

# Public Document Pack

## Planning and Highways Committee

Thursday, 21st October, 2021

6.30 pm

Meeting Room 1&2, Blackburn Library, Northgate Entrance

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### AGENDA

- |     |  |           |
|-----|--|-----------|
| 1.  | Welcome and Apologies  |           |
| 2.  | Minutes of the Previous Meeting                                    |           |
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| 3.  | Declaration of Interest  |           |
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|     | Phase 3 Former Sappi Paper Mill, Livesey Branch Road, Feniscowles  | 12 - 23   |
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<b>4.11</b>	<b>Planning Application 21/1078</b> <b>Blackburn Technology Management Centre, 2 Challenge Way, Blackburn</b>	<b>260 - 267</b>
<b>5.</b>	<b>Diversion of Public Footpath 9 Eccleshill</b>  The purpose of the report is to seek committee approval for a public path order under the Town & Country Planning Act 1990, Section 257 to divert Public Footpath 9, Eccleshill  <b>Diversion of Public Footpath 9 Eccleshill</b> <b>FP 9 Eccleshill - Committee Plan.pdf</b>	<b>268 - 273</b>

## **PART 2 - THE PRESS AND PUBLIC MAY BE EXCLUDED DURING CONSIDERATION OF THE FOLLOWING ITEMS**

<b>6.</b>	<b>Enforcement - 3 Belvedere Close, Blackburn</b> <b>Report</b>	<b>274 - 278</b>
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Date Published: Wednesday, 13 October 2021  
Denise Park, Chief Executive

# Agenda Item 2

## PLANNING AND HIGHWAYS COMMITTEE

### Thursday, 16 September 2021

**PRESENT** – Councillors, Councillor David Smith (Chair), Akhtar, Casey, Khonat, Slater, Jan-Virmani, Riley, Browne, Marrow, Baldwin, Desai and Liddle.

**OFFICERS** – Gavin Prescott, Safina Alam, Rabia Saghir & Shannon Gardiner

#### RESOLUTIONS

##### 26 **Welcome and Apologies**

The Chair welcomed everyone to the meeting.

Apologies were received from Councillors Zamir Khan and Dave Harling.

Cllr Sylvia Liddle substituted for Dave Harling.

##### 27 **Minutes of the Previous Meeting**

**RESOLVED** – That the minutes of previous meeting held on 19<sup>th</sup> August 2021 be confirmed and signed as a correct record.

##### 28 **Declaration of Interest**

**RESOLVED** – There were no Declarations of Interest received.

##### 29 **Planning Applications for Determination**

The Committee considered reports of the Strategic Director of Place detailing the planning application

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

##### 29.1 **Planning Application 10/21/0008**

**Applicant** – BXB Land Solutions Ltd

**Location and Proposed Development** – Former Hoddlesden Mill, Johnson New Road, Hoddlesden

Hybrid Application - Full Planning Application & Outline Planning Application, comprising: a) full planning permission for demolition of buildings, remediation works including re-contouring of the site to form development platforms; and b) outline planning permission with all matters reserved, except for means of vehicular access from Johnson New Road, for residential development comprising up to 79 new dwellings.

**Decision under Town and Country Planning Acts and Regulations –**

**RESOLVED** – Approved subject to the conditions highlighted in the Director's report and the Update report

**29.2 Planning Application 10/21/0686**

**Applicant** – LTW Development Ltd

**Location and Proposed Development** – White Lodge Farm, Blackburn Road, Edgeworth BL7 0PU

Variation/Removal of Condition/Minor Material Amendment for Removal of conditions 7 (permitted development rights) and 11 (validation report) pursuant to application 10/20/0019

**Decision under Town and Country Planning Acts and Regulations –**

**RESOLVED** – Approved subject to the conditions highlighted in the Director's report

**29.3 Planning Application 10/20/0914**

**Applicant** – Blackburn with Darwen Borough Council

**Location and Proposed Development** – Blackburn Technology Management Centre, 2 Challenge Way, Blackburn, BB1 5QB

Full Planning Permission - Installation of air source heat pumps (ASHP) including 3 no. ASHP islands with enclosures, and 3 no. brick built external plant rooms adjoining main building

**Decision under Town and Country Planning Acts and Regulations –**

**RESOLVED** – Approved subject to the conditions highlighted in the Director's report

**30 Revisions to the Officer Delegated Planning Powers for the Strategic Director of Place**

A report was submitted to seek the agreement to the changes to the scheme of delegation to officers in respect of planning application.

The Scheme of Delegation was previously changed and approved by the Council Forum in October 2015 in relation to Central Government's performance regime on which local planning authorities were measured, and was then updated on the 22nd July 2021, to take account of the recent changes to the Strategic Director's portfolio responsibilities. Since that time in 2015, Government have revised their definitions of planning application categories, which need to be reflected in the current officer scheme of delegation (pages 84-85) of the Council's Constitution.

It is proposed to make the scheme of delegation clearer, precise and easier to understand for officers and the layperson. In 2016, Central Government removed the "largescale and smallscale major" category, so it is proposed to



remove this definition. In addition, it is considered necessary to clarify what is meant by the “development plan”, and also “commercial development”.

A couple of functions (transport, and markets etc.) were also showing as being removed as they had been moved to the Director of Place, which are reflected in the July 2021 changes to the constitution. The reciprocal amendments to the Planning and Highways Committee powers are referred to in Appendix 3 of this report.

**RESOLVED** – That the changes be presented to Council Forum, on the 7th October 2021, to allow for the Council’s Constitution to be amended relating to the Scheme of Delegation and the powers of the Planning & Highways Committee.

### **31      Enforcement Report**

A report was submitted seeking authorisation to take enforcement action against all persons having an interest in land at 5 Oldfield Avenue, Darwen.

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

**RESOLVED** - Authorisation was given to the proposed enforcement action at 5 Oldfield Avenue, Darwen.

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

<b><u>MATERIAL:</u></b>	<b><u>NOT MATERIAL:</u></b>
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 Growth & Development 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



## BwD Council - Development Control

### General Reporting

**REPORT NAME:** Committee Agenda.

#### REPORT OF THE STRATEGIC DIRECTOR OF PLACE

#### **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, Planning Manager (Development Management) – 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: 21/10/2021**

Application No	Applicant	Site Address	Ward
Application Type			
10/18/1101	Blackburn Waterside Regeneration Ltd Mr John Gladwyn 4th Floor, Queen Victoria House 41-43 Victoria Street Douglas Isle of Man IM1 2LF	Phase 3 Former Sappi Paper Mill Livesey Branch Road Feniscowles Blackburn BB2 5HX	Livesey With Pleasington
Reserved Matters Application for Reserved Matters application (access within the site, landscape, layout, appearance, scale) pursuant to outline 10/15/0496 for Phase 3 comprising of 16,000 sq.ft Industrial Units (B2 Use Class) and associated infrastructure			
<b>RECOMMENDATION: Permits</b>			
10/21/0568	Chaudrey mohammed Yaseen Old Fire Station Yaseen Enterprise Centre Byrom Street Blackburn BB2 2LE	Old Fire Station Yaseen Enterprise Centre Byrom Street Blackburn BB2 2LE	Blackburn Central
Full Planning Application (Retrospective) for Bespoke joinery works/manufacturing furniture - Change of use from class B8 to Class B2			
<b>RECOMMENDATION: Permits</b>			
10/21/0597	Barnfield Blackburn Ltd 8 Kenyon Road Nelson BB9 5SP	Land at Greenbank Terrace Lower Darwen Blackburn BB3 0RN	Blackburn South & Lower Darwen
Reserved Matters Application for Approval of reserved matters for the appearance, layout, scale and landscaping of the employment units 1, 2 and 3, pursuant to permission 10/18/1149			
<b>RECOMMENDATION: Permits</b>			

Application No	Applicant	Site Address	Ward
Application Type			
10/21/0637			
Mrs Sahdia Aslam Priory Croft, Old Hall Lane Pleasington Blackburn BB2 6RJ	Priory Croft Old Hall Lane Pleasington Blackburn BB2 6RJ	Livesey With Pleasington	
Full Planning Application for Proposed covered terrace area to rear, roof terrace to western elevation, increase to ridge height, hip to gable roof alteration, front & rear dormers, a porch and alterations to existing elevations (retrospective).			
<b>RECOMMENDATION: Permits</b>			
10/21/0742			
Mr Usman Shahid 24, Beaumont Way Darwen BB3 3SG	24 Beaumont Way Darwen BB3 3SG	Darwen South	
Full Planning Application for Proposed single storey at rear and conversion of garage into habitable room			
<b>RECOMMENDATION: Permits</b>			
10/21/0747			
Ms Patricia da Silva Ellerslie Bury Fold Lane Darwen BB3 2QG	Ellerslie Bury Fold Lane Darwen BB3 2QG	Darwen South Whitehall	
Variation/Removal of Condition/Minor Material Amendment for Variation of condition 5 pursuant to application 10/21/0090 'Variation of Condition No.5 pursuant to Reserved Matters application 10/19/0642 for the appearance, landscaping, layout and scale for 18 dwellings; pursuant to Outline Approval 10/15/1081 - to amend the design of the proposed houses and include a private access to plot 5' to include a basement floor at plot 5			
<b>RECOMMENDATION: Permits</b>			
10/21/0825			
McDermott Homes Ltd Mr Mark Wilkinson Jupiter House, Mercury Rise Altham Business Park Altham BB5 5BY	Land off Lomond Gardens Blackburn	Livesey With Pleasington Mill Hill & Moorgate	
Variation/Removal of Condition/Minor Material Amendment for Removal of Condition No.7 "CS2 gas protection measures shall be incorporated into the development hereby approved, in accordance with the details specified in the Phase 3 'Environmental Investigation Risk Assessment and Remediation Strategy', Ref. LKC 19 1398, dated December 2019." pursuant to planning application 10/21/0277 "Residential development consisting of 30 dwellings and associated infrastructure works"			
<b>RECOMMENDATION: Permits</b>			
10/21/0879			
Mr Nadeem Sadiq Basement 75B East Park Road Blackburn BB1 8DW	Basement 75B East Park Road Blackburn BB1 8DW	Shear Brow & Corporation Park	
Variation/Removal of Condition/Minor Material Amendment for Variation of Condition No 3 pursuant to planning application 10/12/0158 "Change of use of basement to Internet Cafe (class A1), formation of self-contained flat at first floor and alterations to the eastern elevation" - to increase opening hours to 12pm to 10pm Monday to Sunday, and removal of Condition no.4 to allow for use within Class E			
<b>RECOMMENDATION: Permits</b>			

Application No	Applicant	Site Address	Ward
Application Type			
10/21/0880			
NA-AM Enterprises Ltd 213 Shear Brow Blackburn BB1 8DU	213 Shear Brow Blackburn BB1 8DU	Shear Brow & Corporation Park	
Variation/Removal of Condition/Minor Material Amendment for Variation of Condition No 2 pursuant to planning application 10/12/0487 "Change of use from beauticians to hairdressers" - to increase opening hours to 11am to 10pm Monday to Sunday			
<b>RECOMMENDATION: Permits</b>			
10/21/1005			
Applethwaite Limited Mr David Devine Sceptre House Sceptre Way Bamber Bridge PR5 6AW	Davyfield Farm (former Wellybobs Limited) Roman Road Eccleshill Darwen BB3 3PJ	West Pennine	
Variation/Removal of Condition/Minor Material Amendment for Variation of Condition No.2 pursuant to planning application 10/20/1036 "The erection of 19 no. dwellings, with associated infrastructure and landscaping works" - to introduce natural stone to side and rear elevations previously showing render			
<b>RECOMMENDATION: Permits</b>			
10/21/1078			
Blackburn with Darwen Borough Council Blackburn with Darwen Borough Council Mr Robert Addison One Cathedral Square 3rd Floor Blackburn BB1 1FB	Blackburn Technology Management Centre 2 Challenge Way Blackburn BB1 5QB	Little Harwood & Whitebirk	
Full Planning Application (Regulation 3) for Installation single Air Source Heat Pump (ASHP) to consist of one single ASPH within an enclosure, adjoining plant house and additional landscaping to north boundary			
<b>RECOMMENDATION: Permits</b>			



## **REPORT OF THE STRATEGIC DIRECTOR**

**Plan No: 10/18/1101**

**Proposed development: Reserved Matters Application for Reserved Matters application (access within the site, landscape, layout, appearance, scale) pursuant to outline 10/15/0496 for Phase 3 comprising of 16,000 sq.ft Industrial Units (B2 Use Class) and associated infrastructure**

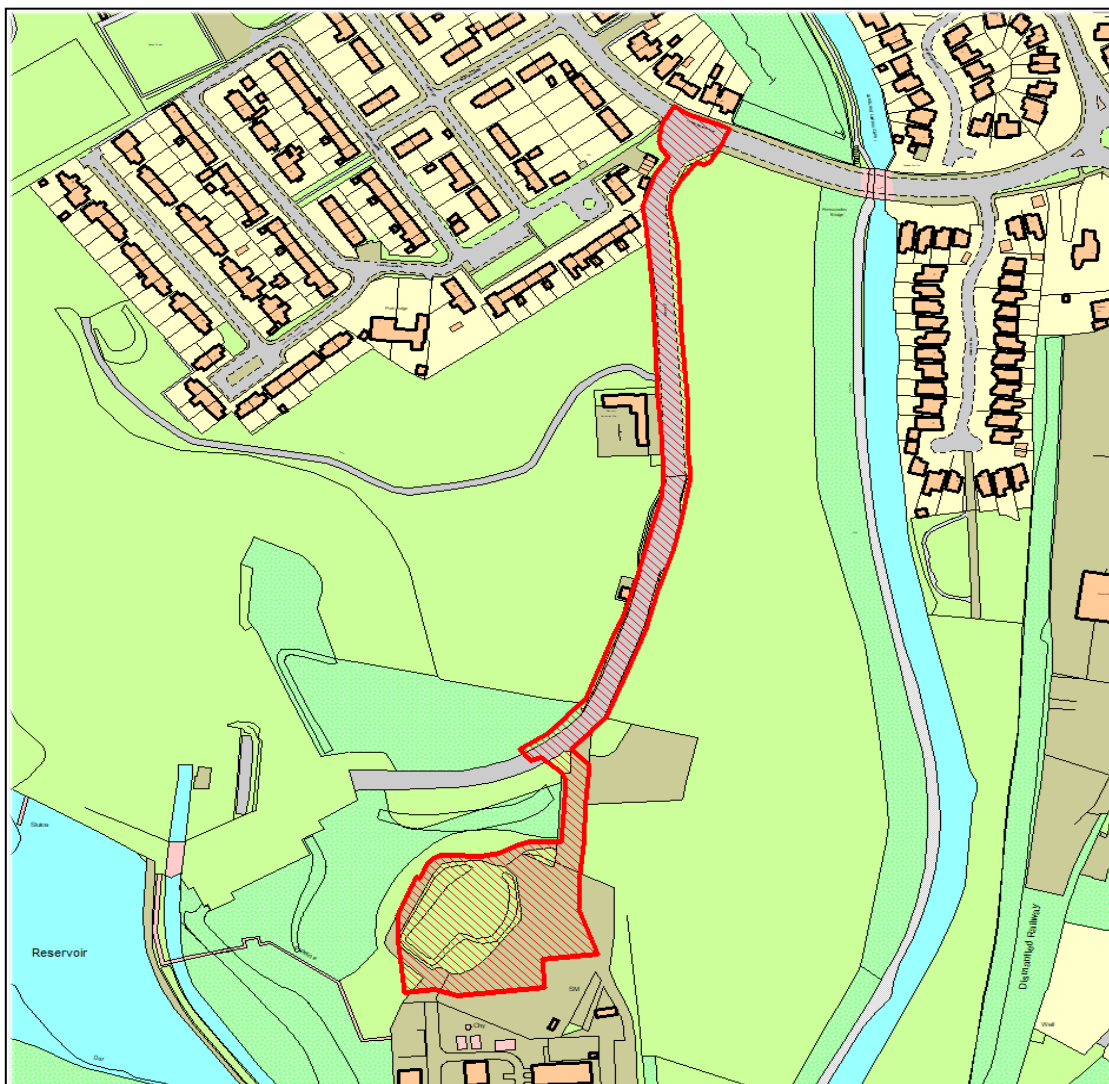
**Site address:**

**Phase 3 Former Sappi Paper Mill  
Livesey Branch Road  
Feniscowles  
Blackburn  
BB2 5HX**

**Applicant: Blackburn Waterside Regeneration Ltd**

**Ward: Livesey With Pleasington**

**Councillor Derek Hardman  
Councillor Paul Marrow  
Councillor Mark Russell**





## **1.0 SUMMARY OF RECOMMENDATION**

- 1.1 **APPROVE** – Subject to the recommended conditions set out within section 4 of this report.

