westhall Gardens are approximately 36 metres away, and Corden Avenue about 31 metres away. The road then enters Ivinson Road between Nos. 120 and 127.

3.5.37 Policy 8 of Local Plan 2 requires development to secure a satisfactory level of amenity and safety for surrounding uses in terms of noise. The Environmental Noise Impact Assessment states that "construction works will likely have a neutral or minor impact on the nearby noise sensitive premises, although a major adverse impact is predicted during the asphalt laying phase. However, based on the mobile nature of the plant, it is unlikely that relevant noise sensitive receivers will be subjected to the major adverse impact for an extended period of time". It goes on to say that there will be some operational noise affecting residents although in general the overall levels will not be excessively high both during the day "and at night". Since the construction hours are recommended to be restricted, noise levels at night should actually be at a minimum.

3.5.38 Policy 8 of Local Plan 2 also requires a satisfactory level of amenity in terms of vibration. Members are recommended to agree to a condition requested by Public Protection restricting vibration other than during the start-up and shut-down of the vibratory roller.

3.5.39 Policy 8 of Local Plan 2 further requires development not to give rise to a deterioration of air quality. The assessment of air had been discussed at a senior level since the pre-application advice was given for this proposed development. It was agreed that air quality should be considered at a master planning stage. This would represent an opportunity to resolve air quality issues at an early stage, thereby minimising the subsequent delay associated with an approach were the air quality impact for each development to be considered on a piecemeal basis. The withdrawal of the Council's housing partner has meant that this opportunity is no longer available. It is considered that, given that there are no air quality issues currently, air quality can be considered when scoping the masterplan with a future developer.

3.5.40 Policy 8 of Local Plan 2 requires development to incorporate positive measures aimed at reducing crime and improving community safety. Increased permeability can lead to increases in crime levels. Pedestrian links generally do not run to the rear of or provide access to

gardens or dwellings of adjacent existing properties. Ellison Fold Terrace is an existing right of way; and the proposed pedestrian link towards the south of the site from the road into Cambridge Street links to an existing footpath through the adjacent development. Routes for pedestrians, cyclists and vehicles are largely integrated to ensure a network supervised by natural surveillance.

3.5.41 Policy 8 of the Local Plan requires development to secure a satisfactory level of amenity and safety for surrounding uses. It is considered that the proposed road development is in accordance with this Policy.

3.5.42 In summary, this report assesses the full planning application for the new Darwen East Distributor Corridor Road. In considering the proposal, a wide range of material considerations have been taken into account. Additional non-material concerns, not relevant to the assessment of the application, have been raised, a common theme raised in the objections is summarised below:

3.5.43 *Building on greenfield sites is highly irresponsible. The new link road and the number of houses planned on Green Belt are a disaster waiting to happen:* As referred to in paragraph 3.1.3, the application site has been earmarked for development since the adoption of the Darwen District Plan in 1983. The site whilst presently greenfield, is not located in the Countryside Area or the Green Belt. The current allocation in the Local Plan Part 2 under Policies 16 and 45, were subject to public consultation and an examination in public by the Planning Inspectorate during 2014, before the Plan was formally adopted in December 2015.

4.0 RECOMMENDATION

4.1 Approve subject to the following conditions:

- Intrusive investigation into coal mine workings to be undertaken and its findings acted upon to ensure that the proposed development is in accordance with CS13 of the Core Strategy and Policy 8 of Local Plan 2.
- Sustainable drainage system to be implemented in accordance with Points 1.1.15 to 1.1.21 of the Flood Risk Assessment, in accordance with CS13 of the Core Strategy Policy 9 of Local Plan 2.
- Implementation of the mitigation measures set out in Section 6 of the Ecological Impact Assessment report, in accordance with CS13 of the Core Strategy and Policy 9 of the Local Plan 2.
- Submission and implementation of a tree and grassland re-planting scheme.
- Implementation of a programme of archaeological work
- Any construction phase activity likely to give rise to noise at residential premises shall take place between 07:00 and 18:00

hours Monday to Friday, between 07:30 and 13:00 Saturdays, and there shall be no construction activity on Sundays. Item 4.1

- Construction activity shall not give rise to vibration with a particle velocity (PPV) ≥ 3.0 mm/s, other than during start-up and shut-down of the vibratory roller. If requested by the Local Authority, construction activity likely to exceed this threshold will cease until such time as compliance with this vibration threshold can be monitored. The results of monitoring shall be recorded and made available to the Local Authority on a daily basis whilst this activity is ongoing.

5.0 PLANNING HISTORY

- 5.1 10/17/0516 – EIA screening opinion. Environmental impact assessment not required.

6.0 CONSULTATIONS

- 6.1 379 neighbours, 11 site notices erected and a press notice was published in the Lancashire Telegraph. 18 objections have been received, and these can be summarised as follows:
- Mini roundabout and proximity of additional traffic on Marsh House Lane detrimental to peace and pleasantness of the place.
 - Openness of the field lost.
 - Damage to the environment and loss of wildlife.
 - Traffic and pedestrian noise affecting tranquil area.
 - Security problems – road will open up gateway for intruders.
 - Pollution.
 - Loss of skyline view.
 - Enough brown field sites elsewhere to accommodate housing.
 - Potential traffic problems at Ivinson Road end – Goosehouse Lane and Chapels already congested.
 - Potential increase in traffic problems at Sough bridge.
 - Baileys Field too wet to accommodate housing.
 - Old mine shaft problems on the site.
 - Scheme is a waste of money.
- 6.2 Lancashire Constabulary. Vehicular and pedestrian routes should be designed to ensure that they are visually open, direct and well used. Design features can help to identify the acceptable routes through a development, thereby encouraging their use, and in doing so enhance the feeling of safety. Increased permeability can lead to increases in crime levels, therefore the pedestrian link to neighbouring housing development must be carefully considered.
- 6.3 Coal Authority. The Coal Authority concurs with the recommendations of the information presented by Capita Property and Infrastructure Ltd; that mine entries potentially located within the site and shallow mine

workings pose a risk to both public safety and the stability of the proposed development. Consequently, further intrusive site investigation works should be undertaken in order to establish the exact situation regarding them.

- 6.4 Lancashire Archaeology. Possibility of Roman settlement in the area and further investigation is merited. Programme of archaeological work to be implemented.
- 6.5 Public Protection. Further information required on the short term operational noise impact and on the relationship between the anticipated operational noise to WHO noise indices. Final conditions to include operating hours and vibration levels.
- 6.6 Highways. Public Rights of Way happy with the proposals. Need to ensure that tactile pavers where the Public Right of Way to the south crosses the new road are appropriate. The three access points to be constructed measure at a width of 6m for internal roads. This should be reduced to a maximum of 5.5m. The revocation of the stopping up order at Ivinson Road is deemed necessary. Other orders also to be applied is a weight limit to 7.5t for the new road. Old entrances/turning heads that are no longer required should be returned to full footways and the area behind to be made good. All pedestrian crossovers points at radii and crossing over of the highway should have tactile paving. A construction method statement has been received. The document makes no reference to a wheel wash proposal. Evidence of this and also how the site will be laid out is to be conditioned accordingly.
- 6.7 Ecology. The proposals are likely to sever habitat connectivity, restricting wildlife movement and increasing the risk of pollution and degradation of habitats. Without considerable mitigation, the development could result in a net loss of biodiversity, contrary to the NPPF, the Core Strategy and the Local Plan Part 2. The scheme does not appear to mitigate all of the negative impacts of the development, and at a minimum the Council would need to demonstrate that all of the measures detailed in Section 6 of the Ecological Impact Assessment will be implemented in full.
- 6.8 Drainage. No objections.
- 7.0 **CONTACT OFFICER: John Wilson, Planner**
- 8.0 **DATE PREPARED: 1st August 2017**

9. Summary of Representations

Item 4.1

Objection Cllr Roy Davies (Sudell Ward):

Hi I wish to object to the planning application on the grounds that it creates more problems than it solves, by linking other road systems that exist now that will cause traffic delays

Objection Alan Pickup, 1 Pot House Lane, Darwen

Dear Sirs

I am writing with regard to the above planning application and previous consultations prior to the submission of the planning application. I am particularly interested in what will happen to Holden Fold, Moor Lane. It is very difficult to see if any of the specific submissions documents relate to these areas. They were Documents published in March 2017 mapping the proposed route and answering concerns of local resident, but nothing seems to have been mentioned regarding the issues of the restricted road width where Holden Fold meets Moor Lane and these do not seem to be addressed in any of the submitted planning documents, which appear to stop at the Oak Grove / Holden Fold junction.