## **2.0 KEY ISSUES/SUMMARY OF PLANNING BALANCE**

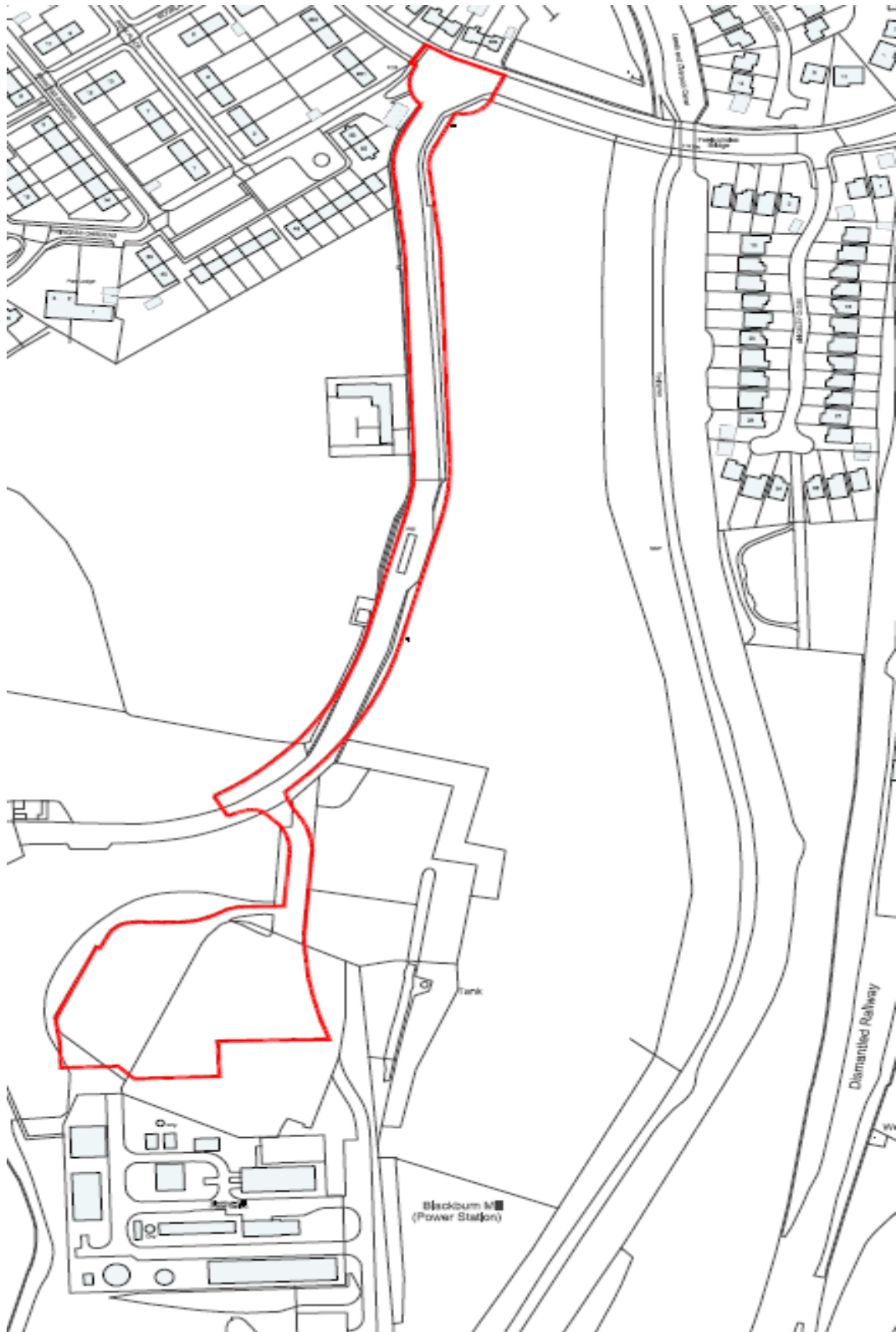
- 2.1 This application is before Members as it relates to phase 3 of the reserved matters to an outline application that was previously considered and approved at the November 2015 meeting of the Planning & Highways Committee.
- 2.2 Planning permission 10/15/0496 related to an outline approval, with all matters reserved save for means of access. The approval allowed for a mixed use development of a maximum of the following: 500 dwellings, 3,224m<sup>2</sup> of office employment (use class B1a), 9,192m<sup>2</sup> of light industrial employment (use class B1c), 333m<sup>2</sup> of retail floor space (use class A1) and a 1,110m<sup>2</sup> community building (use class D1). The proposal also relates to associated ancillary works.
- 2.3 The current reserved matters application will deliver a high quality employment scheme within the Borough, whilst also bringing a brownfield industrial site back in to use. It supports the Borough's planning strategy for job creation as set out in the Core Strategy. The proposal is also satisfactory from a technical point of view, with all issues having been addressed through the application, or capable of being controlled or mitigated through planning conditions.

## **3.0 RATIONALE**

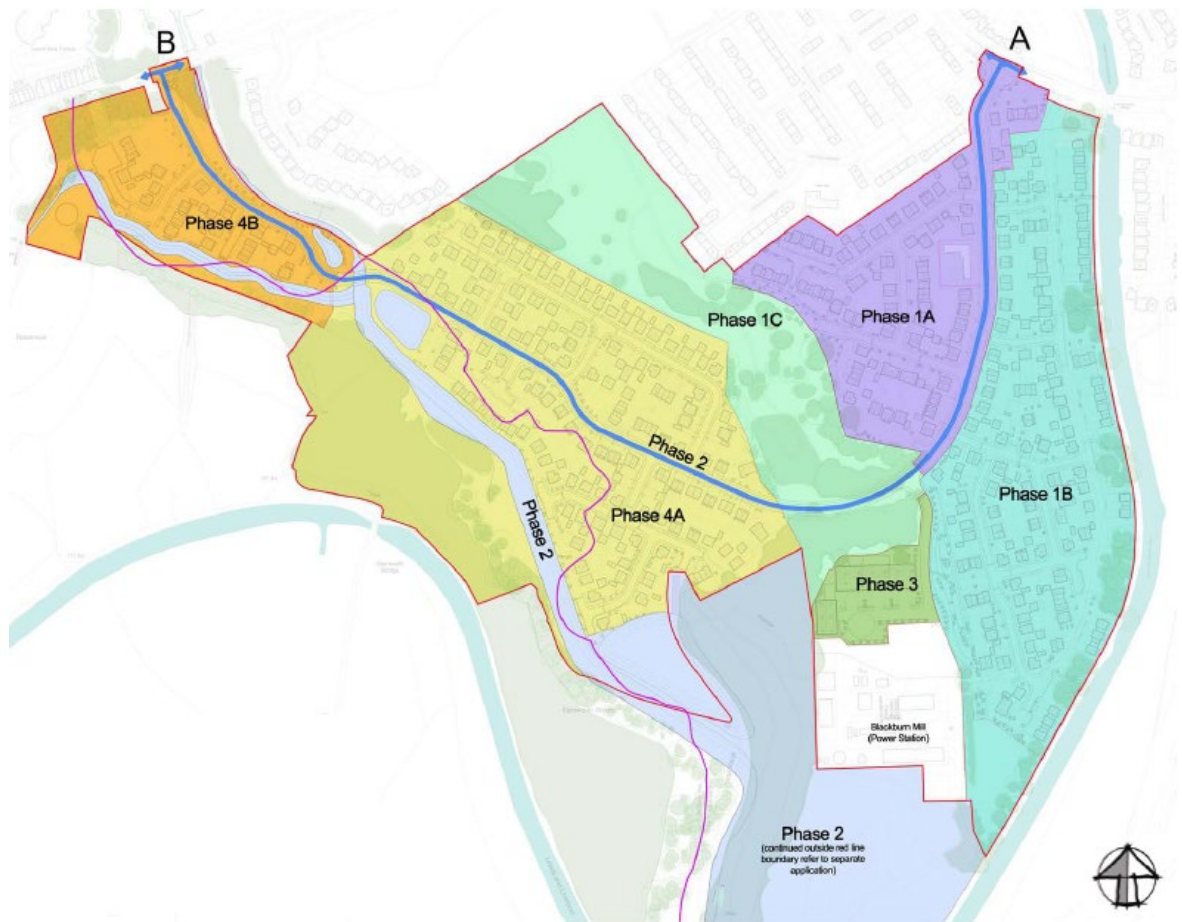
### **3.1 Site and Surroundings**

- 3.1.1 The proposal relates to phase 3 of the redevelopment of the area commonly referred to as the 'SAPPI site' given the last occupant of the majority of the area. The site forms part of an irregular shaped parcel of land positioned to the south west of Livesey Branch Road and south east of Moulden Brow and measuring approximately 26.8 hectares.
- 3.1.2 The SAPPI site has historically been used for industrial activity but the mill buildings have now been demolished and the area is no longer in active use. The southern portion of the site is largely undeveloped and is comprised of woodland and grassland. The River Roddlesworth runs through the site from south to north and is culverted beneath the former mill area within the central portion of the site. The north and east sections of the site are zones of previously undeveloped grassland.
- 3.1.3 The current reserved matters application is identified as Phase 3 of the SAPPI development. Phase 3 sits to the south of the spine road linking the site to Livesey Branch Road. The area is bounded to the east by a residential development parcel, referred to as Phase 1B, whilst the southern edge

bounds the Blackburn Mill Power Station. The northern and western edges are bounded by mature landscaping.



Extract from submitted location plan.



Extract from submitted phasing plan.

## 3.2 Proposed Development

- 3.2.1 The submission is a reserved matters application, addressing access within the site, landscape, layout, appearance, scale; pursuant to outline application 10/15/0496, as amended by application 10/18/0317, for Phase 3 comprising 16,000 sq.ft of class B2 industrial units.
- 3.2.2 The proposal provides for 4no. units, arranged in an 'L' shape around a central parking and servicing area. The units are all equal in size at 4,000 sq.ft, and of single storey construction with a maximum height of 7m. The units are principally constructed with light grey cladding, with feature fibre cement cladding panels in grey/green and brick plinth detail. Each unit has a large roller shutter access door and glazed entrance area.
- 3.2.3 The proposed external areas provides for 29 car park spaces and a shared service and vehicle turning area. The car park spaces are principally located to the front of the units and include landscaping strips.



Extract from submitted proposed site plan.

### 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 and adopted Local Plan Part 2 – Site Allocations and Development Management Policies. 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
  - CS16 – Form and Design of New Development
- 3.3.4 Local Plan Part 2 (LPP2)

Policy 1: The Urban Boundary  
 Policy 7: Sustainable and Viable Development  
 Policy 8: Development and People  
 Policy 9: Development and the Environment  
 Policy 28: Development Opportunities  
 Policy 36: Climate Change  
 Policy 40: Integrating Green Infrastructure & Ecological Networks

### **3.4 Other Material Planning Considerations**

#### **3.4.1 National Planning Policy Framework (The Framework).**

3.4.2 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 (paragraph11).

### **3.5 Assessment**

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

- Principle;
- Design and Layout;
- Highways and access; and
- Amenity impact

#### **3.5.2 Principle of Development:**

The principle of a mix of residential and employment uses within the site has already been considered and accepted through the assessment and subsequent approval of outline application 10/15/0496, as amended by application 10/18/0317

#### **3.5.3 Design and Layout**

Policy 11 of the Local Plan requires development to present a good standard of design, demonstrating an understanding of the wider context and making a positive contribution to the local area. The policy sets out a list of detailed design requirements relating to character, townscape, public realm, movement, sustainability, diversity, materials, colour and viability. This underpins the main principles of sustainable development contained in the NPPF.

3.5.4 The proposal provides for 4no. units, arranged in an 'L' shape around a central parking and servicing area. The units are all equal in size at 4,000 sq.ft, and of single storey construction with a maximum height of 7m. The units are principally constructed with light grey cladding, with feature fibre cement cladding panels in grey/green and brick plinth detail. Each unit has a large roller shutter access door and glazed entrance area.

3.5.5 A detailed design and access statement has been provided which sets out the key design principles, which are taken forward in the application proposals. These include;

- Building layout scale and massing designed to minimise visual impacts on the adjacent residential areas

- Building layout, scale, massing and materials designed to respect the setting of the canal and canal towpath
- Building layout designed to maximise the benefits of the landscape setting, the canal setting and access to the canal towpath
- Parking is to the front of units. This ensures secure spaces are created with high levels of natural surveillance and no casual access.
- The use of defensive planting within the scheme helps to minimise the impact of the development, maintain clear visibilities and allow natural surveillance. The positioning of shrubs and trees will help to provide privacy and security without providing hiding places or opportunities for anti-social behaviour.
- The proposed materials for the commercial buildings will be horizontal grey cladding with accent cladding to the entrances.