The current proposal appears to be a route to nowhere that will encourage further rat runs through Ivinson Road / Elm Grove /Hazel Avenue. There is going to be a considerable increase in traffic down Pot House Lane from traffic approaching from Roman Road from the Blackburn direction to access the proposed new road structure, which will meet traffic coming up Holden Fold from the Goose House Lane area. The Junction of Oak Grove / Holden Fold will never be suitable to accommodate this amount of traffic. There is no pedestrian walk way on the Tithebarn Cottage side of this junction and it currently presents challenges to residents walking down Oak Grove with the existing amount of traffic.

In my opinion this seems to have been a hasty submission to ensure the funding was not missed and an not a careful consideration of the problems that will be caused

Objection David Thompson, 19 Sudell Close, Darwen

Mr John Wilson

I am writing initially to establish certain facts about the proposed link road east. I live at 19 sudell close BB3 3JG . My family have lived at this address for 55 years, myself for the past 28 years and has been a semi rural for all that time so this proposed development is going to have a significant impact on my life. Because we live in a cul de sac with no through traffic it is a very tranquil area also with no access at the rear of the property it is a low level crime area. My concerns are as follows

- 1/ there is no indication on your drawings how close to my property the road is going to be.
- 2/ How you propose to combat the noise levels this road is going to create both traffic noise and pedestrian noise .
- 3 / Security has this road is going to open up a getaway route for any would be intruder.
- 4/ pollution as obviously at this moment in time it is virtually non existent.

5/ ascetics because this road is going to have significant impact on my sky line view especially if the housing project goes ahead as well. Item 4.1 Those are the things that affect my day to today life i also have doubts about the whole scheme as I think it is going to move the traffic problems from one part of town to another a better plan would have been to upgrade the Eccles Hill Roman road area where you already have a link road just a few hundred yards from the proposed one.

Objection Frances Eccles

Waste of money. Would be better spent on more important things. It will cause no end of problems on Marsh House Lane never mind on Ivinson Road and will end up a rat run. If building houses on Baileys then a road to the houses is a must, though it's not on building houses on greenfield sites. There are other sites more suitable, eg old Moorland School site which is becoming a derelict eyesore, or behind Clearwater Village. Has there been a consultation with the residents? Don't think so, there should be.

Objection Irene Thornley

Have you looked around Darwen at the number of housing developments that have been left abandoned, why is there a need for more. Moorland School has been left derelict it is a prime site for new houses The land that you have earmarked for the houses& road is not safe there are mine shafts all round that area. This should be looked into.

Objection John Whittaker, 55 Priory Drive, Darwen

The plan to drive a by-pass from Ivinson Road to Pole Lane because of the new housing plan is simply crazy and will damage the environment in all areas concerned. Yes, the flow of traffic through Darwen is poor but if the stupid traffic lights at the bottom of Earnsdale Road were scrapped it would make an immediate difference particularly as there are pedestrian lights there anyway.

There is enough in the way of brown field sites spread across Darwen to build a reasonable number of houses without causing too much concern. Plus I feel that building on green field sites when alternative sites are available is highly irresponsible and typical of the high-handed attitude the council appears to take.

Darwen being in a valley is simply not capable of new development on this scale because the WHOLE of the towns infrastructure is far too archaic. I believe that over forty years ago there was a plan to build a proper by-pass round the town but housing developments since have rendered this impossible. The council has well and truly missed the boat on this one. I think someone has to be sensible here and accept the fact that development in Darwen is very limited given the geographical layout of the town. Had Darwen been flat then the task would be less difficult. Let common sense prevail.

Objection Julie Brindle

I am just wondering why the new road could not go further up to the top of Pole Lane Darwen and down Roman Road, you could widen the road by purchasing some land and It could then travel over the fields and join the motorway?? This way it wouldn't have to go through a council estate full of children, near a nursery school and junior school. Just a thought

Item 4.1

Objection Kenneth & Janet Pickering, LLeyn, Manor Road, Darwen

Dear Sir,

We are opposed to the proposed new link road and housing being planned here in Darwen. Having experienced the uselesss bus lane imposed upon us, the even more useless traffic lights at Hollins Grove, plus the total lack of investment in our town centre how can we have any faith in this latest scheme. Who is in charge of such ideas and do they listen to the majority of people affected? We can only assume that most councillors in Blackburn have no regard for green spaces and the importance of these to our quality of life. The new link road and the number of houses planned on Green Belt land are a disaster waiting to happen. We object to these proposals most strongly.

Objection Linda Roberts

If it is proposed where you say then only a very few metres from my home in which case I am afraid I very much hope the planning permission does not get granted.

The cottage I live in is one of four terraced cottages built in 1841 and were the only original houses on Marsh House Lane everything since has been built up around there. Despite this the traffic is minimal after around 8pm and 8am which makes it a pleasant and fairly peaceful place to live but a mini roundabout and loads more traffic passing through a few yards from my home sounds awful .I don't expect the Planning and Highways Committee will care about the effects it will have on a little home owner like me though. Thank you for taking the time to reply to my email

Objection Lynne Bromley, 8 Shelley Grove, Darwen

This comment is being made with regard to the above planning application for the Darwen East Distributor Corridor Rd.

I know this comment is being made late but a lot of our mail went missing and has only just arrived.

We moved to 8 Shelley Grove in Feb 2016, the searches for our property being completed by Jan 2016, the question asked about whether a highway or road was planned for within 200m of the properties boundary wall was answered 'NO'. When in fact the planned Road WILL BE within 200m of our boundary wall.

We moved to Darwen from Harwood, Bolton specifically because of the property 8 Shelley Grove and its position next to the field. We have 4 dogs which we wanted to exercise in the field, My horse is stabled at the top of the field on the Roman Rd, and we use the bridle ways regularly on the field and

the surrounding area, and we wanted a home that wasn't close to a main rd,
we were moving from one of those. Item 4.1

So, we WOULD NOT have moved to this property if we had known the plans
that had already been considered and proposed for Bailey's field.

We are extremely angry that the road plans did not show on our searches and
we will be asking a solicitor about this .

I would like a reply to this email.

Objection Miss J Smith, Aysgarth, 20 Sudell Road, Darwen

Dear Mr Prescott

I write with reference to the above, and the letter I have received recently for
the same.

As you know, there is much contentious debate about this application, and my
property has a 90ft fence which overlooks Baileys Field, so this project is
going to affect me greatly.

If however, the application goes ahead, I would urge you to consider the
following considerations:

* Buffer zone between my property fence and the road, which would lessen
the impact of the increased noise from the oncoming traffic.

* Appropriate tree/hedge planting - please ensure sufficient outside the
stretch to the rear of my property.

* Ensure adequate drainage, as there ground slopes downwards towards my
property and garden area.

* Keep vehicle weight limits down to minimum, in order to reduce noise levels
and impact to the road, (eg.HGV's) in this area.

* The implementation of good quality landscaping to area surrounding my
property, and others affected to same extent.

* Introduction of speed limits to 30mph, but preferably 20mph to reduce noise,
accidents and pollution levels.

* Security/speed camera's on the route between Marsh House Lane and
Iverson Road.

Objection Miss S Hindle

Dear Sir/Madam,

In reference to the planning application 10/17/0638 I , as a local resident of
Darwen wish to pose questions:

1. Firstly, why are brownfield areas not being used for housing rather than
Bailey's field which is already used as a recreational area by the inhabitants of
Darwen? Putting a housing development in an area which already has huge
traffic flow problems is surely not advisable?

2. If the proposed road scheme was to go ahead, connecting Marsh House to
Iverson Rd, where would the traffic from there? As an inhabitant of the top of
Goosehouse Lane, I must stress that I already find leaving my property from,
our drive in the morning

and evening, very difficult with congested traffic backing up all the way down
Goosehouse Lane and making the area of Chapels hazardous to travel
through. Although I was led to believe that this plan is to reduce the

congestion on the town's main road (A666), it would be creating a huge problem in an area of Darwen that already is struggling to cope with ~~the~~ 4.1 amount of commuters, and larger lorries and vehicles that are really not suited to the roads that are in place. What guarantee can you offer that this already congested area will not get worse?

I look forward to your immediate response on a matter that I feel has not been planned well at all, especially in relation to consultation with the community surrounding the ' project'.

Objection Rebecca Frodsham

Dear Sir/Madam,

I am writing to inform you about my concerns in regards to the planned Darwen East Distributor Road.

After first ignoring the request to develop brownfield sites, Blackburn Council now want to tear up Darwen even more. First the traffic lights, and now this terrible idea.

This reminds me of how central government ignored Lancashire's plea to be 'frack free'. Please don't behave un-democratically like Westminster have done. It is not right. Protect greenfield. Thank you.

Objection Wendy Holden, 40 Ellison Fold Terrace, Darwen

Hi there,

Just a little note to say that I'm really sad about the road/ housing estate going on baileys field at the top of my street. I am 52 years old and have lived in that street for that amount of years, just moving 3 doors down when I got married. I've played in the fields and also walked through the fields for a good number of those years. Walking in the open space does help get away from stresses of life....you feel that you are in the country just by walking up the lane, listening to the birds, feeding the horses and seeing the wildlife that lives there. I do feel we are just living in a black Tarmac/ concrete town. I'm sure there are other places that can be built on...old mill sites??

I also don't think the road will help the A666, otherwise why are drivers not using Roman Rd now? When I've been in a car getting a lift over to colne, that road is empty.

I wish someone could change this plan.

Living in hope,

REPORT OF THE DIRECTOR

Plan No: 10/17/0774

Proposed development: Full Planning Application for Demolition of hexagonal 3 Day Market Hall Building and creation of new town square together with proposed screening to the Market Hall loading bays

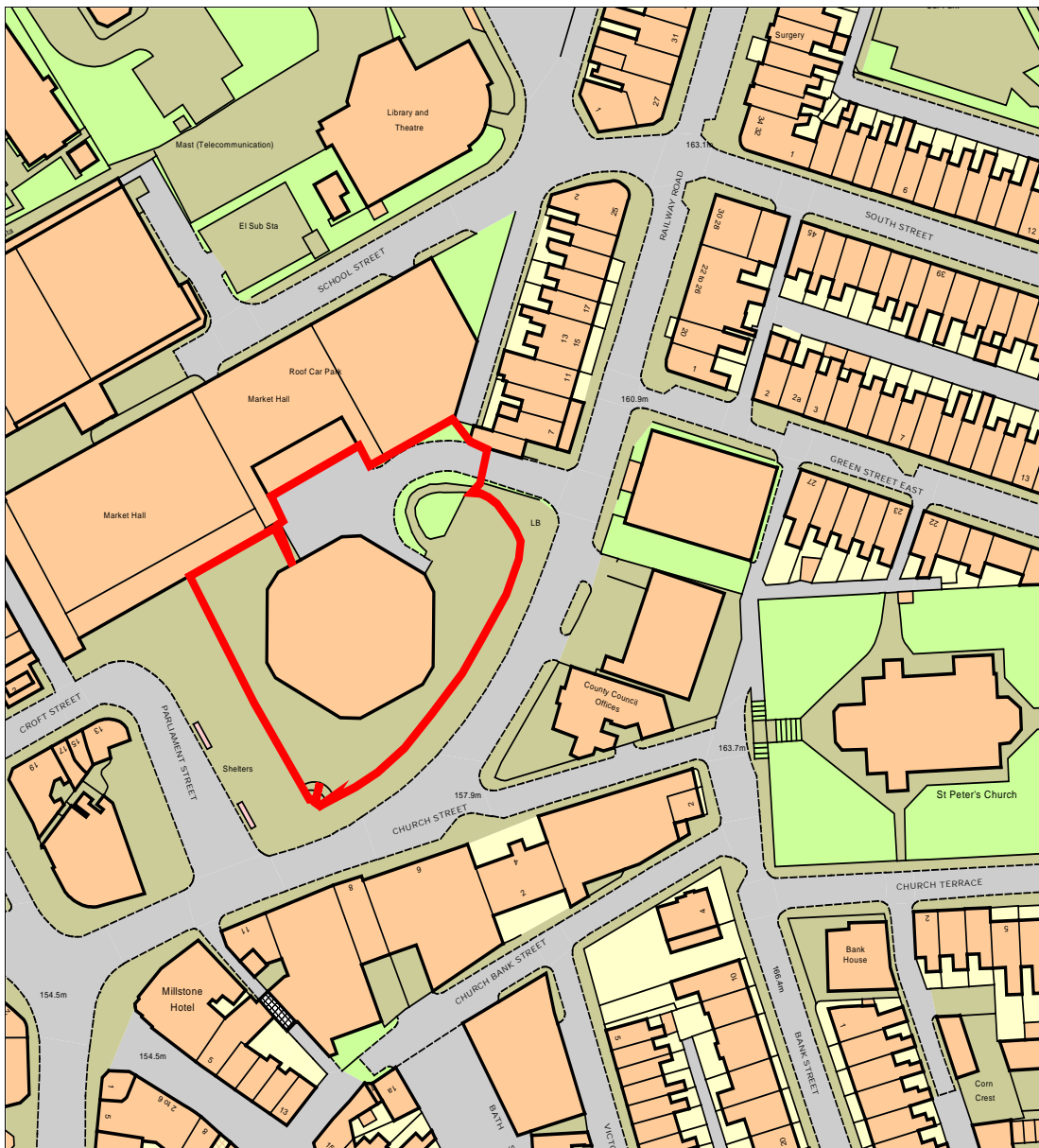
Site address: Darwen 3 Day Market Building, School Street/Parliament Street, Darwen, BB3 1BH

Applicant: Blackburn with Darwen Borough Council

Ward: Sunnyhurst

Councillor Dave Smith	
Councillor Brian Taylor	
Councillor Pete Hollings	

INSERT LOCATION PLAN



1.0 SUMMARY OF RECOMMENDATION

Item 4.2

1.1 APPROVE – subject to conditions.

2.0 KEY ISSUES/SUMMARY OF PLANNING BALANCE

2.1 The proposal will see the demolition of the de-commissioned Darwen 3 Day Market Building to be replaced by a high quality public realm space

2.1.1 The key issues to be addressed are as follows:

- Principle of the development
- Impact of the development on neighbouring amenity
- Heritage impact of the development, which is included within the Darwen Town Conservation Area.
- Design
- Impact on accessibility and transport
- Drainage
- Ecology

2.1.2 Careful consideration has been applied to the ongoing viability of the market building and its negative impact, together with the redevelopment of the vacant space beyond demolition works, in terms of ensuring the sustainability and enhancement of the Conservation Area setting and the wider Town Centre. The proposal is considered to support the Council's Core Strategy and Town Centre Strategy and Action Plan (2013-2018) objectives, as well as achieving compliance with relevant national, Local Plan Part 2 policies and the Darwen Town Centre Conservation Area Supplementary Planning Document (SPD)

3.0 RATIONALE

3.1 Site and Surroundings

3.1.1 The application site is located in the heart of Darwen Town Centre, enveloped by Parliament Street to the west, Railway Road to the east and a roof top car park to the north which is accessed from School Street. The site comprises a single storey hexagonal shaped building and a small adjoining car park to the east.