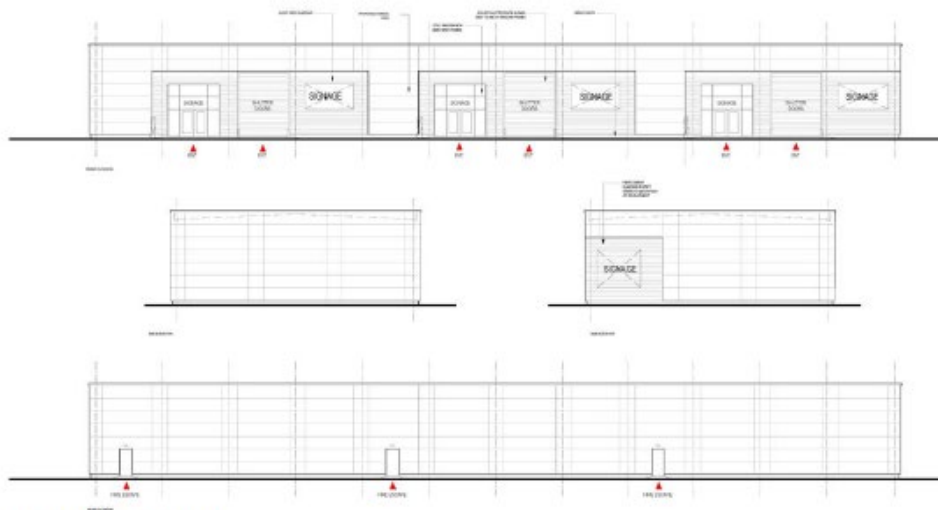


Figure 12: Unit 1 Elevation

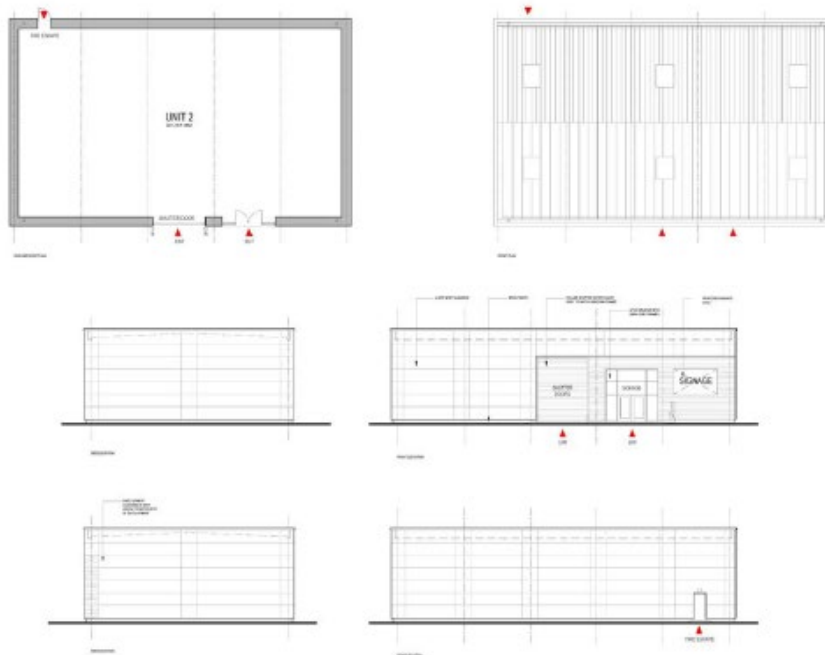


Figure 12: Unit 2 Elevation

Extract from submitted floor plans and elevations:



3.5.6 The comprehensive details submitted illustrate a design and layout which show new buildings, infrastructure and landscaping which accords with the provisions of the relevant policies of the development plan.

### 3.5.6 Highways:

Core Strategy Policy 22: Accessibility Strategy and Local Plan Policy 10: Accessibility and Transport, aim to ensure that new developments provide appropriate provision for access, car parking and servicing so as to ensure the safe, efficient and convenient movement of all highway users is not prejudiced.

3.5.7 The site is currently accessed via an existing priority controlled 'T' junction, located to the east of the site on the A6062 Livesey Branch Road. This provides direct access to the existing CHP Power Plant and the remaining undeveloped land in the lower portion of the site. Planning approval 10/18/0290 provides for a remodelling of the existing junction to reduce its size, removing large expanses of carriageway to form a more compact, safer formalised priority junction. The adjoining internal access road is secured by the deed of variation application 10/18/0740 and will be residential in nature with pedestrian crossing facilities and footways provided on both sides, linking Livesey Branch Road through to Moulden Brow. As a consequence the access arrangements are considered to be satisfactory.



Extract from submitted site plan showing access and parking arrangements:

- 3.5.8 Parking provision for the development, at 29 spaces, is broadly in accordance with the Council's adopted parking standards; 1 space per 60m<sup>2</sup> of floor space. Furthermore, the spaces include a mix of standard car park spaces to adopted standards of 2.4m x 4.8m and larger spaces for light vans of 2.4m x 5.5m.
- 3.5.9 Highway colleagues have requested further information of the servicing arrangements for the development. However, the proposal is a speculative development and full details of the type and numbers of delivery vehicle are not known at this time. The scheme provides for direct access to each unit that will support deliveries, as well as being served by a 21m turning area to facilitate larger vehicles entering and leaving the site in forward gear.
- 3.5.10 Highways colleagues have requested the use of a construction methods condition, though it is unnecessary to attach such a condition to this reserved matters application as one has already been imposed upon the original outline consent 10/15/0496, as amended by 10/18/0317.
- 3.5.11 Subject to the delivery of the spine road – as controlled by the separate deed of variation application 10/18/0740 – matters already controlled by condition within the outline approval for the site and the above suggested condition relating to disabled parking and cycle storage facilities, the proposal can be considered to meet the requirements of Policy 10 of the Local Plan Part 2
- 3.5.12 Residential Amenity:
- Policy 8 of the LPP2 relates to the impact of development upon people. Importantly, at section (ii) of the policy there is a requirement for all new development to secure satisfactory levels of amenity for surrounding uses and future occupiers of the development itself. Reference is made to matters including; noise, vibration, odour, light, dust, privacy/overlooking and the relationship between buildings.
- 3.5.12 Members will note that the technical assessment relating to noise, vibration, odour and dust are already controlled by planning conditions associated with the outline approval for the site.
- 3.5.13 The proposed commercial units are modest in scale, with a maximum height of 7m. They are positioned approximately 40m away from the nearest residential unit within Phase 1b. The distance serves to ensure there is no prospect of loss of amenity due to overlooking/loss of privacy or the relationship between buildings.
- 3.5.14 The Council's Head of Public Protection has again requested a number of conditions to limit potential harm to future users of the site and occupants of the dwellings within the surrounding phases of development. These include; the use of a maximum noise level condition, restricting maximum day time noise levels to 45dB and night time to 35dB when measured from any residential property; restricting delivery and dispatch times to the following times; Monday to Friday 7:30am to 20:00pm, Saturday 8:00am to 18:00pm,



No delivery or dispatch on Sundays and Bank Holidays; and standard land contamination conditions. Given the same conditions are imposed upon the outline approval there is no requirement to attach the conditions to this reserved matters application.

- 3.5.15 In summary, the suite of conditions imposed upon the outline permission, allied to the physical form and layout of the new buildings detailed within this reserved matters application, serve to ensure amenity standards will not be unduly affected. Accordingly, compliance with LLP2 Policy 8 is achieved.

## **4.0 RECOMMENDATION**

### **4.1 APPROVE subject to the following conditions;**

1. Unless explicitly required by condition within this consent, the development hereby permitted shall be carried out in complete accordance with the proposals as detailed on drawings:

P17 5150 40; 17 5150 05E; 17 5150 33; 17 5150 34; 17 5150 35; 17 5150 66; and 17 5150 68

REASON: For the avoidance of doubt and to clarify which plans are relevant to the consent.

## **5.0 PLANNING HISTORY**

- 5.1 10/12/0048 – Prior Approval for complete demolition of former Sappi Paper Mill including all outbuildings, tanks and enclosures down to the slab level of each structure (Approved March 2012)

10/13/1011 – Environmental Impact Assessment screening request; mixed use development comprising residential and employment uses (EIA not required, November 2013)

10/15/0496 – Outline application for a maximum of the following: 500 dwellings, 3,224m<sup>2</sup> of office employment (use class B1a), 9,192m<sup>2</sup> of light industrial employment (use class B1c), 333m<sup>2</sup> of retail floor space (use class A1) and a 1,110m<sup>2</sup> community building (use class D1). (Approved November 2015)

10/18/0290 – Reserved Matters application (access within the site, landscape, layout, appearance, scale) pursuant to outline application 10/15/0496 for Phase 1a comprising of 95 dwellings and associated infrastructure

10/18/0317 – Variation of conditions 2, 6, 14, 15, 16, 18, 19, 22, 29, 32, 33, 36, 37, 38, 40, 41, 43 and 44 pursuant to planning application 10/15/0496

10/18/740 - Variation to Section 106 Planning Obligation for planning Application 10/15/0496

10/18/1097 - Reserved Matters Application (access within the site, landscape, layout, appearance, scale) pursuant to outline 10/15/0496 for Phase 1b comprising of 141 dwellings and associated infrastructure

10/19/1072 - Variation of condition No. 6 pursuant to planning application 10/18/0290 'Reserved Matters application (access within the site, landscape, layout, appearance, scale) pursuant to outline application 10/15/0496 for Phase 1a comprising of 95 dwellings and associated infrastructure' to allow for design changes to house types K and A1

- 5.2 Additionally, a significant number of planning applications relating to the historical use of the site have been identified, but none are considered to be relevant to the determination of the current application.

## **6.0 CONSULTATIONS**

### Public Protection:

No objection, subject to conditions relating to; maximum noise levels at the boundary of any residential property (Day-time level - 45dB and Night-time level - 35dB) ; restricted delivery and dispatch from the employment area (Monday to Friday 7:30am to 20:00pm, Saturday 8:00am to 18:00pm, No delivery or dispatch on Sundays and Bank Holidays); standard land contamination conditions

### Lead Local Flood Authority:

No objection.

### Highways:

Vehicular access to the property is to be taken from a new access road which links directly to Star Drive and Livesey Branch Road beyond. The road width is 4.5m and supported by a footway on one side of the carriageway. Pedestrian access is provided from Star Drive and leading up to each individual unit, this is acceptable.

The proposal generates a parking requirement of 28 spaces when considered against the Council's adopted parking standard. The scheme provides for 29 spaces, which is acceptable.

No servicing details have been provided, given the speculative nature of the development.

### Environmental Services:

No objection.

Public Consultation:

Public consultation has taken place, with 216 neighbouring properties individually consulted via letter, site notices displayed and press notices issued. No representations have been received.

**7.0 CONTACT OFFICER: Martin Kenny, Principal Planner**

**8.0 DATE PREPARED: 5<sup>th</sup> October 2021**

## **REPORT OF THE STRATEGIC DIRECTOR**

**Plan No: 10/21/0568**

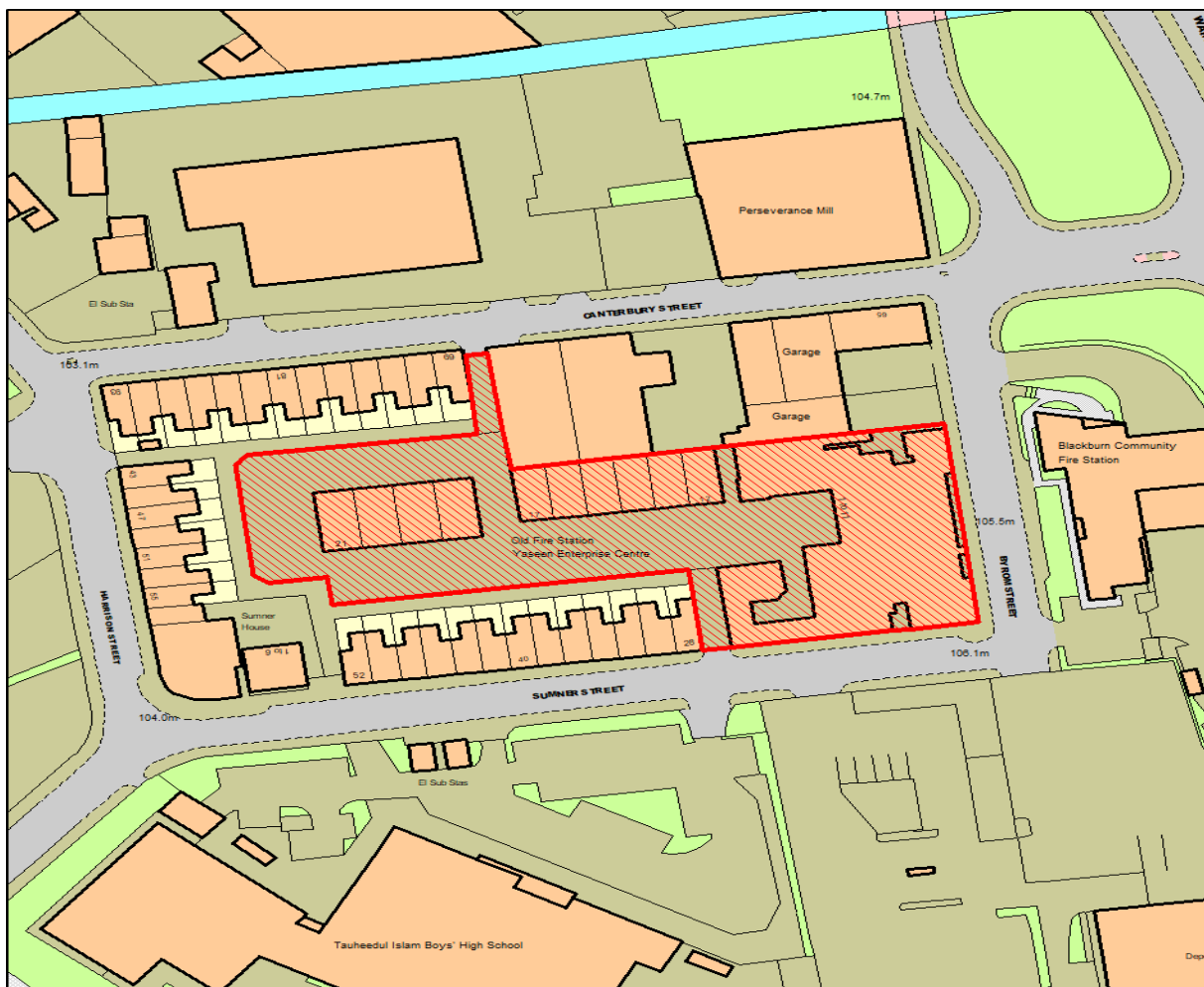
**Proposed development: Full Planning Application (Retrospective) for Bespoke joinery works/manufacturing furniture - Change of use from class B8 to Class B2**

**Site address:  
Old Fire Station Yaseen Enterprise Centre  
Byrom Street  
Blackburn  
BB2 2LE**

**Applicant: Chaudrey mohammed Yaseen**

**Ward: Blackburn Central**

**Councillor Samim Desai  
Councillor Mahfooz Hussain  
Councillor Zamir Khan**



## **1.0 SUMMARY OF RECOMMENDATION**

1.1 APPROVE – Subject to conditions, as set out in paragraph 4.1

## **2.0 KEY ISSUES/SUMMARY OF PLANNING BALANCE**

2.1.1 The application is reported to the Committee in accordance with the Scheme of Delegation as the works are retrospective and due to the volume of representations received from local residents.

2.1.2 This retrospective application relates to the proposed change of use of Units 20 and 21 (formerly Class B8) within the enclosed former Fire Station site, to a joinery business (Class B2).

2.1.3 The various industrial units within the site were previously approved under planning ref 10/18/1093. This retrospective application is submitted following complaints to the Council from local residents about noise and disturbance relating to the unauthorised Class B2 planning use of the units. The B2 use is thought to have been in operation since 2019.

2.1.4 A number of representations were received, including two petitions (one in support, and one against) following publicity of the application, and a Petitions Report was presented to members at the 19th August 2021 Committee.

2.1.5 Following initial concerns raised by Public Protection Officers, the applicant submitted a noise assessment, on 20th September 2021, which has addressed the initial concerns.

2.1.6 Assessment of the application finds that the proposal is, on balance, acceptable, subject to conditions. The economic benefits of the proposal are in accordance with the Council's strategic aims and objectives for economic growth. The proposal is also satisfactory from a technical point of view, with all issues having been addressed through the application or capable of being controlled or mitigated through robust planning conditions. The conditions are considered reasonable and necessary, protecting local residential amenity whilst not unduly compromising the ability of the business to operate as a joinery.

## **3.0 RATIONALE**

### **3.1 Site and Surroundings**

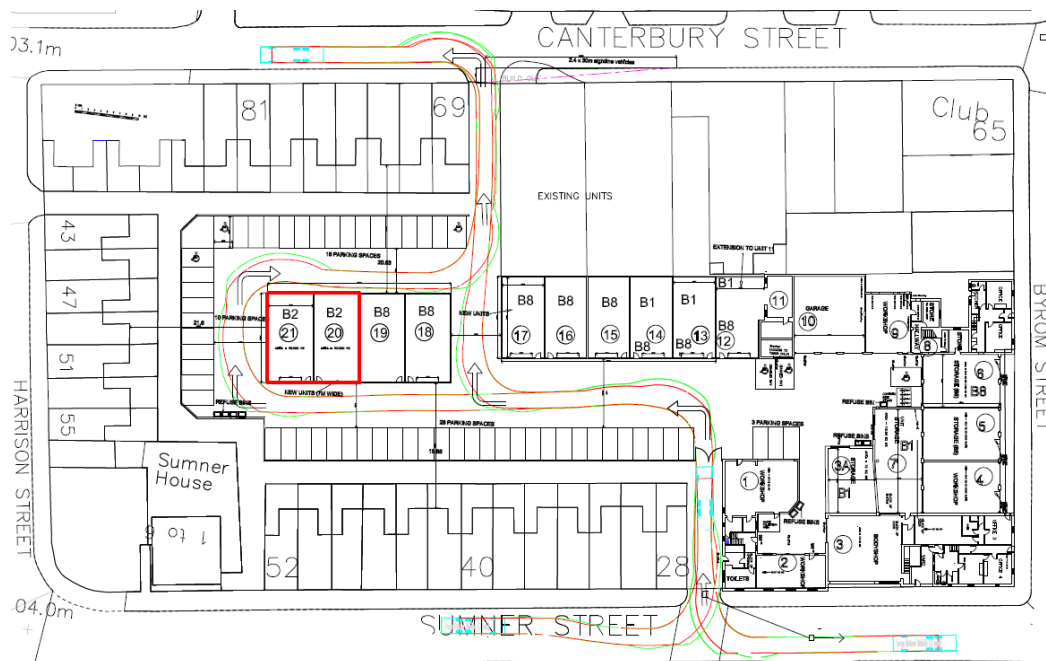
3.1.1 The former Fire Station site is bounded on 3 sides by the rear yards of residential premises, separated only by boundary walls and an alleyway. It is located within the Blackburn Inner Urban area; an Article 4 area; and Coal Low Risk area.

3.1.2 The surrounding area is generally characterised as mixed residential and commercial, with the Tauheedul Islam Boys High School located on the opposite side of Sumner Street. The site is located in what was previously regarded as a mixed use area, but now has no specific designation. It is also located between two Employment Land allocations: St. Peter's Quarter, centred on Freckleton Street to the north, and The Wranglings to the west beyond Harrison Street.

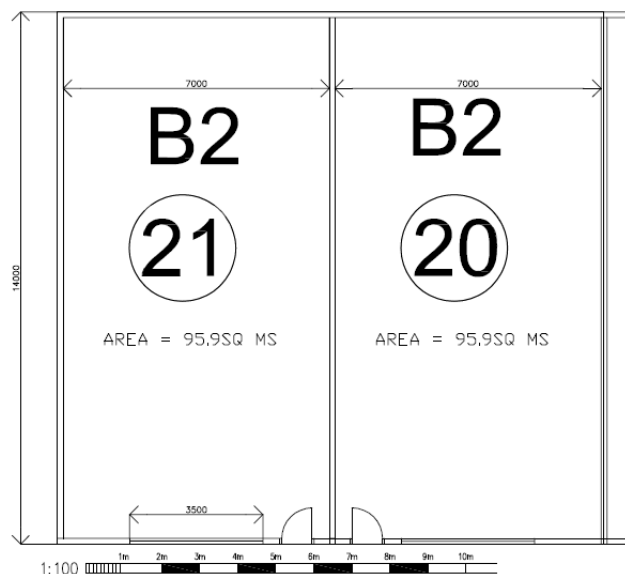
3.1.3 The units the subject of this application are located to the west of the site. A Grade II listed building is located to the east of the site. Access to the site is taken from Sumner Street, with egress on to Sumner Street.

### 3.2 Proposed Development

3.2.1 A Full planning permission is sought for a retrospective change of use of Units 20 and 21 to a joinery (Class B2). The proposed site and floor plans, as submitted by the applicant, are shown below:



## CHANGE OF USE - NO CHANGES PROPOSED



Photos of the site, taken 9<sup>th</sup> June 2021.

### 3.3 Development Plan

- 3.3.1 Section 38(6) of the Planning and Compulsory Purchase Act 2004 requires that applications be determined in accordance with the development plan unless material considerations indicate otherwise.
- 3.3.2 The Development Plan comprises of the Core Strategy (2011) and Local Plan Part 2 – Site Allocations and Development Management Policies (2015). In determining the current proposal the following are considered to be the most relevant policies.

### 3.3.3 Core Strategy

- Policy CS1: “A Targeted Growth Strategy”
- Policy CS4: “Protection and Re-Use of Employment Sites”
- Policy CS17: “Built and Cultural Heritage”

### 3.3.4 Local Plan Part 2

- Policy 8: “Development & People”
- Policy 10: “Accessibility & Transport”
- Policy 11: “Design”
- Policy 39: “Heritage”

## 3.4 **Other Material Planning Considerations**

### 3.4.1 National Planning Policy Framework (NPPF)

- Section 2: “Achieving Sustainable Development”
- Section 6: “Building a strong, competitive economy”
- Section 16: “Conserving and enhancing the historic environment”

## 3.5 **Assessment**

3.5.1 In assessing this full application the following important material considerations are taken into account:

- Principle
- Amenity
- Highways
- Design and heritage

### 3.5.2 Principle

3.5.3 The Development Plan reaffirms The Framework’s principles of sustainability which includes support for sustainable economic development and encouragement of effective re-use of land; subject to the principles of high quality design, and securing a good standard of amenity for all existing and future occupants of land and buildings.

3.5.4 The Council’s Core Strategy sets ‘Targeted Growth’ as the overarching aim, with access to jobs and services as a key priority. Policy CS1 promotes development largely in the urban area, with particular reference to employment and service development.

3.5.5 Whilst no specific designation is accorded to the setting in the Local Plan Part 2, a mixture of uses characterise the area. The Local Plan Part 2 sets out the importance of ensuring a portfolio of land available which can accommodate “different types of businesses at every stage of their growth” and ensure that “individual proposals to establish, expand or reconfigure business space are



met with a supportive response” (Paragraph 3.2). This accords with the economic objective set out in Paragraph 8 of the NPPF.

3.5.6 The site is surrounded by residential dwellings. However, it already benefits from a mix of Class B1/B8 units. Units 20 and 21 have been in use by a local joinery business since 2019. However, they are presently restricted to a Class B8 use.

3.5.7 Given the existing industrial use of the site, and the mixed character of the area, the general principle of a Class B2 general industrial use in this location is considered acceptable, in accordance with the NPPF’s presumption in favour of sustainable development, which should proceed without delay, unless impacts which significantly and demonstrably outweigh the benefits of a proposal are identified; subject to assessment of the following matters:

#### 3.5.5 Amenity

3.5.6 Policy 8 of the Local Plan 2 requires development to secure an acceptable level of amenity for neighbouring – particularly residential – uses in terms of noise, odour and other potential sources of nuisance.

3.5.7 Most of the Class B8 units, including Units 20 and 21, are positioned to the west of the site, closest to residential properties. The Class B1 units are all positioned further east. The nearest dwellings to Units 20 and 21 are circa 20m away on all 3 sides (Harrison Street to the west, Sumner Street to the south, and Canterbury Street to the north), and a number of objections have been received, predominantly about noise and disturbance.

3.5.8 The principal concern is therefore the level of noise that would potentially be associated with the proposed units.

3.5.9 Conditions 6 and 7 of the existing approval for the whole site 10/18/1093 relate to amenity considerations. The current hours of use are restricted to the hours of 08:00 and 21:00 Monday to Friday, 09:00 and 18:00 on Saturdays and not at all on Sundays or Bank Holidays. In addition, roller shutter(s) fitted to the units must be electrically operated to minimise noise and business activities, and noise inducing activities will be expected to be operated with the roller shutters down.

3.5.10 A number of options were considered to mitigate against the potential noise impacts for a Class B2 use in this location, and a noise assessment was requested and submitted by the applicant during assessment of this application. The noise report concludes that the use is acceptable, subject to mitigation measures. The report was assessed by Council’s Public Protection Officer, who in conclusion raises no objection to the proposal, subject to the mitigation measures set out in the conditions.

3.5.11 It was considered that running a joinery business with the shutters down would not be entirely practical, given the lack of windows, so it was agreed with the applicant that a condition also be attached to ensure an appropriate air ventilation scheme is submitted to and approved by the Council within 5

months of the decision date. The reason for this condition is twofold: to ensure good working conditions for the joinery workers, and also to minimise the likelihood of the roller shutters being left open, which would be a breach of condition, resulting in unacceptable noise and disturbance to neighbours.

3.5.12 On balance, with the relevant conditions, the impact on residential amenity is considered to be acceptable, and the proposal does not conflict with Policy 8 of the Local Plan 2 or the Framework.

### 3.5.13 Highways

3.5.14 Local Plan Policy 10 allows development proposals provided it has been demonstrated that road safety and the safe, efficient and convenient movement of all highway users is not prejudiced; and appropriate provision is made for vehicular access, off-street servicing and parking in accordance with the Council's adopted standards.

3.5.15 For the approval 10/18/1093, the Highways Officer initially expressed concern at the entrance and exit points proposed for the site, as these had been gated under the Council's Alley Gates Order. However, agreement was reached to have this order revoked and the alley gates removed. Highways had also expressed concern at the under provision of car parking spaces, but with clarification of the uses of each unit and some amendment to parking layout, the Council's parking standards were considered to be achieved. The layout of the parking arrangement conformed to the council's standard bays sizes and manoeuvrability of vehicles into and out of the bays.

3.5.16 This current application would make no changes to the previously approved access, parking or servicing details, which were assessed under the previous approval 10/18/1093. However, it would introduce a Class B2 use into a unit that was previously assessed against the required standards for a Class B8 use. The adopted parking standards require more parking spaces for a Class B2 use than a Class B8 use, but in this case, the change in parking only equates to an overall increase of 1 space. Both the case officer and the Council's Highways Officer have undertaken a site visit, and the car park is not currently operating to full capacity. It is therefore considered that the slight increase in the parking requirement can be absorbed into the existing site layout. Consequently the Council's Highways Officer has raised no objections to the proposal.

3.5.17 It is therefore considered that the proposed development accords with the Local Plan 2 Policy 10 in relation to highways considerations and the NPPF.

### 3.5.18 Design and Heritage

3.5.19 Policy 39 of the Local Plan requires all development with the potential to affect any designated or non-designated heritage asset, either directly or indirectly including by reference to their setting, will be required to sustain or enhance the significance of the asset.

3.5.20 The proposed change of use would not involve any alterations to the external elevations of the units, and the change of use of these units on the east side of the site, would have a neutral impact on the Grade II Listed Building which is located to the west side of the site. It would cause no undue harm to the heritage asset, and the proposal is therefore in accordance with Policies 11 and 39 of the Local Plan Part 2.

#### 3.5.21 Summary

3.5.22 This report assesses the full planning application for retrospective change of use of one of the Class B8 units within the site to a joinery (Class B2). In considering the proposal, a wide range of material considerations have been taken into account. The assessment demonstrates that the planning decision must be made in the context of assessing the merits of the proposal balanced against any potential harm that may arise from its implementation. This report finds that the proposal, subject to conditions to mitigate against the identified impacts, meets the policy requirements of the Blackburn with Darwen Core Strategy, Local Plan Part 2, and the National Planning Policy Framework.

## 4.0 RECOMMENDATION

### 4.1 **APPROVE subject to the conditions below:**

1. Unless explicitly required by condition within this consent, the development hereby permitted shall be carried out in complete accordance with the proposal received 16th February 2021 and with the following drawings numbered:

Location Plan, scale 1:1250.

Block Plan, scale 1:500.

Site plan, scale 1:200.

Existing and Proposed plans, scale 1:100.

Noise survey: BS4142:2014+A1:2019 IMPACT ASSESSMENT  
R1992-REP01-PC, 16 SEPTEMBER 2021, by Red Acoustics.

REASON: For the avoidance of doubt and to clarify which plans are relevant to the consent.

2. Roller shutter doors must be kept shut whilst power tools, saws or hammers are in use within the units. Other doors shall be fitted with self-closers and not kept open.

REASON: To safeguard amenity at neighbouring residential premises in accordance with Policy 8 of the Blackburn with Darwen Borough Local Plan Part 2.

3. A ventilation scheme to maintain adequate thermal comfort and control dust shall be submitted by the developer. The scheme will not rely upon ventilation through open doors or roller shutters, and it will evaluate the impact of ventilation system noise upon nearby premises. It will be agreed

in writing by the Local Authority, implemented within 5 months of the date of this decision notice, and retained thereafter.

REASON: To safeguard amenity at neighbouring residential premises in accordance with Policy 8 of the Blackburn with Darwen Borough Local Plan Part 2.

4. The use hereby permitted at Units 20 and 21 shall only take place between the hours of 08:00 and 18:00 Monday to Friday, 09:00 and 13:00 on Saturdays and not at all on Sundays or Bank Holidays.

REASON: To safeguard amenity at neighbouring residential premises in accordance with Policy 8 of the Blackburn with Darwen Borough Local Plan Part 2.

5. The premises at Units 20 and 21 shall be used for joinery/ furniture manufacture, and for no other purpose, including any other purpose in Class B2 of the Town and Country Planning (Use Classes) Order 1987 (as amended).
6. REASON: To safeguard amenity at neighbouring residential premises in accordance with Policy 8 of the Blackburn with Darwen Borough Local Plan Part 2.