3.1.2 The 3 Day Market Building was constructed in the late 1960's and is characterised as a concrete structure, fairly typical of the brutalist style of the era. It is unlisted but sits within the Darwen Town Centre Conservation Area.

3.2 Proposed Development

Item 4.2

- 3.2.1 Planning permission is sought for the demolition of the hexagonal 3 Day Market Hall Building and creation of new town square together with proposed screening to the Market Hall loading bays.
- 3.2.2 The proposal seeks to deliver a high quality public realm area, preceded by a short term solution to the demolition works involving provision of a tarmac surface finish. The finalised public realm area aspires to provide a multifunctional public space that will revitalise the area, creating a sense of place and vibrancy which will make a significant contribution towards the sustained viability of the town centre, in response to current and future needs of the local community and wider locale.
- 3.2.3 The proposal is considered an appropriate solution to long standing concerns about the viability of the 3 Day Market and its negative impact on the perception of Darwen Town Centre. Prior to its closure, the market had a vacancy rate of circa 40%, resulting in compressed rents to an unsustainable level. Moreover, the building required major investment to ensure its safety and to bring it up to a modern standard. Following a wide ranging public consultation exercise, inclusive of market traders, members of the public and stakeholders, a decision was taken that the scale of investment required to undertake the necessary refurbishment works would not sufficiently transform the building and its immediate surroundings, given its fundamental obsolescence or ensure a sustainable increase in occupancy / revenue. Consequently, the required investment was deemed financially prohibitive and the Council determined the best course of action was to secure closure of the market building and pursue a demolition strategy; as approved by the Executive Board on 9th June 2016.

3.3 Development Plan

- 3.3.1 In accordance with s.38 (6) Planning and Compulsory Purchase Act (2004), the application is to be determined in accordance with the development plan, unless material considerations indicate otherwise.
- 3.3.2 The Development Plan comprises the Core Strategy, the adopted Local Plan Part 2 – Site Allocations and Development Management Policies and the Darwen Town Centre Conservation Area SPD. In determining the current proposal the following are considered to be the most relevant policies:
- 3.3.3 Core Strategy

- CS1 – A Targeted Growth Strategy
- CS11 – Facilities and Services
- CS12 – Retail Development
- CS16 – Form and Design of New Development
- CS17 – Built and Cultural Heritage
- CS20 – Cleaner, Safer, Greener
- CS22 – Accessibility Strategy

3.3.4 Local Plan Part 2

Item 4.2

- Policy 1 – The Urban Boundary
- Policy 7 – Sustainable and Viable Development
- Policy 8 – Development and People
- Policy 9 – Development and the Environment
- Policy 10 – Accessibility and Transport
- Policy 11 – Design
- Policy 26 – Town Centres – a Framework for Development
- Policy 31 - Development in Defined Shopping Frontages
- Policy 39 – Heritage

3.3.5 Darwen Town Centre Conservation Area SPD (2013).

This document provides targeted advice to ensure high quality new development within Darwen Town Centre. It explains that the site historically *“would have had an open market and stalls are still evident in the retaining wall below Railway Road”*. It highlights the 3 Day Market as a *“negative building”* in terms of design, quality and its contribution to the townscape and states that it *“detracts from the square as it obscures the unique form of the space and vistas of Holker House and the Wesleyan Chapel”*. The SPD also promotes opportunities to *“address existing buildings that erode character and quality, encourage re-use of vacant and underused buildings and enhance the public realm with appropriate materials”*

3.4 **Other Material Planning Considerations**

3.4.1 Town Centre Strategy and Action Plan (2013 – 2018)

This document emphasises the need to improve the town centre offer and make the most of the quality assets that Darwen has. It also aspires to make the 3 Day Market more inviting and desirable.

3.4.2 The Pennine Lancashire Heritage Investment Strategy 2015 – 2020.

3.4.3 National Planning Policy Framework (The Framework).

At the heart of the NPPF is a presumption in favour of sustainable development, which should be seen as a golden thread running through both plan making and decision taking. For decision taking, this means approving development proposals that accord with the development plan without delay (paragraph14).

Paragraph 23 sets out the presumption towards ensuring the vitality of town centres

3.5 Assessment

Item 4.2

3.5.1 In assessing the application there are a number of material considerations that need to be taken into account, as follows:

- Principle and compliance with heritage objectives;
- Accessibility and transport;
- Design and layout;
- Drainage;
- Amenity impact;
- Ecology and
- Contaminated Land

3.5.2 Principle and compliance with heritage objectives

The principle of the development is considered under The Framework; Blackburn with Darwen Local Plan Part 2 Policies 26, 31 and 39 (Town Centres – a Framework for Development, Development in Defined Shopping Frontages and Heritage, respectively). The borough’s Core Strategy and The Darwen Town Centre Conservation Area SPD are also important material considerations.

3.5.3 The Framework makes it clear that the government is committed to delivering sustainable economic growth and at Paragraph 19 charges the planning system with the duty to *“operate to encourage and not act as an impediment to sustainable growth”*

3.5.4 An important consideration is provided within Paragraph 186 of the Framework, which states that local planning authorities should approach taking planning decisions in a positive way to foster the delivery of sustainable development. Additionally, paragraph 187 of the National Planning Policy Framework states that:

“Local planning authorities should look for solutions rather than problems, and decision-takers at every level should seek to approve applications for sustainable development where possible. Local planning authorities should work proactively with applicants to secure developments that improve the economic, social and environmental conditions of the area.”

3.5.5 Paragraph 131 of the Framework relates to decision making in reference to conserving and enhancing the historic environment. It states that “Local Planning Authorities should take account of:

- The desirability of sustaining and enhancing the significance of heritage assets and putting them to viable uses consistent with their conservation;
- The positive contribution that conservation of heritage assets can make to sustainable communities including their economic vitality; and
- The desirability of new development making a positive contribution to local character and distinctiveness.

3.5.6 Paragraph 133 of The Framework states that where a proposed development will lead to substantial loss or harm to a designated heritage asset, local planning authorities should refuse consent, unless it can be demonstrated that the substantial harm or loss is necessary to achieve substantial public benefits that outweigh that harm or loss.

3.5.7 The site is allocated as part of Darwen Town Centre and lies within the Darwen Town Centre Conservation Area. The 3 Day Market Building is included as a Primary Shopping Frontage. Local Plan Part 2 Policy 39 sets out the principle for demolition of designated heritage assets. Part 6 of Policy 39 states:

“Where an unlisted building makes little or no contribution to the character of a conservation area and has little or no significance in its own right, proposal for demolition will be considered in the light of the degree of positive contribution made by alternative proposals for the site to preserving or enhancing the character of the conservation area”.

Part 7 of Policy 39 states:

“Consent will not be granted for demolition until an acceptable redevelopment scheme has been approved and there is evidence that a contract has been let for the full implementation of the scheme”.

3.5.8 The Design and current condition of the market building is such that it makes little or no contribution to the character of the conservation area. This is acknowledged in the Darwen Town Centre Conservation Area SPD, which describes the setting of the building, fronting the Victorian Market Hall, thus “the most significant townscape is at the Market Hall and forms the commercial focus to the area. The Market Hall provides a distinctive architectural backdrop on the northern edge of the space and the sweeping rise of Railway Road gives drama to the space. The less attractive 3 Day Market however detracts from the appearance”

The octagonal 3 Day Market Building in the market square built in the 1960’s detracts from the square as it obscures the unique form of the space and the vistas of Holker House and the Wesleyan Chapel. Traditionally the space would have had an open market and stalls are still evident in the retaining wall below Railway Road.

The Pennine Lancashire Heritage Investment Strategy 2015-20 cites redevelopment of the 3 Day Market Building as a priority heritage project: “The Darwen Market is an important contributor to Darwen’s economy. The 3 day market was not covered as part of the Darwen Townscape Heritage Initiative (THI) but now has a negative impact on the THI investment, upon the newly refurbished Market Square. In its current condition the building contributes in a negative way to the Market Square. The development and renovation of the 3 Day Market Building would contribute a better value to the town.

- 3.5.9 Whilst it is acknowledged that the demolition of the 3 Day Market Building is not directly called for in either document, it is clearly demonstrated that the building makes little or no contribution to the conservation area setting. Moreover, the prohibitive maintenance costs associated with the building and the opportunity that demolition allows for restoring the site back to a quality civic space to enhance and sustain the conservation area, should be afforded significant weight, to secure its long term position as an important heritage asset.
- 3.5.10 Although only indicative proposals are currently available for the long term restoration of the site, Capita are in the latter stages of finalising plans. Full details of the long term restoration will be required through application of a suitably worded condition. In the short term, a tarmac top surface is proposed, to allow for a temporary restoration treatment and to ensure a usable space during the busy lead in to Christmas and beyond.
- 3.5.11 Evidence of funding secured to deliver the scheme has been provided through submission of the Executive Boards 'Summary of Decisions', which confirms approval at the boards meeting on 13th July 2017. Together with Capita's commitment to securing the finalised scheme and the other material considerations of the markets continued detrimental impact on the Conservation Area, the resultant urgency to secure its removal and the substantial and demonstrable public benefits of its loss and the redeveloped public square, it is considered that compliance with The Framework and Policy 39 is achieved.
- 3.5.12 Loss of the Primary Shopping frontage falls outside of the scope for compliance with Policy 31 of the Local Plan Part 2. It is, however, considered that other material considerations should outweigh its loss; including the vacant nature of the building not offering an active frontage, its unsustainable structural future and the prospect of the alternative use guaranteeing enhanced vitality and viability to the area; envisaged to include temporary markets and craft fairs, ensuring retention of some retail function.
- 3.5.13 Amenity
Policy 8 states "development will be permitted where it can be demonstrated that it would secure a satisfactory level of amenity and safety for surrounding uses and for occupants or users of the development itself, with reference to noise, vibration, odour, light, dust, other pollution or nuisance, privacy / overlooking, and the relationship between buildings".
- 3.5.14 Due consideration has been given to the impact of the demolition works, in consultation with the Council's Public Protection team, who recommend application of conditions to require a demolition method statement to safeguard surrounding properties from excessive noise, vibration and dust and limited hours of on site works.
- 3.5.15 A Desk Top Study to identify potential for ground contamination has been reviewed. No contamination risk was found.

3.5.16 An asbestos survey has been submitted. The survey highlights the need for further inspections prior to demolition works but only once the building has been fully decanted. Safe removal of any identified asbestos will be managed by the Health and Safety Executive and site operatives.

3.5.17 Overall, the scheme is compliant with Policy 8.

3.5.18 Highways

Policy 10 states “development will be permitted provided it has been demonstrated that road safety and the safe, efficient and convenient movement of all highway users (including bus passengers, refuse collection vehicles, the emergency services, cyclists and pedestrians) is not prejudiced”.

3.5.19 The Council’s Highways team is supportive of the proposal, subject to application of a condition requiring submission of a demolition / construction method statement, to include:

- the parking of vehicles of site operatives and visitors;
- loading and unloading of plant and materials;
- storage of plant and materials used in constructing the development;
- the erection and maintenance of security hoarding including decorative displays and facilities for public viewing, where appropriate;
- wheel washing facilities;
- measures to control the emission of dust and dirt during construction;
- noise control scheme;
- a scheme for recycling/disposing of waste resulting from demolition and construction works;
- tracking of vehicles;
- traffic management to manage construction vehicles accessing the site.

3.5.20 Drainage

Policy 9 states “development will be required to demonstrate that it will not be at an unacceptable risk of flooding”. The site is located within Flood Zone 2 as there is a culverted river under the site.

3.5.21 No objection has been offered by the United Utilities, The Environment Agency or the Council’s Drainage team; subject to application of appropriately worded conditions to manage foul and surface water drainage.

3.5.22 Ecology

Policy 9 states “development should not have an unacceptable impact on environmental assets or interests, including habitats, species and trees”. Ecology studies of the building will be required to ensure that there would be no loss to protected species.

3.5.23 A Bat Report to identify bat habitats within the building has been reviewed. Whilst no bats were found, the recommendations of the Bat Report in Sections 4.6 and 4.7 should be implemented. These are:

- All contractors to be aware of the potential presence of bats within the building and the signs to look for; Item 4.2
- An adequately qualified ecologist is on call throughout construction work hours;
- Work ceases immediately if any bats are encountered at any stage and only resumes once further advice from the on call ecologist has been sought. If the bat is in immediate danger it should only be picked up with gloved hands and placed in a secure container with air holes in a dark, quiet place until the licenced ecologist arrives at site.

3.5.24 As the building is scheduled to be demolished outside of the nesting bird season (March to August), no conflict with nesting birds will arise.

3.5.25 Design and Layout

Policy 11 states “all new development will be required to present a good standard of design and will be expected to demonstrate an understanding of the wider context; and make a positive contribution to the local area”. Policy 39 also requires that the proposals preserve or enhance the character of the conservation area.

3.5.26 A detailed Design and Access Statement has been submitted. Although the final proposal for the town square has not been formalised at this stage; a conceptual model has been presented which illustrates an envisaged high quality scheme, featuring an appropriate mix of hard and soft landscaping and one that will accentuate the squares position as a focal point of the conservation area and wider town centre, complementing improvements secured through the THI investment. Application of a condition to require submission of a fully worked up design scheme, including layout, materials and comprehensive planting will be required. In the short term, provision of a tarmac top surface will be provided to ensure use of the space after demolition and appropriate screening is proposed to the exposed units beneath Railway Road. Accordingly the proposal is compliant with design and heritage requirements.

3.5.27 Summary

This report assesses the full planning application for the demolition of Darwen’s 3 Day Market and the redevelopment of the vacant space into a new town square. In considering the proposal, a wide range of material considerations have been taken into account. Additional non-material concerns, not relevant to the assessment of the application, have been raised; summarised as follows:

3.5.28 Accuracy of The Council’s Condition Report and estimated schedule of cost for remedial works for the 3 Day Market Building:

3.5.29 Effectiveness of the Council’s community consultation, to determine the best solution for the site.

3.5.30 Failure of the Council’s Executive Board to consider Paragraph 23 of The Framework, titled “Ensuring the vitality of town centres” when considering solutions for the site. The Executive Board was not considering a planning

application and was under no obligation to consider National Planning Policy. Regardless, the matter is not material to the assessment of the planning application.

3.5.31 Future use and maintenance of the new public square and absence of proposed public toilets.

3.5.32 The need for the proposal to be referred to the Secretary of State (SoS) for determination has also been raised. It was confirmed prior to submission of the application that referral to the SoS was not a procedural requirement; as confirmed by section 196D Town & Country Planning Act 1990 (as inserted by Schedule 17 of the Enterprise and Regulatory Reform Act 2013), which requires obtaining planning permission for relevant demolition. Conservation Area Consent was previously needed to demolish unlisted buildings in Conservation Areas. This was controlled by Section 74 of the 1990 Town & Country Planning (Listed Buildings & Conservation Area) Act 1990, whereby if the applicant was the local authority the conservation area consent application had to be referred to the SoS. However, since 1st October 2013 this is no longer required, following the enactment of the Enterprise & Regulatory Reform Act 2013, but full planning permission will be required for "relevant demolition", which includes unlisted buildings in conservation areas.