## **5.0 PLANNING HISTORY**

- 5.1 10/18/1093: Construction of 11 single storey units (part retrospective for units 3A and 7), extension to unit 11 and change of use of unit 6 to flexible uses B1 (offices and light industrial) and B8 (storage), access, car parking and new boundary treatment – Approved 27 March 2019.
- 5.2 10/19/0558 (discharge of conditions 1-4 relating to 10/18/1093)
- 5.3 10/19/0910 (variation of condition 12 relating to 10/18/1093)
- 5.4 10/19/1200 (discharge of condition 5 relating to 10/19/0910).

## **6.0 CONSULTATIONS**

- 6.1.1 The planning application was received by the Local Planning Authority (LPA) on 01st June 2021. Neighbour consultation letters were sent out on 11th June 2021 to 99 addresses local to the application site. In addition, a site notice was displayed on 9th June 2021, and a press notice was published in the Lancashire Telegraph on 23rd June 2021.
- 6.1.2 In response, a number of objections and letters of support were received. Two petitions, one in favour, and one against, were reported to committee on 19th August 2021. See summary of representations for objections and support received.

6.1.3 Petition in support:

6.1.4 The first petition supports the proposed change of use to a B2 use, and was submitted by Mr Yaseen (the applicant). The petition includes individual typed letters on a standard pro-forma, with individual names, date and addresses hand written. The letters are headed:

6.1.5 *"I am writing to support the above application. There have been no problems or noise from this site as currently operating from the former fire station as it is well managed therefore I support the above application and have no objections".*

6.1.6 The petition contains 32 signatures (from 30 different addresses), largely from residents on Harrison Street, Sumner Street and Canterbury Street, which directly adjoin the application site. It also includes signatures from occupiers of some of the adjacent business units. These signatures are appended to this report.

6.1.7 Petition objecting:

6.1.8 The second petition objects to the proposed change of use to a B2 use. The petition is headed:

6.1.9 *"I have put this petition together on behalf of me and my neighbours, as some of my neighbours don't speak English or understand how our laws work. I have read to them or a family member about what this petition is about. We the undersigned do not want Unit 21, Custom Joinery, Old Fire Station, Yaseen Enterprise Centre, Byrom St, Blackburn, to change the use from storage, as noise from the machines, dog barking, and men shouting and swearing is too close to the houses and creates too much noise which disturbs residents".*

6.1.10 The petition contains 18 signatures, which are again predominantly from residents on Harrison Street, Sumner Street and Canterbury Street, which directly adjoin the application site.

6.2 Cllr Zamir Khan, Blackburn Central ward

I'm happy for it to go ahead, I have no objections.

6.3 Highways Officer

No objections, subject to standard conditions/informatives:

The details received have been reviewed and a site visit has been undertaken.

The proposal seeks consent for bespoke joinery works/manufacturing furniture - Change of use from class B8 to Class B2.

Parking

Having reviewed the submission in accordance with the adopted parking standards, no additional parking has been offered in support of the change from B8 to B2. This change in parking terms is an increase of 1 space.

Having visited the site, we would be minded to accept that this increase can be facilitated with the car park, which is not operating at full capacity at present.

I see no evidence of cycle parking/PTW, please confirm the location of this in support of the application. If it's external then adequate security and coverage should be provided. The cycle and ptw should be site near the entrance of the building.

#### **Access**

From my assessment of the application there are no changes proposed to the access. This continues to operate as a one way system (in from Sumner Street and out onto Canterbury Street).

#### **Servicing**

No details on volume of vehicles that will visit the site are offered or type of vehicles. A swept path would be required for larger vehicles which are to visit the site.

To conclude, we offer no objections to the application, subject to the above matters being addressed satisfactorily.

**Please note:** Prior to the commencement of any works that affect or adjoin the adopted highway – contact is to be made with the local highway authority officer Simon Littler on Mob: 07766 578007

Please attach standards conditions/Informatives: Highways, 10, 11, 12, 15, and 17

#### **6.4 Cleansing**

No objections.

#### **6.5 Public Protection**

No objections, subject to conditions:

The applicant's acoustic assessment concludes that noisy joinery activity with the roller shutter doors open will result in a significant adverse impact at neighbouring homes. It also predicts that the impact will be low with the roller shutter doors closed.

One option is to impose a condition requiring that the roller shutter doors are kept closed when noisy joinery work is ongoing. However I acknowledge that this approach isn't ideal:

1. They are likely to breach the condition and keep the roller-shutter doors open, particularly during summer months.
2. If the doors are kept shut there will be inadequate ventilation unless some alternative mean of ventilation is provided (i.e. that doesn't rely on open doors/shutters and doesn't introduce a new opening that lets out a significant amount of noise).

Unfortunately, I'm not aware of an alternative practicable approach that would resolve the noise problem, other than refusing the application.

Therefore, if the application is approved I recommend the following conditions.

Condition – Doors

Roller shutter doors must be kept shut whilst power tools, saws or hammers are in use within the units. Other doors shall be fitted with self-closers and not kept open.

REASON: To safeguard amenity at neighbouring residential premises in accordance with Policy 8 of the Blackburn with Darwen Borough Local Plan Part 2

Condition – Ventilation

A ventilation scheme to maintain adequate thermal comfort and control dust shall be submitted by the developer. The scheme will not rely upon ventilation through open doors or roller shutters, and it will evaluate the impact of ventilation system noise upon nearby premises. It will be agreed in writing by the Local Authority, implemented within 4 months of the date on this decision notice, and retained thereafter.

REASON: To safeguard amenity at neighbouring residential premises in accordance with Policy 8 of the Blackburn with Darwen Borough Local Plan Part 2

Condition - Hours Restriction

The uses hereby permitted shall only take place between the hours of 08:00 and 18:00 Monday to Friday, 09:00 and 13:00 on Saturdays and not at all on Sundays or Bank Holidays.

REASON: To safeguard amenity at neighbouring residential premises in accordance with Policy 8 of the Blackburn with Darwen Borough Local Plan Part 2

Condition – Permitted Use

The premises shall be used for joinery/ furniture manufacture, and for no other purpose, including any other purpose in Class B2 of the Town and Country Planning (Use Classes) Order 1987 (as amended).

REASON: To safeguard amenity at neighbouring residential premises in accordance with Policy 8 of the Blackburn with Darwen Borough Local Plan Part 2

6.6 Growth Lancashire (Heritage Officer)

No objections:

*Site / Building / Location*

The site location is a Grade II listed Former fire station (List Entry Number: 1462727), 1915-1921, designed by Walter Stirrup of Blackburn and Manchester. The former Blackburn Fire Station is a large complex with a U-shaped plan comprising of a two-storey main block

fronting Byrom Street and single-storey ancillary ranges and a drill tower at the rear, along with a large former drill yard. Constructed from pressed red brick with sandstone dressings and slate roof coverings in a Greek Revival style with Beaux Arts and Baroque influences. The site was granted permission for the erection of modern units to the rear of the building, prior to the building being granted its Listed status. The site is surrounded on three sides by terraced housing originally built to house the firefighters and their families, with new buildings in close proximity, including the new fire station. The building is bounded by Byrom Street to the east, Sumner Street to the south, Harrison Street to the west and Canterbury Street to the north.

### *Legislation*

The principle statutory duty under the Planning (Listed Building and Conservation Areas) Act 1990 is to preserve the special character of heritage assets, including their setting. LPA's should, in coming to decisions, consider the principle Act. Which states the following;

#### Listed Buildings - Section 66(1)

In considering whether to grant planning permission for development which affects a listed building or its setting, the local planning authority shall have special regard to the desirability of preserving the building or its setting or any features of special architectural or historic interest which it possesses.

### *Local Plan*

Policy CS17 (Built and Cultural Heritage)

Local Plan Part 2 – Policy 39.

I have reviewed the supporting documents, which include existing and proposed plans and a brief Heritage Statement.

The key heritage issue for the LPA to consider is:

1. Whether the proposal would harm the setting of the Grade II listed building.

### *The proposal*

The proposal related to a retrospective application for the Change of use from class B8 to Class B2 to accommodate Bespoke joinery works and the manufacturing of furniture.

#### *Conclusion*

As I am required to do so, I have given the duty's imposed by s.72(1) of the P(LBCA) Act 1990 considerable weight in my comments.

I can confirm that as the present Units were given planning permission before the Old Fire Station became listed and as the Change of Use does not include any material changes, there will be no harm caused to the contribution made by the setting to the significance of the listed building. As such, the Change of Use meets the statutory test 'to preserve' and no balancing exercise is required as per NPPF P.196. Furthermore, the proposal meets the objectives of Chapter 16 of the NPPF and accords with the policies of the Local Plan.

**7.0 CONTACT OFFICER: Tom Wiggans, Planner**

**8.0 DATE PREPARED: 7<sup>th</sup> October 2021**



## 9.0 SUMMARY OF REPRESENTATIONS

### **Objection – Debra Brown, 53 Harrison Street, Rec 21.06.21**

To whom it may concern I do not wish this to be changed as I have tried with jays properties to raise the issue of a dog barking and unit 21 being the noisiest unit on there he chose to put them closest to the houses when he could have easily put them somewhere else on the site as other units are solely for storage to make matters worse jays properties have informed me that as long as they get rent money they do not care how the site is used he also informed unit 21 my address and that I was complaining which resulted in me being threatened by the owners of it which resulted in the police telling them to keep away from my home they come either late at night or early morning to load there van ready for delivery I am not the only one complaining about this unit but unfortunately for my neighbours they think that talking to jays properties will solve the issues and clearly the owners of the units do not care anything about residents as long as the money keeps coming in I hope that planning will take this in to consideration when making your decision Debra Brown 53 Harrison street BB2 2JE

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### **Support – Cllr Zamir Khan, Rec 22.06.21**

Hi

I'm happy for it to go ahead, I have no objections.

kind regards

Cllr Zamir Khan  
Elected Member Blackburn Central ward  
Assistant Executive member Public Health & Wellbeing

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Petition from Residents, Rec 28.06.21

Planning Application 10/21/0568

I have put this petition together on behalf of me and my neighbours, as some of my neighbours don't speak english or understand how our laws work. I have read to them or a family member what this petition is about. We the undersigned do not want Unit 21, Custom Joinery, Old Fire Station Yaseen Enterprise Centre, Byron St, Blackburn to change the use from storage, as the noise from the machines, big banging and men shouting & swearing is too close to the houses and creates too much noise which disturbs residents.

53 HARRISON ST.

47 " "

43 " "

89

81

73

71 Canterbury St

77 Canterbury St.

75 Canterbury St.

8 South St, BB3 3HQ

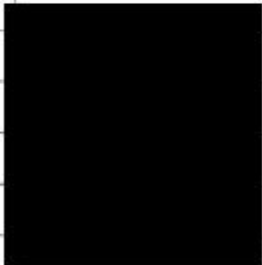
NO 77 Canterbury Street.

50 SUMER ST.

50 SUMER ST.



93 Canterbury Street BB22 4HT  
4 cattle Market flats  
Harrison Street Blackburn  
BB2 2JE



57 Harrison Street BB2 2JE

Flat 6 Summer House BB22 2D  
10 cattle Market Flat BB2 2JE

**Letters & petition for support received:**

To:

Blackburn Council

Planning Department

Dear Sir/Madam,

Application Reference 10/21/0568

Full Planning Application (Retrospective) – Bespoke joinery works/manufacturing furniture

Change of use from class B8 to B2

At Old Fire Station Yaseen Enterprise Centre

Byrom Street,

Blackburn

BB2 2LE

I am writing to support the above application,

There have been no problems or noise with this site as currently operating from the former fire station as it is well managed therefore I support the above application and have no objections.

Yours Faithfully

Date: 21/06/21

UNIT 4  
CANTERBURY ST  
BLACKBURN

To:

Blackburn Council

Planning Department

Dear Sir/Madam,

Application Reference 10/21/0568

Full Planning Application (Retrospective) – Bespoke joinery works/manufacturing furniture

Change of use from class B8 to B2

At Old Fire Station Yaseen Enterprise Centre

Byrom Street,

Blackburn

BB2 2LE

I am writing to support the above application,

There have been no problems or noise with this site as currently operating from the former fire station as it is well managed therefore I support the above application and have no objections.

Yours Faithfully

Unit 2 Canterbury Street Blackburn

Date:

22/6/21



To:

Blackburn Council

Planning Department

Dear Sir/Madam,

Application Reference 10/21/0568

Full Planning Application (Retrospective) – Bespoke joinery works/manufacturing furniture

Change of use from class B8 to B2

At Old Fire Station Yaseen Enterprise Centre

Byrom Street,

Blackburn

BB2 2LE

I am writing to support the above application,

There have been no problems or noise with this site as currently operating from the former fire station as it is well managed therefore I support the above application and have no objections.

Yours Faithfully

Date:

BLACKBURN MOT CENTRE LTD  
67 CANTERBURY STREET  
BLACKBURN  
BB2 2HT  
293 3866 62

22.06.21

To:

Blackburn Council

Planning Department

Dear Sir/Madam,

Application Reference 10/21/0568

Full Planning Application (Retrospective) – Bespoke joinery works/manufacturing furniture

Change of use from class B8 to B2

At Old Fire Station Yaseen Enterprise Centre

Byrom Street,

Blackburn

BB2 2LE

I am writing to support the above application,

There have been no problems or noise with this site as currently operating from the former fire station as it is well managed therefore I support the above application and have no objections.

Yours Faithfully



Date: 26/6/21

87 Canterbury St.,

To:

Blackburn Council

Planning Department

Dear Sir/Madam,

Application Reference 10/21/0568

Full Planning Application (Retrospective) – Bespoke joinery works/manufacturing furniture

Change of use from class B8 to B2

At Old Fire Station Yaseen Enterprise Centre

Byrom Street,

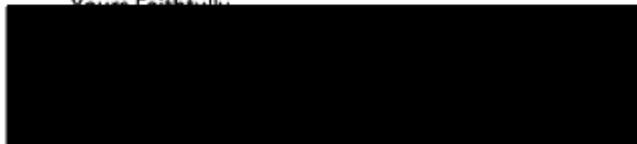
Blackburn

BB2 2LE

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There have been no problems or noise with this site as currently operating from the former fire station as it is well managed therefore I support the above application and have no objections.

Yours Faithfully,



FLAT 4  
Sumner House  
Sumner St  
BBURN  
BB2 2LD.  
22/06/2021



To:

Blackburn Council

Planning Department

Dear Sir/Madam,

Application Reference 10/21/0568

Full Planning Application (Retrospective) – Bespoke joinery works/manufacturing furniture

Change of use from class B8 to B2

At Old Fire Station Yaseen Enterprise Centre

Byrom Street,

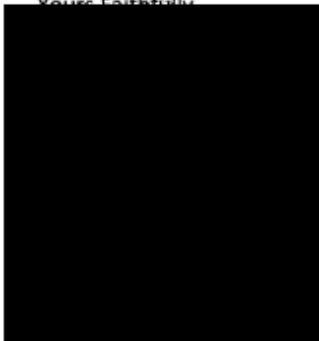
Blackburn

BB2 2LE

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Yours Faithfully



Flat 2 Summer  
House  
Summer St  
- 22.06.2021

To:

Blackburn Council

Planning Department

Dear Sir/Madam,

Application Reference 10/21/0568

Full Planning Application (Retrospective) – Bespoke joinery works/manufacturing furniture

Change of use from class B8 to B2

At Old Fire Station Yaseen Enterprise Centre

Byrom Street,

Blackburn

BB2 2LE

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Yours Faithfully

PAUL FINLEY

Date

22 / 06 / 21

CATTLE MARKET FLATS  
FLAT 5,  
HARRISON STREET,  
BLACKBURN.  
BB2 2JE

To:

Blackburn Council

Planning Department

Dear Sir/Madam,

Application Reference 10/21/0568

Full Planning Application (Retrospective) – Bespoke joinery works/manufacturing furniture

Change of use from class B8 to B2

At Old Fire Station Yaseen Enterprise Centre

Byrom Street,


Blackburn

BB2 2LE

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Yours Faithfully

 Charlotte Woburn

Date: 22/06/21



52 Sumner St  
BB2 2LD.

To:

Blackburn Council

Planning Department

Dear Sir/Madam,

Application Reference 10/21/0568

Full Planning Application (Retrospective) – Bespoke joinery works/manufacturing furniture

Change of use from class B8 to B2

At Old Fire Station Yaseen Enterprise Centre

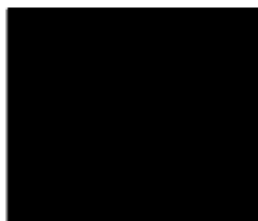
Byrom Street,

Blackburn

BB2 2LE

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6/21

unite S Canterbury St  
Blackburn

To:

Blackburn Council

Planning Department

Dear Sir/Madam,

Application Reference 10/21/0568

Full Planning Application (Retrospective) – Bespoke joinery works/manufacturing furniture

Change of use from class B8 to B2

At Old Fire Station Yaseen Enterprise Centre

Byrom Street,

Blackburn

BB2 2LE

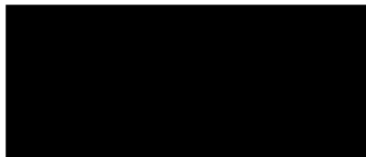
I am writing to support the above application,

There have been no problems or noise with this site as currently operating from the former fire station as it is well managed therefore I support the above application and have no objections.

Yours Faithfully

46 SUMNER

Date:



19/6/20

To:

Blackburn Council

Planning Department

Dear Sir/Madam,

Application Reference 10/21/0568

Full Planning Application (Retrospective) – Bespoke joinery works/manufacturing furniture

Change of use from class B8 to B2

At Old Fire Station Yaseen Enterprise Centre

Byrom Street,

Blackburn

BB2 2LE

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Yours Faithfully

Date:

Ug H A Kison Sheet Mohammed

19/06/21

To:

Blackburn Council

Planning Department

Dear Sir/Madam,

Application Reference 10/21/0568

Full Planning Application (Retrospective) – Bespoke joinery works/manufacturing furniture

Change of use from class B8 to B2

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Byrom Street,

Blackburn

BB2 2LE

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There have been no problems or noise with this site as currently operating from the former fire station as it is well managed therefore I support the above application and have no objections.

Yours Faithfully



Date:

77 Canterbury Street.  
19<sup>th</sup> June 2021

To:

Blackburn Council

Planning Department

Dear Sir/Madam,

Application Reference 10/21/0568

Full Planning Application (Retrospective) – Bespoke joinery works/manufacturing furniture

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Byrom Street,

Blackburn

BB2 2LE

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Yours Faithfully

Date:

19 / 6 / 21.

Room 9 Caterbury house



To:

Blackburn Council

Planning Department

Dear Sir/Madam,

Application Reference 10/21/0568

Full Planning Application (Retrospective) – Bespoke joinery works/manufacturing furniture

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At Old Fire Station Yaseen Enterprise Centre

Byrom Street,

Blackburn

BB2 2LE

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Yours Faithfully



Date: 19/6/21

47 Harrison Street BB2 2JE

To:

Blackburn Council

Planning Department

Dear Sir/Madam,

Application Reference 10/21/0568

Full Planning Application (Retrospective) – Bespoke joinery works/manufacturing furniture

Change of use from class B8 to B2

At Old Fire Station Yaseen Enterprise Centre

Byrom Street,


Blackburn

BB2 2LE

I am writing to support the above application,

There have been no problems or noise with this site as currently operating from the former fire station as it is well managed therefore I support the above application and have no objections.

Yours Faithfully



*59 Howison street, Blackburn*

*10.06.21*

To:

Blackburn Council

Planning Department

Dear Sir/Madam,

Application Reference 10/21/0568

Full Planning Application (Retrospective) – Bespoke joinery works/manufacturing furniture

Change of use from class B8 to B2

At Old Fire Station Yaseen Enterprise Centre

Byrom Street,

Blackburn

BB2 2LE

I am writing to support the above application,

There have been no problems or noise with this site as currently operating from the former fire station as it is well managed therefore I support the above application and have no objections.

Yours Faithfully



Date: 19/06/21

42 Summer Street

Blackburn

BB2 2LD

To:

Blackburn Council

Planning Department

Dear Sir/Madam,

Application Reference 10/21/0568

Full Planning Application (Retrospective) – Bespoke joinery works/manufacturing furniture

Change of use from class B8 to B2

At Old Fire Station Yaseen Enterprise Centre

Byrom Street,

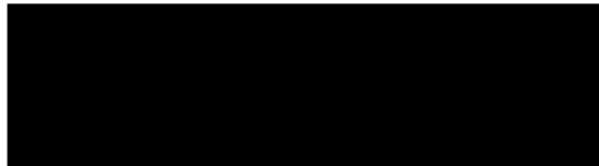
Blackburn

BB2 2LE

I am writing to support the above application,

There have been no problems or noise with this site as currently operating from the former fire station as it is well managed therefore I support the above application and have no objections.

Yours Faithfully

A large black rectangular box redacting the signature of the person writing the letter.

Date:

19/7/2021  
30 SUMNER ST,

To:

Blackburn Council

Planning Department

Dear Sir/Madam,

Application Reference 10/21/0568

Full Planning Application (Retrospective) – Bespoke joinery works/manufacturing furniture

Change of use from class B8 to B2

At Old Fire Station Yaseen Enterprise Centre

Byrom Street,

Blackburn

BB2 2LE

I am writing to support the above application,

There have been no problems or noise with this site as currently operating from the former fire station as it is well managed therefore I support the above application and have no objections.

Yours Faithfully

36 SUMMER ST  
DAMON TOPPING

Date:

26/6/21



To:

Blackburn Council

Planning Department

Dear Sir/Madam,

Application Reference 10/21/0568

Full Planning Application (Retrospective) – Bespoke joinery works/manufacturing furniture

Change of use from class B8 to B2

At Old Fire Station Yaseen Enterprise Centre

Byrom Street,

Blackburn

BB2 2LE

I am writing to support the above application,

There have been no problems or noise with this site as currently operating from the former fire station as it is well managed therefore I support the above application and have no objections.

Yours Faithfully

34 Summer Street

Steven Black

Date:



26, 6, 21

To:

Blackburn Council

Planning Department

Dear Sir/Madam,

Application Reference 10/21/0568

Full Planning Application (Retrospective) – Bespoke joinery works/manufacturing furniture

Change of use from class B8 to B2

At Old Fire Station Yaseen Enterprise Centre

Byrom Street,

Blackburn

BB2 2LE

I am writing to support the above application,

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Yours Faithfully

Date:

28 SUMMER STREET

MILLER

26.10.21



To:

Blackburn Council

Planning Department

Dear Sir/Madam,

Application Reference 10/21/0568

Full Planning Application (Retrospective) – Bespoke joinery works/manufacturing furniture

Change of use from class B8 to B2

At Old Fire Station Yaseen Enterprise Centre

Byrom Street,

Blackburn

BB2 2LE

I am writing to support the above application,

There have been no problems or noise with this site as currently operating from the former fire station as it is well managed therefore I support the above application and have no objections.

Yours Faithfully

Mr. Sajid Patel

Date: 51 Harrison street

26/6/2021





To:

Blackburn Council

Planning Department

Dear Sir/Madam,

Application Reference 10/21/0568

Full Planning Application (Retrospective) – Bespoke joinery works/manufacturing furniture

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Blackburn

BB2 2LE

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Yours Faithfully

LEE PRÉSOT

Date 

46 SUMNER ST

19/6/21

To:

Blackburn Council

Planning Department

Dear Sir/Madam,

Application Reference 10/21/0568

Full Planning Application (Retrospective) – Bespoke joinery works/manufacturing furniture

Change of use from class B8 to B2

At Old Fire Station Yaseen Enterprise Centre

Byrom Street,

Blackburn

BB2 2LE

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Yours Faithfully

A black rectangular box redacting the signature of the sender.

Date:

10 Summer St.

To:

Blackburn Council

Planning Department

Dear Sir/Madam,

Application Reference 10/21/0568

Full Planning Application (Retrospective) – Bespoke joinery works/manufacturing furniture

Change of use from class B8 to B2

At Old Fire Station Yaseen Enterprise Centre

Byrom Street,

Blackburn

BB2 2LE

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There have been no problems or noise with this site as currently operating from the former fire station as it is well managed therefore I support the above application and have no objections.

Yours Faithfully



Date: 19/6/2021

38. Sumner St.  
Blackburn  
Lancs.

To:

Blackburn Council

Planning Department

Dear Sir/Madam,

Application Reference 10/21/0568

Full Planning Application (Retrospective) – Bespoke joinery works/manufacturing furniture

Change of use from class B8 to B2

At Old Fire Station Yaseen Enterprise Centre

Byrom Street,

Blackburn

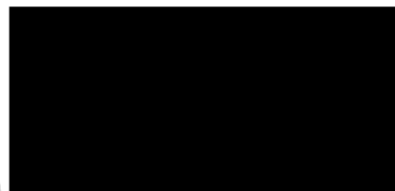
BB2 2LE

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Yours Faithfully

Date: 19.06.21



32. Summer Street.

To:

Blackburn Council

Planning Department

Dear Sir/Madam,

Application Reference 10/21/0568

Full Planning Application (Retrospective) – Bespoke joinery works/manufacturing furniture

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Byrom Street,

Blackburn

BB2 2LE

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Yours Faithfully

Date:

[Redacted signature block]

SA SOMERSET  
22 JUNE 21

To:

Blackburn Council

Planning Department

Dear Sir/Madam,

Application Reference 10/21/0568

Full Planning Application (Retrospective) – Bespoke joinery works/manufacturing furniture

Change of use from class B8 to B2

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Byrom Street,

Blackburn

BB2 2LE

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Yours Faithfully

Date: 19/06/21



43 Harrison Street

To:

Blackburn Council

Planning Department

Dear Sir/Madam,

Application Reference 10/21/0568

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Change of use from class B8 to B2

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Byrom Street,

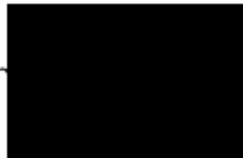
Blackburn

BB2 2LE

I am writing to support the above application,

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Yours Faithfully Mark Smith



69 canterbury street

Date: 19/06/21

To:

Blackburn Council  
Planning Department

Dear Sir/Madam,

Application Reference 10/21/0568

Full Planning Application (Retrospective) – Bespoke joinery works/manufacturing furniture

Change of use from class B8 to B2

At Old Fire Station Yaseen Enterprise Centre

Byrom Street,

Blackburn


BB2 2LE

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Yours Faithfully

Date:

Room 20 cantbury House  
19/6/21  




To:

Blackburn Council

Planning Department

Dear Sir/Madam,

Application Reference 10/21/0568

Full Planning Application (Retrospective) – Bespoke joinery works/manufacturing furniture

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Byrom Street,

Blackburn

BB2 2LE

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Yours Faithfully



65 Room 15  
Canterbury Street

To:

Blackburn Council

Planning Department

Dear Sir/Madam,

Application Reference 10/21/0568

Full Planning Application (Retrospective) – Bespoke joinery works/manufacturing furniture

Change of use from class B8 to B2

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Byrom Street,

Blackburn

BB2 2LE

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Yours Faithfully

Date:

21/06/21

MUDASSAR GILL

Unit 3

67 CANTERBURY ST.

BLACKBURN.

BB2 2HT.

FAO Blackburn Council Planning Department

Petitions

Dear Sir/Madam,

Application Reference 10/21/0568

Full Planning Application (Retrospective) – Bespoke joinery works/manufacturing furniture

Change of use from class B8 to B2

At Old Fire Station Yaseen Enterprise Centre, Byrom Street, Blackburn, BB2 2LE

I/We undersigned SUPPORT the above proposal.

I/We have no problems with site currently operating from the former fire station and support the proposed application for change of use from class B8 to B2.

Name ADDRESS POSTCODE SIGNED

BLACKBURN MOT CENTRE LTD  
67 CANTERBURY STREET  
BLACKBURN  
BB2 2HT  
293 3866 62

22.06.21

Unit 2 Canterbury Street  
B15 2JN. 22/6/21

87 Canterbury St

26/6/21

85 CANTERBURY ST

26/06/21

MR. SAJID PATEL, 51 HARRISON ST

26/6/21

28 SUMMER STREET

PETER MILLER

26.6.21

FAO Blackburn Council Planning Department

Petitions

Dear Sir/Madam,

Application Reference 10/21/0568

Full Planning Application (Retrospective) – Bespoke joinery works/manufacturing furniture

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At Old Fire Station Yaseen Enterprise Centre, Byrom Street, Blackburn, BB2 2LE

I/We undersigned SUPPORT the above proposal.

I/We have no problems with site currently operating from the former fire station and support the proposed application for change of use from class B8 to B2.

Name ADDRESS POSTCODE SIGNED

Ali Rashid 21/06/21 UNIT 4 CANTERBURY ST.

Personalising Freedom. 22/6/21 UNIT 5 cantebury st.

Charlotte Warburton 52 Sumner St 22/6/21

FLAT 5, HARRISON street.

Flat 2 Sumner House Sumner St  
22.06.2021

Flat 6 Sumner House Sumner St. 22/6/21  
Blackburn

Sumner St BB22 1D.  
50

FAO Blackburn Council Planning Department

Petitions

Dear Sir/Madam,

Application Reference 10/21/0568

Full Planning Application (Retrospective) – Bespoke joinery works/manufacturing furniture

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Name ADDRESS POSTCODE SIGNED

{ Miss Bernadette Partington  
38. Sumner St B/Boxed  
[Redacted] 19/6/21

Michael Hargreaves

40 Sumner St  
[Redacted]  
[Redacted] 30 SUMNER ST,  
19/6/21

[Redacted] 32. Sumner. 19/6/21.