The Town and Country Planning (Consultation) (England) Direction 2009, relates to Section 77 of the 1990 Town & Country Planning Act that allows the Secretary of State to give directions requiring applications for planning permission to be referred rather than being determined by the LPA. The categories of development which require referral are as follows:

- Green Belt development (buildings greater than 1000sqm);
- development outside town centres (not in accordance with the development plan, building greater than 5,000sqm);
- World Heritage Site development;
- playing field development (where the land is under the ownership of the Local Authority) or
- flood risk area development (major development where the Environment Agency have objected).

As the proposal does not fall into any of these categories, referral to the SoS is not a requirement. An application for the demolition, extension/alterations of a Local Authority owned *listed building*, whereby the applicant is the local authority would require referral to the SoS.

4 RECOMMENDATION

4.1 Approve subject to:

- (i) Conditions which relate to the following matters:
 - Commence within 3 years.
 - Final layout including materials for all hard landscaping and a tree and low level shrub planting scheme to be submitted and implemented.

- Demolition management plan to be submitted and implemented.
- Drainage scheme to be submitted and implemented. Item 4.2
- Foul and surface water to be drained on separate systems.
- Tree protection during demolition.
- Limitation of on site works to:
 - 08:00 to 18:00 Mondays to Fridays
 - 09:00 to 13:00 Saturdays
 - Not at all on Sundays and Bank Holidays.
- Dust management plan to be submitted and implemented
- Archaeological watching brief.
- All contractors to be aware of the potential presence of bats within the building and the signs to look for;
- An adequately qualified ecologist is on call throughout construction work hours;
- Work ceases immediately if any bats are encountered at any stage and only resumes once further advice from the on call ecologist has been sought. If the bat is in immediate danger it should only be picked up with gloved hands and placed in a secure container with air holes in a dark, quiet place until the licenced ecologist arrives at site.

5 PLANNING HISTORY

5.1 No relevant planning history exists.

6 CONSULTATIONS

6.1 Arboricultural Officer
No objection.

6.2 Local Authority Drainage
No objection, subject to application of drainage condition to ensure implementation of an appropriate scheme of drainage.

6.3 United Utilities
No objection, subject to application of drainage condition to ensure implementation of an appropriate scheme of drainage.

6.4 Public Protection
Amenity

Recommended conditions:

- Site working hours to be limited to between 8am to 6pm, Monday to Friday; 9am to 1pm on Saturdays and no works permitted on Sunday or Bank Holidays.
- Demolition / construction scheme to be submitted for protecting the surrounding premises from noise, vibration and dust.

Contaminated Land
No objection.

- 6.5 Highways
No objection, subject to application of a demolition / construction method scheme.
- 6.6 Lancashire Constabulary
No objection but desire to ensure development promotes natural surveillance, maximise effectiveness of lighting, appropriate low level landscaping and CCTV coverage.
- 6.7 Heritage Investment Manager (Conservation)
Supportive of the proposal, subject to appropriate demolition management in order to safeguard the adjoining Victorian Market.
- 6.8 Ecology
No objection, subject to appropriate mitigation measures.
- 6.9 Lancashire Archaeological Advisory Service.
No objection, subject to application of a condition to require an archaeological watching brief during demolition and a recording of any significant remains that are identified.
- 7 CONTACT OFFICER: Nick Blackledge, Assistant Planner - Development Management**
- 8 DATE PREPARED: 2nd August 2017**

9 Summary of Representations

Item 4.2

Objection Rev'd David Stephenson, St Peter, Darwen

I write with comments regarding the above planning application, made to Blackburn with Darwen Council, for the demolition of the 3-Day Market Building in Darwen.

Blackburn with Darwen Borough Council document: Local Plan Part 2, Policy 39 - Heritage, point 7 states:

Consent will not be granted for demolition until an acceptable redevelopment scheme has been approved and there is evidence that a contract has been let for the full implementation of the scheme.

As no plans have been submitted for any form of redevelopment of this building or site I understand that the Council is unable, according to its own policies, to grant planning permission for the demolition of this building.

Condition Report (Attachment 1)

In September 2015 Blackburn with Darwen Council commissioned a report on the state of Darwen 3-Day Market. This report has since been largely discredited as it includes many items which were unnecessary and many grossly over priced. To give a few examples:

It was claimed that asbestos was present and would need to be removed. This was incorrect. There was asbestos present in the paintwork but that could be remedied by covering the paintwork. This is now confirmed by the Provisional Pre-Demolition Asbestos Survey.

The report stated that the PA system was tired and need replacement at a cost of £12,000. A more reasonable cost would be 10% of that figure. To use replacement of a PA system as partial reason to demolish the 3 Day Market building is ridiculous. It is tantamount to saying that you would demolish your house if you television needed replacement.

Removal of graffiti, which should surely be considered part of the routine maintenance budget, was also included. Again, the estimated costs for this appeared to have been inflated significantly.

In short this document was designed to give the Council Executive an excuse for closure of the 3 Day Market and demolition of the building. In most respects this failed. The cost of demolition, relocation of the market traders and loss of income was 2.1 times the cost of even the unrealistic costs in the report (Executive Board Decision 9th June 2016).

The Executive then had to choose between keeping and enhancing the 3-Day Market or closing and demolishing it. (**Attachment 2**) The Council Executive has chosen the uneconomic option over the economic one and decided that the 3 Day Market should close, with a projected further loss of income to the council of £41,000 per annum.

We therefore urge that this Planning Application be rejected on the grounds that the information contained within section 9 of the Planning Application is misleading and does not justify the need for the demolition of the building.

Consultation

The council executive have stated in several documents that there was a consultation exercise to determine the best solution for the site. This is, at the very least, disingenuous. At the meeting at St Peter's Church on 8th April 2016 Councillor Riley stated that the 3-Day Market building would be demolished and that this was a "done deal". In other words the council would not countenance any discussion on the option of keeping the 3-Day Market or its building. Councillor Riley also stated that there was no plan for replacement or development of the site in place.

The council commissioned the Darwen Town Centre Partnership (TCP), a quasi political body, to consult on the what would replace the 3-Day Market. The option to retain 3 day trading was not included in the consultation. Resources were committed and 10,000 leaflets were printed. Despite their best efforts only 505 responses were received. Of these 152 were generated at a closed event for Darwen Aldridge Community Academy (DACA) students. It is questionable why political activities were allowed at a state school. Thus even with a captive audience the TCP only managed to get 505 responses.

It is stated in the Design and Access Statement that 50 people attended a workshop at DACA and that these 50 people produced 82 responses. It would seem that it was acceptable for people to make multiple responses. No information has been provided as to how many individuals responded to the consultation as a whole.

The workshop at DACA was held in the early evening on a weekday. Many Darwen residents would have been unable to attend at such a time. It would have been impossible for the elderly or those who had mobility issues to attend as they tend to use the local bus services which do not run at that time. There is a large portion of the population who work full time and have young families to look after. Again it would have been very difficult for them to attend.

Of the 505 responses 301 were obtained from actively approaching people(152 from DACA students, 82 from DACA workshop and 67 from Darwen Music Live). This leaves just 204 from the general public. Darwen has a population of about 27,500.

The council could have considered a randomised survey to be carried out by an independent body. This would have produced a result which would have reflected the views of all residents of Darwen across all ages, abilities and ethnic groups.

What is not disclosed by any documents was that a small group of stall holders and concerned residents raised a petition of close to 2,500 signatures requesting that the 3-Day Market be retained. With a fraction of the Council's resources this group had managed to get 5 times the number of responses as the the council lead campaign. At the calling-in meeting at the Council the TCP campaign was held as a great success while the petition was considered irrelevant even though with the limited resources it amounted to nearly 10% of the town's population.

We therefore urge that this planning application be rejected on the grounds that proper consultation with local residents and users of the Market buildings has not been carried out. The demolition of the 3-Day Market Building risks damaging the wider social, cultural, and economic aspects of Darwen's town centre (within the Conservation Area) by removing a building which has been a significant asset to the community for a large number of years.

Local Plan

Policy 39 (Heritage) states that:

Consent will not be granted for demolition until an acceptable redevelopment scheme has been approved and there is evidence that a contract has been let for the full implementation of the scheme

There is no ambiguity in this policy. It is very clear and there is no room for manoeuvre.

The Planning Statement document section 3.3 states: "Following the demolition, the 3 day market footprint will be simply reinstated with a tarmac or sub base finish. In the long term, a new public realm scheme will be implemented."

In other words there is no plan for redevelopment at this time. Diagrams and plans provided by the council are aspirational only. They are not part of the application. There is no indication that the council has any budget for any future development. Indeed at the meeting at St Peter's Church on 8th April 2016 Councillor Riley stated that it would be

unlikely that there would be any funding for at least 3 years.

If this application is granted there are major ramifications for future applications. Future applicants will be able to argue with some justification that if the Council is not subject to its own rules then they too should not be subject to those rules. This risks setting a precedent that development within the Conservation Area need not abide by national and local regulations and may lead to further inappropriate development within this and other Conservation Areas in the future.

The planning statement gives the justification that "It is understood that Capita are in the process of finalising plans for the site" as a reason for ignoring this requirement. However in the Planning Application Section 3 it is stated that:

"The formal design process will begin following the demolition of the 3 day market."

This inconsistency – how can Capita be finalising plans for the site if the planning process has not even started? – suggests that the Council is unclear about where it actually is in its own planning process, has not fully considered the implications of the demolition of the 3-Day Market building, and is in breach of Policy 39 (Heritage) of the Local Plan.

There are frequent mentions in various documents for 'long-term' plans. 'Long term' would normally imply years. Indeed, if the planning process is not to start until after demolition then it is likely that any commencement of work will be at least several years away. To emphasise this point the Council decided to close the 3-Day Market close to 18 months ago. Since that time, no concrete plan has been published as to what the Council plans to do next with the site.

Evidence that there will be no implementation of any plan for a considerable time is that the Planning Application states that the area is to be tarmaced over. If there were an intention to complete the work quickly then there would be no need to incur the extra expense of this process.

In the letter from Kate McDonald MSc MRTPI, Planning Team Leader, to Wendy Penman, Building/Estates Surveyor, (included in the documents attached to the Planning Application she says in relation to Policy 39 of the Local Plan that:

"The Local Planning Authority will require evidence that the contract has been let for the full implementation of the scheme."

The same letter also notes that:

"The proposal for the town square has not been fully worked up, however, the general principle is accepted. Further details would be required with the application submission, to detail the layout, materials, features and landscaping details."

No evidence either that the contract has been let or that any long term landscaping or replacement for the 3 Day Market building has been planned has been attached to the Planning Application. Reporting in the local press, quoting members of the Executive Board) also indicates that plans are still in the early development stage (see http://www.lancashiretelegraph.co.uk/news/darwen/15365871.Market_hall_replacement_preview_gIVEN_to_Darwen_partnership_board/).

We therefore urge that this Planning Application be rejected on the grounds that it does not conform to the requirements of Policy 39 (Heritage) of the Local Plan. On these grounds, if on no other, this Planning Application should be rejected.

National Planning Policy Framework

Section 23 of the National Planning Policy Framework states:

"Planning policies should be positive, promote competitive town centre environments and set out policies for the management and growth of centres over the plan period. In drawing up Local Plans, local planning authorities should 'retain and enhance existing markets and, where appropriate, re-introduce or create new ones, ensuring that markets remain attractive and competitive.'

Note that this document is dated March 2012. In this case the word "existing" will refer to what was existing at that time not necessarily what is existing now.

The matter of this policy was raised with the council by letter. In her reply Denise Park, Deputy chief Executive replied that "the Executive Board was not considering a planning application and hence would not have been expected to take into account nation planning policy or guidance." (**Attachment 3**) If this be the case then there is a massive loophole in the national Planning Policy Framework. Even so the council was clearly not adhering to the spirit of the framework.

The result of the approval of this application is likely to leave what is in effect a waste area in the heart of Darwen, since no proposals for landscaping or a replacement building have been put forward. Not only does this fail to promote growth in the town centre, but an unattractive tarmac area will serve only to deter new visitors to the town. This risks closing off new sources of revenue to the market in the form of both customers and potential new stallholders. Moreover, there is no evidence of any attempt by the Council to 'retain and enhance' the existing Markets.

The closure of the 3-Day Market has had a detrimental effect on the main Market. Since its closure in October 2017 over 30% of stall space on the main market has, or is the process of being, vacated. In part, this is due to the duplication of offerings by stalls which have moved to the main Market Hall having previously been located in the 3 Day Market. When they only opened for three days per week, they were able to attract further footfall to the Market as a whole; however since they are now opening at the same time as the other stalls within the Market, they are diluting the weekly customer base. As a result, since customer numbers have not increased under the new arrangements, there is not sufficient custom for stalls with similar offerings to maintain their businesses.

One of the reasons put forward for demolishing the 3 day market building is that there was a 40% vacancy rate (Planning Statement section 3. 1). The main market is now, as a result of the Councils actions in closing the 3 day market, approaching a similar level of vacancy. There is a great (and evidently realistic) fear that the Council will now use this as an excuse to close the main market.

It is essential that any future plans for the centre of Darwen should include an element 3-day trading in order to attract increased footfall in the town centre regularly at weekends. Otherwise the future of Darwen as a market town will be very limited.

Item 4.2

In the long term the council says it will create an open space for "events". It is unclear what these events will be but one mentioned is farmers' markets. These types of events generally take place on Sundays as many of the traders who are essential to make successful markets attend traditional markets on Saturdays. It is unlikely that residents will frequent both the main market and the farmers' market on the same weekend. Thus trade on the main market will diminish still further resulting in more lost stalls.

One of the reasons put forward for demolishing the 3-Day Market building is that there was a 40% vacancy rate (Planning Statement section 3.1). The main market is now, as a result of the councils actions in closing the 3 day market, approaching this level of vacancy. There is a great fear that the council will now use this as an excuse to close the main market.

This application is to leave what is in effect a waste area in the heart of Darwen. This will deter new visitors to the town again putting pressure on the market.

The application should be rejected on the grounds that it does not conform with the National Planning Policy Framework.

Key views

Section 5.5 of The Planning Statement states that "the market detracts from the square as it obscures the unique form of the space and vistas of Holker House and the Wesleyan Chapel. Its demolition will therefore have a positive impact on the area as it will no longer obstruct important views." This plan will indeed open up these views. However it will also open up the less imposing vista to the east of the market building. This will include the market loading bay and multi-storey car park. Note that while a screen is in the title of this application, there is no part of this application that covers the construction of such a screen. Again, details on the landscaping and replacement of the demolished facilities is a requirement of Policy 39 (Heritage).

With regard to the National Planning Framework, views of the market loading bay and car park will not enhance the area and will, in fact, detract from the overall appearance of the Market Square.

While the views of the loading bay and car park will be enhanced considerably, other views will be only marginally changed. A close look at the photographs in the Design and Access Statement will confirm this.

We therefore urge that this Planning Application be rejected on the grounds that the views created by demolishing the 3 Day Market Building will be even more detrimental to the local area than leaving the building in place.

Events

The aspirational plan for future development frequently quotes the potential of holding events in the area. However there is little or no detail as to what these events would be. This is important because it is impossible to design a facility of any description without knowing what its function will be. Even in this early stage there are glaring problems. For example the plan shows a seating area and amphitheatre. Is this necessary for Farmer's Markets and car boot sales as envisioned by the TCP. On the other hand if longer events which require the use of seating are envisaged then why is there no provision for public

toilets. The only public toilets in Darwen town centre are in the market annexe and this is closed on Sundays, Tuesday afternoons and every evening. Perhaps Portaloos are envisioned but this would imply that such events would be spasmodic.