44 Sumner St  
[Redacted] 19/6/21

Petitions

Dear Sir/Madam,

Application Reference 10/21/0568

Full Planning Application (Retrospective) – Bespoke joinery works/manufacturing furniture

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Name ADDRESS POSTCODE SIGNED



42 Sumner Street  
Blackburn  
BB2 2LD

58 harrison street BB2 2JE Blackburn  
47 harrison st BB2 2JE

Room 9 Canterbury House

77 Canterbury Street

19<sup>th</sup> June 2021

73 cantebury street 19/6/21

FAO Blackburn Council Planning Department

Petitions

Dear Sir/Madam,

Application Reference 10/21/0568

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Name ADDRESS POSTCODE SIGNED

69 canterbury	[REDACTED]	10/06/21
mark smith	[REDACTED]	
43 Harrison Street	[REDACTED]	19/06/21
[REDACTED]	[REDACTED]	19/06/21
46 SUMNER STREET	[REDACTED]	18/06/20
Roma 2a	[REDACTED]	19/06/21
Canterbury	[REDACTED]	
Rm 15	[REDACTED]	19/06/21
Canterbury	[REDACTED]	
Mn 3	[REDACTED]	21/06/21
67 CANTEBURY ST	[REDACTED]	

FAO Blackburn Council Planning Department

Petitions

Dear Sir/Madam,

Application Reference 10/21/0568

Full Planning Application (Retrospective) – Bespoke joinery works/manufacturing furniture

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Name ADDRESS POSTCODE SIGNED

26 6 21

34 Summer Street Steven Black

36 SUMMER STREET DAMIAN TOPPING

26/06/21

81 CANTERBURY STREET RICHARD GARY



## **REPORT OF THE STRATEGIC DIRECTOR**

**Plan No: 10/21/0597**

**Proposed development: Reserved Matters Application for Approval of reserved matters for the appearance, layout, scale and landscaping of the employment units 1, 2 and 3, pursuant to permission 10/18/1149**

**Site address:**

**Land at Greenbank Terrace  
Lower Darwen  
Blackburn  
BB3 0RN**

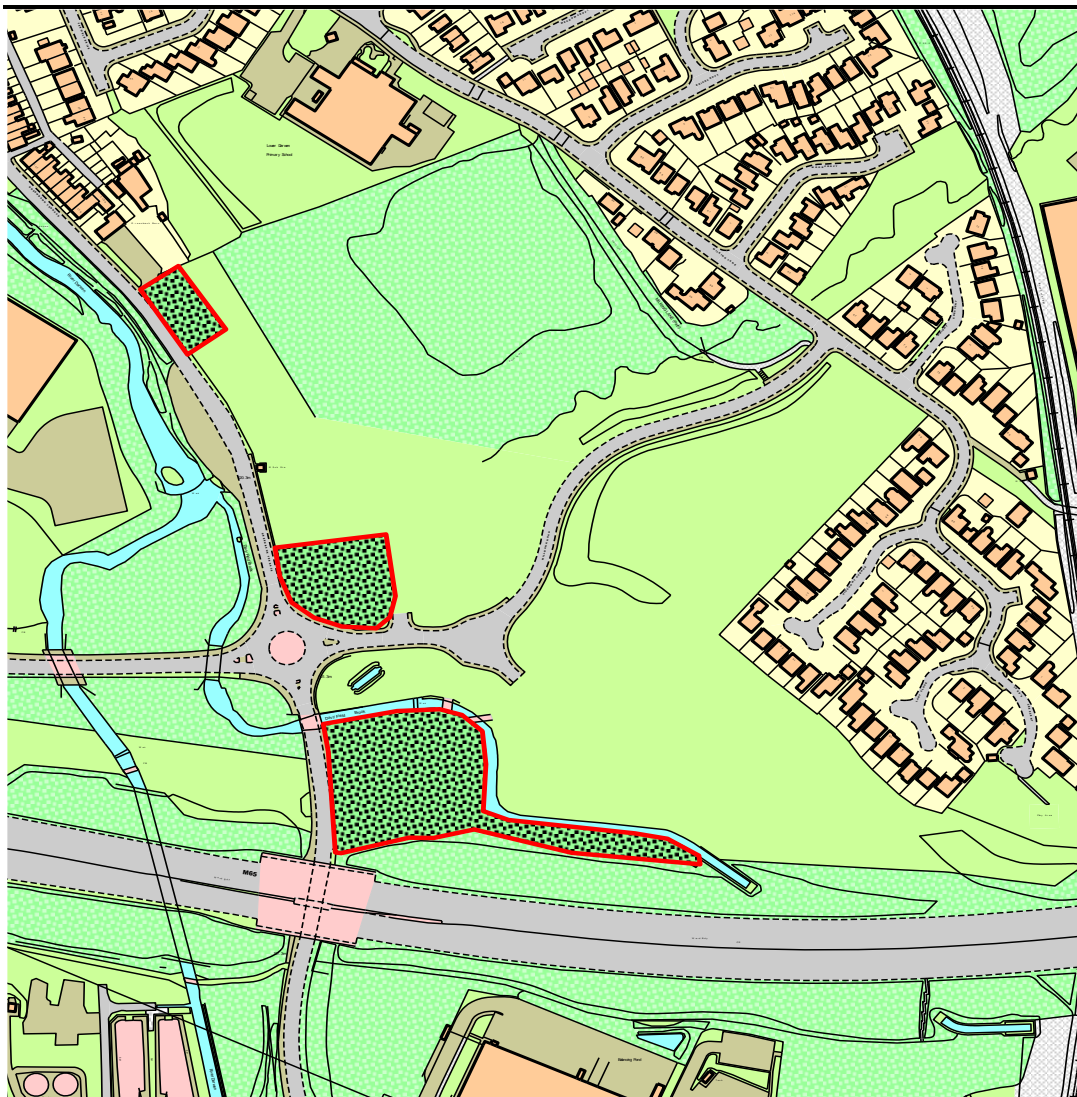
**Applicant: Barnfield Blackburn Ltd**

**Ward: Blackburn South & Lower Darwen**

**Councillor John Slater**

**Councillor Jacqueline Slater**

**Councillor Denise Gee**



## **1.0 SUMMARY OF RECOMMENDATION**

- 1.1 APPROVE – Subject to conditions; as set out in paragraph 4.1.

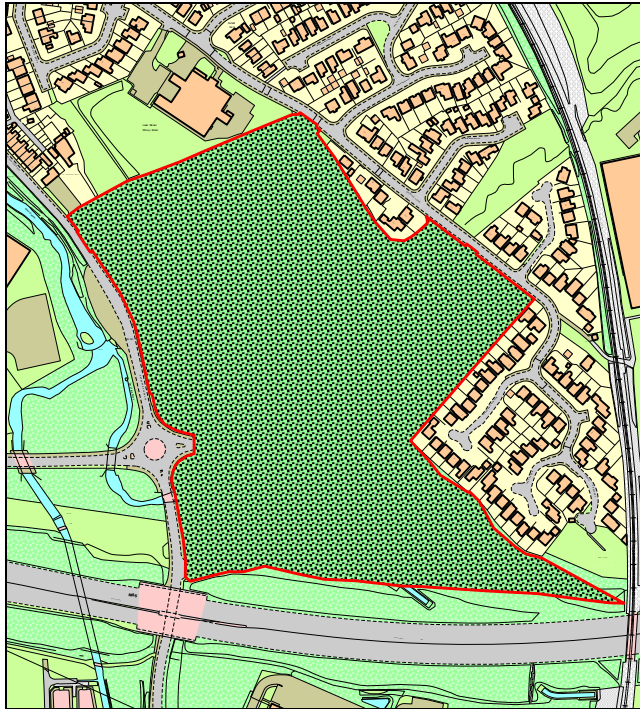
## **2.0 KEY ISSUES/SUMMARY OF PLANNING BALANCE**

- 2.1 This application considers Reserved Matters (RM) for 3 industrial units (Plots 1-3), pursuant to a hybrid planning permission 10/18/1149 granted by the Committee in February 2020. A further application will be submitted for the remaining industrial unit, Plot 4, at a later date.
- 2.2 Members are advised that matters pertaining to the assessment of this RM application are limited to appearance; landscaping; layout and scale. The principle of the proposal has already been established at outline stage.
- 2.3 This application is presented to Committee on account of the application being a significant major planning application, and the Council's interest in the land, in accordance with the Scheme of Delegation in the Council's Constitution.
- 2.4 The 10/18/1149 hybrid approval established full planning permission for a new link road and access points; and outline approval with all matters reserved (except for access) for a mixed use development comprising a maximum of the following: 100 dwellings (C3), 9,000m<sup>2</sup> of employment use and careers hub (B1/B2/B8/D1), and associated ancillary works. This RM application relates to the provision of 4,520m<sup>2</sup> of the approved employment use.
- 2.5 The access road approved under 10/18/1149 between Greenbank Terrace and Milking Lane is now fully open for public use. All pre-commencement conditions for the full planning permission part of the hybrid approval (for the access road) have been fully discharged. Other conditions in relation to the outline part of the hybrid application remain in place. Relevant information relating to outline conditions that required further information to be submitted as part of the RM application have been submitted with this application.
- 2.6 Approval of the RM scheme for the 3 industrial units will allow positive progress to be made towards the re-development of the whole site. Assessment of the application finds that the proposal will deliver a high quality scheme that will assist in meeting the Council's strategic aims and objectives, including economic growth, and the regeneration benefits from bringing this visually prominent site back into use.
- 2.7 All relevant issues have been addressed through the application or can be controlled or mitigated through additional planning conditions.
- 2.8 Members are also advised that a separate RM application under reference 10/21/1001 for the erection of 76 dwellings is currently under consideration, and will be presented to the Committee at the November meeting.

### 3.0 RATIONALE

#### 3.1 Site and Surroundings

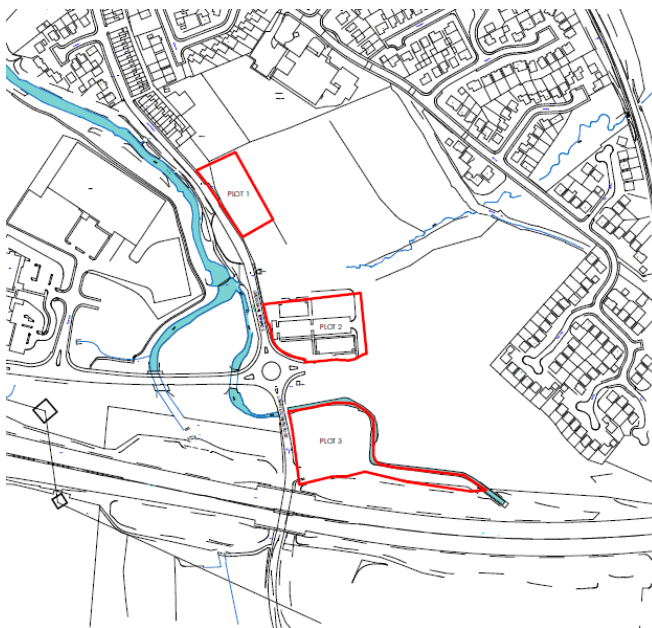
- 3.1.1 The 3 employment units all lie within the red edge of the wider development site, comprising 9.45 hectares, which was approved by hybrid application 10/18/1149.



- 3.1.2 The site is a former paper mill and landfill site, which lies to the immediate south west of Milking Lane and to the north east of Greenbank Terrace, Lower Darwen. A stream runs east-west through the site, leading to the River Darwen via a culvert which runs under Greenbank Terrace to the west of the site. To the immediate north of the site is Lower Darwen Primary School and to the north and east are modern residential developments.
- 3.1.3 The site is linked to junction 4 of the M65 motorway via the Eccleshill Link Road to the west via Greenbank Terrace. Aside from the new access road, the site is otherwise undeveloped (see aerial photo below, which was taken before the new access road was constructed).



3.1.4 The 3 industrial units would be located along the western part of the site, as shown below:



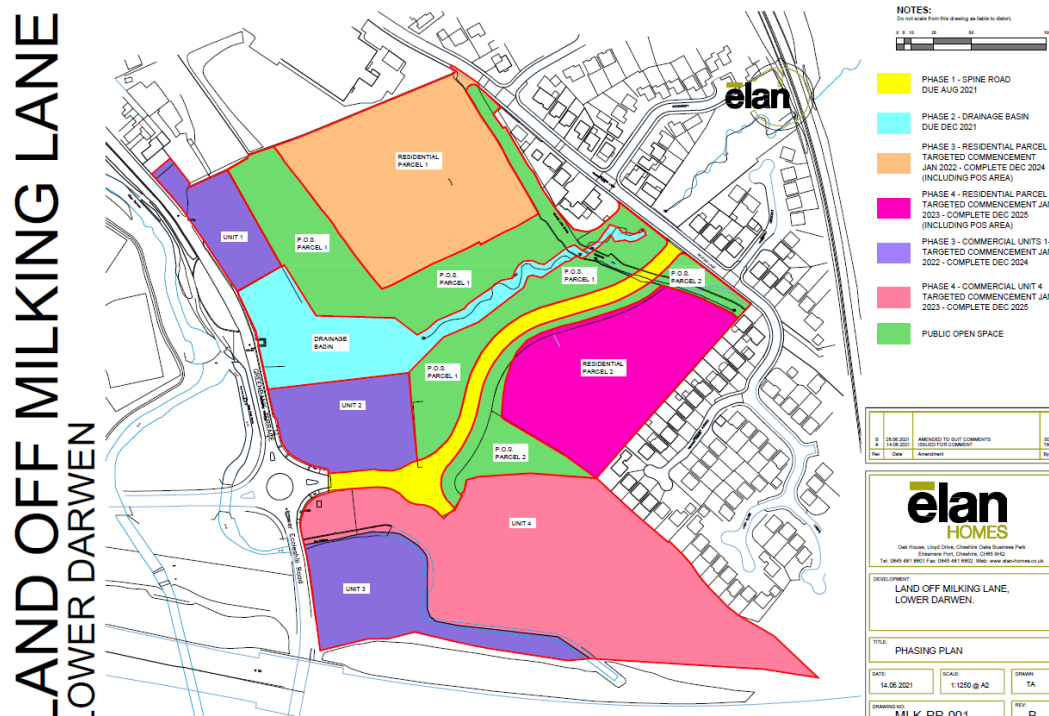
3.1.5 This western area of the site is allocated as being suitable for high quality development in the Adopted Policies Map of the Blackburn With Darwen Borough Local Plan Part 2, as can be seen (in Orange: ref 28/9) on the plan below:





3.1.6 The 10/18/1149 Outline planning permission established the principle for a mixed use development, and illustrative plans divided the site into 2 distinct development zones, with a use class for each plot. The employment units are sited along the (lower land) western / southern part of the site, which are distinctly separated from the residential parcels above to the north / east by the steep topography of the site.