It is unclear who would be paying for these events. There is no reference to this in any of the documents that I can find. We know that funding is scarce and at least one event has had to be cancelled this year presumably due to lack of funds.

We therefore urge that this Planning Application be rejected on the grounds that the replacement for the 3-Day Market building has not clearly been thought out or prepared; the demolition would be in breach of Policy 39 (Heritage) of the Local Plan and would not conform with the National Planning Framework.

Maintenance

At the meeting at St Peter's Church on 8th April 2016 a document was circulated (**Attachment 4**), showing income and expenditure for the whole market complex. This document showed that over the 5 years it covered annual expenditure of only £5,563 was spent on maintenance. The first 3 years (2010 – 2013) showed a total of £8,519, an average of just £2,863. Total surplus over the five years was £484,415 (average £96,988 per annum).

The Condition Report noted that there was graffiti on the roller shutter doors on the 3 day market. The graffiti had presumably not been noticed by the council staff or if it had no action was taken. As is well known graffiti is easily dealt with if it is actioned promptly but more difficult if it is left.

As well as remedial work required for the 3 day market, the condition report also identified significant work required on both the main market hall and the annex. The council has carried out little if any of this remedial work.

This implies that the council does not have an ethic of maintaining its own buildings and facilities. Without this ethic any building or facility will deteriorate over time. The aspirational plan put forward by this application makes no mention of maintenance. There is no strategy to make the installation low maintenance. There is no indication on any estimation of costs or if there will be funds available for maintaining the facility.

Without a maintenance plan the area will quickly deteriorate into an eyesore.

Local knowledge

On the western face of the 3 Day Market building there is a seating area with a degree of covering which protects the users from the weather. This is used extensively throughout the day and into early evening. It has great social significance for the older generations during the morning and early afternoon and to the younger generation (especially pupils from local schools) from late afternoon to early evening. There is no covered seating on any of the aspirational plans, and no seating at all is given in this Planning Application which reduces the social capital of the site significantly. Open tarmac will not provide a suitable space for socialising in this manner.

There are several references to Plaza Mayor, Madrid as if this were some sort of aspirational design. It does seem to be a good design. However there are stark differences

in climate. Madrid has just 63 precipitation days per year. Darwen has in excess of 250. The result is that a design intended for a relatively dry area is unsuitable for a relatively wet area. Item 4.2

We therefore urge that this Planning Application be rejected as it will fail to enhance the area in compliance with the National Planning Framework and will, in fact, detract from it.

Waste Land

The current application is to demolish the 3-Day Market and leave the site in what is in effect a waste area. There are no proposals to develop the space other than that of "future developments". The demolished 3-Day Market building is to be covered with tarmac or similar.

The Railway Road area has a plethora of takeaways. It is not unusual for litter to accumulate in the area between the 3-Day Market building and Railway Road not just from the takeaways but from the resulting overflowed litter bins. This is bad enough but most of this is at least hidden from view. With the building demolished there will be nothing to stop the litter spreading to (and across) the market square, making the site even more unattractive than it is at present.

Application Form

The application form contains an number of inaccuracies.

The address of the 3-day Market building is incorrect. The application locates the 3 Day Market building in School Street. Most people would place the 3-Day Market building on Parliament Street or possibly Railway Road.

Section 9 states that the 3-Day Market building "required major investment (circa. £1.7m) to bring it up to standard and extend its life." This figure is nothing more than a rough estimate, since there has been no documented costing for any development of this type. The only figures available are contained in the condition report commissioned by the Council. In this document an inflated cost £180,000 is given.

Section 9 also states that the rents in the 3-Day Market were not at a sustainable level. This is untrue as the market generated a surplus of income over expenses. Moreover, the Council's own report stated that a loss of £41,000 per annum could be expected by closing down the 3 Day Market, even when the relocation of some stallholders to the main Market was taken into account. Overall the markets produced a surplus in excess of £50,000 per annum.

The description of the application on the Council website is:

"Demolition of hexagonal 3 Day Market Hall Building and creation of new town square together with proposed screening to the Market Hall loading bays"

However there is no mention of any screening on the application form. This would need to be addressed as part of the Council's need to conform with Policy 39 (Heritage) and the National Planning Framework.

We therefore urge that this Planning Application be rejected as the significant inaccuracies contained within it mean that the proposal itself is flawed and would need significant revision in order for the Council to comply with its own policies.

Funding

Item 4.2

The Council has given no information about the cost of any future developments. There is no commitment to provide funding for the future developments and no evidence of a budget for any developments. This is at odds with the requirements of Policy 39 (Heritage) of the Local Plan and we therefore urge that this Planning Application be rejected.

Previous Plans

In the document "Darwen Town Centre Strategy and Action Plan 2013-2018" we were promised that the Council would:

"Revitalise Darwen Market, improve cleanliness, signage, carrying out repairs, redecoration and make the 3 Day Market more inviting and visible."

And the status of this promise was:

"Options review and costings being undertaken on longer term investments"

Yet within two years this promise was reneged on and an unmandated plan was instigated to close the 3-Day Market.

While the Council is, indeed, entitled to change its mind, these actions and decisions have been taken in opposition to the National Planning Framework and to the detriment of the local community. We therefore urge the Planning Committee to reject this Application until the Council has put forward a suitable replacement scheme to which funding is attached.

Future

Closing the 3-Day Market has caused a lot of damage to both the markets as a whole and the town centre. But it is not irreparable. With a little imagination and very little funding the damage can be reversed.

The first thing to note is that if the 3 day market were to be reopened it would not have the occupancy rates achieved before its closure. There would be a considerable spare space and this could be put to good use for displays, demonstrations and invited markets.

Local schools are largely ignored by the community outside of their own environment. Primary schools could be invited into the market building to put up displays of their work. Children of this age usually do some form of school project (Romans, Greece, Egypt etc.) and their finished projects could be exhibited in the market. This would be a point of pride for them and have a secondary effect of attracting their parents and grandparents into the market. Perhaps the children could dress in appropriate costumes and even give a small performance.

Secondary school pupils could also display their work. Music, art, drama and even science could be included. This would bring old and young together and bridge the gaps between generations. Let the young ones show what they can do. A bit of admiration from the public would boost their confidence no end.

There are many local groups eager to recruit new members. Scouts, guides, dance

Item 4.2

groups, model making, craft, musicians and many others could be encouraged into the building and they would be more than happy to put on exhibitions and demonstrations. As well as attracting more people into the town centre it would also demonstrate that there is more on offer than the mobile phones and television with which they currently occupy their time.

Craft and food markets could be invited. There is a big attraction here for such marketeers. On the one hand there is already a customer base for the visiting retailers and the other addition visitors for the established market.

Faith groups could put on joint displays. Imagine how good for the community it would be for Christian, Muslim and Hindu and other faiths giving a public display of their unity.

There is a unique opportunity for a true community area to be established. Few if any of these events could be staged under the plans put forward here. Darwen could be brought together, old, young and all those between. Ethnic and religious groups, disabled and able-bodied together in the heart of Darwen. If the 3-Day Market is demolished then this opportunity, this future will be lost for ever.

Conclusion

This application should be rejected as it is in breach of the Local Plan and the National Planning Policy Framework. There is no plan in place for future development of the site other than covering the site with tarmac, nor is there funding in place for any replacement for the 3 Day Market.

The site is an important central location located in a conservation area. To turn it into a wasteland area is not acceptable. Darwen, and indeed any town, deserves better than this. Please reject this Planning Application to better enable growth and development of Darwen's historic town centre.

Support Stephen Jepson 89 Manor Road Darwen

I have been reading the press coverage with relation to the above and thought I should let you know that I think its a great idea!

The three day market building is an eyesore, however opening up the area will look visually fantastic and will be great for social gatherings and events, which can only be good for Darwen

The loading bay of the annex may however look uninviting when the market has been demolished, this will need some thought

Keep up the good work