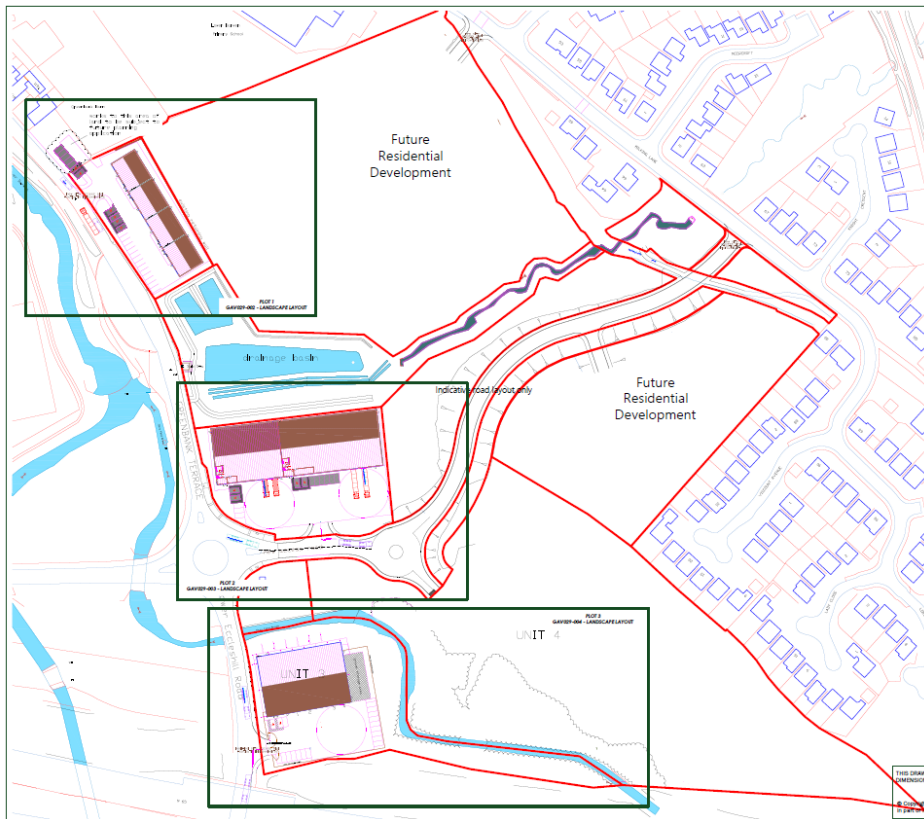
3.1.7 A phasing plan has been submitted which shows when the plots are expected to be brought forward. The distinct zones can be clearly seen in the image below (the 3 industrial plots are shown in purple, with the 2 residential parcels in orange and pink):



- 3.1.8 The above plan also shows the link road (in yellow) which was approved under 10/18/1149, and which has now been fully constructed. It runs between Milking Lane and the Greenbank Terrace/Paul Rink Way/Lower Eccleshill Road roundabout. The 3 employment units would be accessed from Greenbank Terrace (Unit 1); the new access road (Unit 2); and Lower Eccleshill Road (Unit 3).
- 3.1.9 The employment units applied for in this RM application will be located and assessed in association with the existing and yet to be developed surrounding residential uses. A RM application for 76 dwellings on the 2 upper parcels of the site is currently under consideration, under planning ref 10/21/1001. It is anticipated that a report will be presented to members at the November Committee.
- 3.1.10 A separate planning application for additional parking space for Unit 1 has also been submitted on the 1<sup>st</sup> October 2021 (ref: 10/21/1112), which is under consideration. Further details about the context of that application are referenced later in this report. A potential future development (for Unit 4) will also be submitted at a later date.
- 3.1.11 Supporting documents submitted with this RM application include:
- Phasing Plan
  - Movement strategy
  - Noise impact assessment
  - Landscaping plan

## **3.2 Proposed Development**

- 3.2.1 Reserved Matters are sought for appearance; landscaping; layout and scale of 3 industrial units, pursuant to outline application 10/18/1149, as set out in the submitted drawings.
- 3.2.2 The 3 industrial plots, along the western edge of the wider site, are shown below:



3.2.3 Following discussions with the applicant and the case officer, the uses for each plot will be restricted as follows:

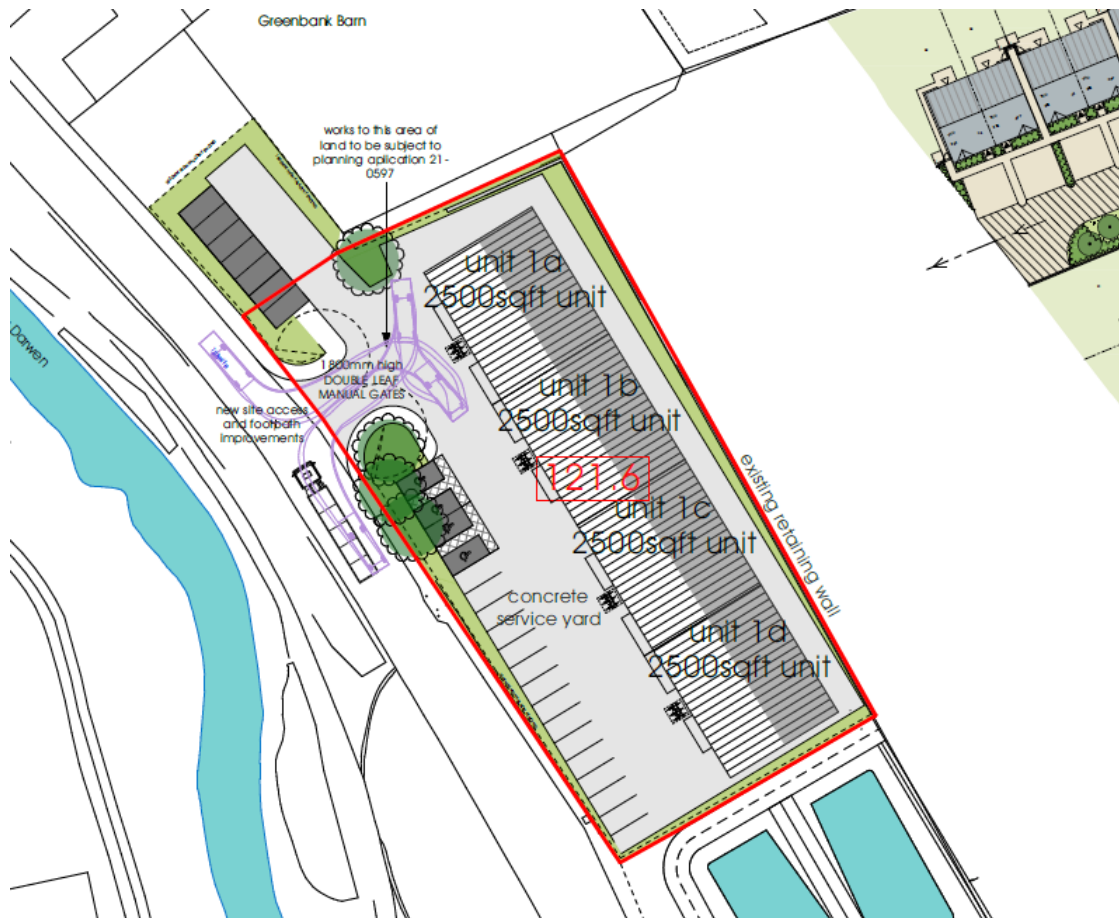
- Plot 1: Class B1 only; - this use class is now E (g), which is explained further in paragraph 4.1.10, below.
- Plot 2: Class B2/B8.
- Plot 3: Class B2/B8.

3.2.4 The proposed site / floor plans, elevations, and site photos for all 3 units, are shown below.

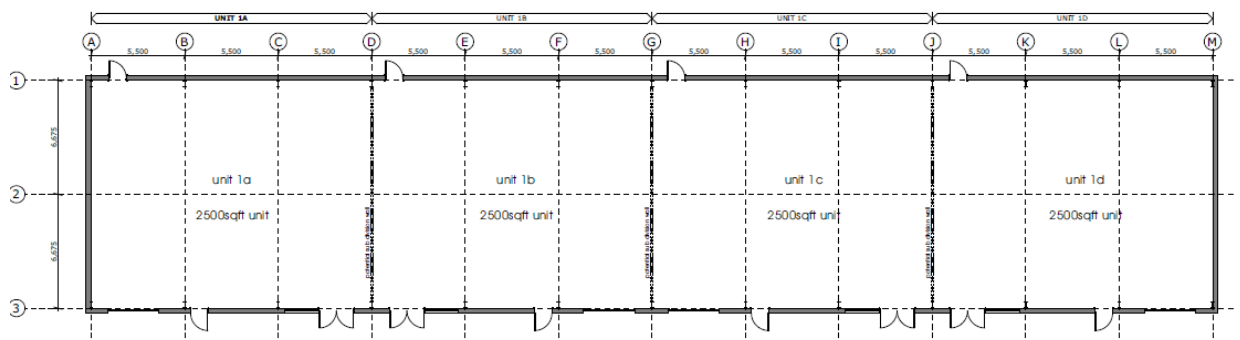
#### **Plot 1 (restricted to Class E(g) only)**

3.2.5 Unit 1, as amended, would provide 10,000sqft (930m<sup>2</sup>) of Class E (g) use, circa 66m wide and 14m deep, and is intended for potentially 4No small starter units. Details are shown on the images below.

### Plot 1 Site plan



### Plot 1 floor plan



- 3.2.6 Unit 1 would be positioned at the Northern end of the development site, with access taken from Greenbank Terrace. The units would be set back from the road, aligned with the existing retaining wall to the rear. A servicing yard would be located to the front, including parking spaces and some soft landscaping/trees.



Photos of Plot 1 – taken 14<sup>th</sup> July 2021:



*Looking south-east from Greenbank Terrace access*



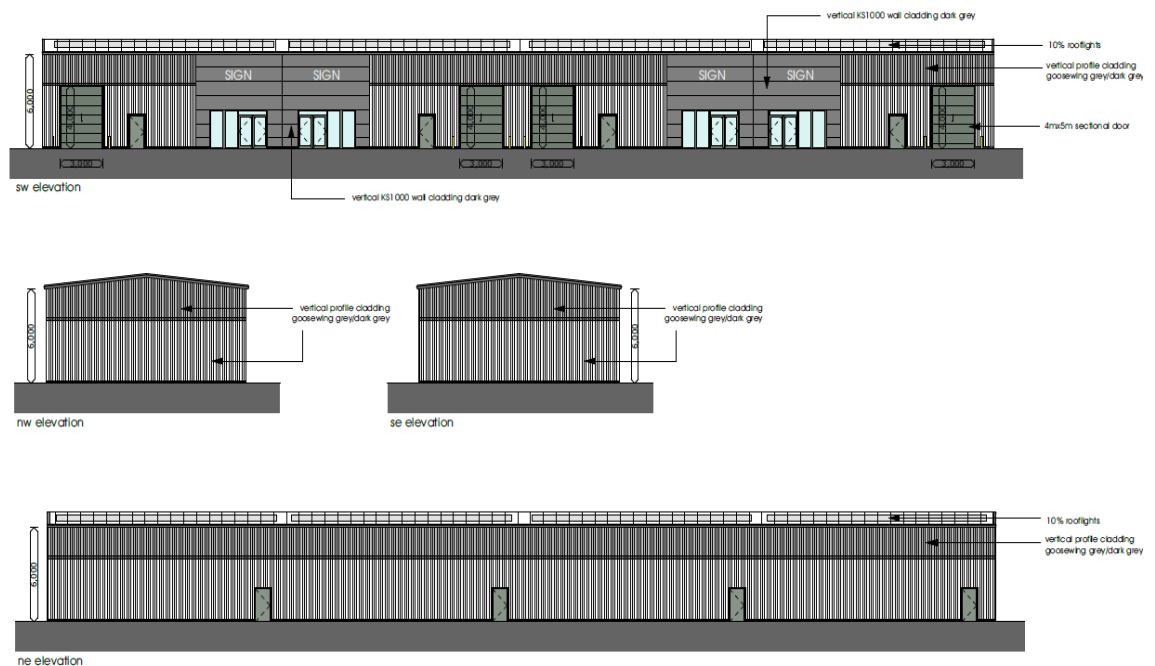
*Looking north-east into Plot 1 (taken from Greenbank Terrace)*



*Looking south-east into Plot 1 (from Greenbank Terrace)*

### Plot 1 elevations

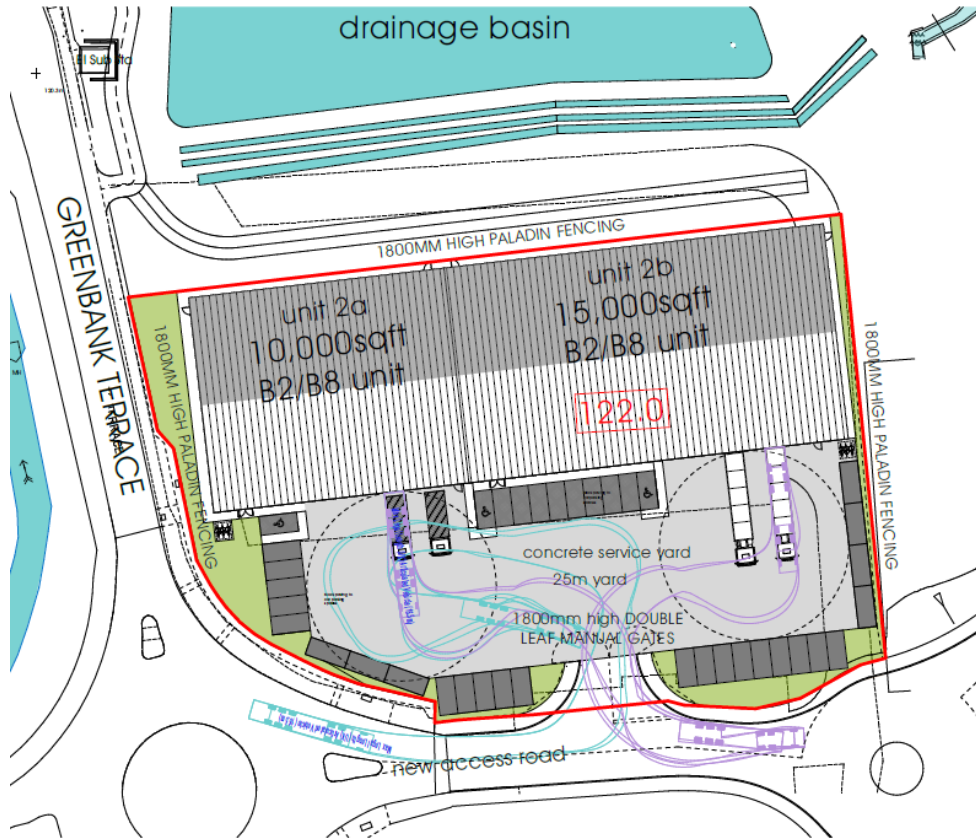
- 3.2.7 Unit 1 would be 6m high to the eaves, with a shallow ridge roof rising to a total height of circa 7m. The building would have a modern appearance, with materials comprising a mix of dark grey vertical wall cladding and vertical profile cladding, with goosewing grey vertical profile cladding to most of the lower part of the building. Roof lights would be integrated into approximately 10% of the roof space, as shown below.



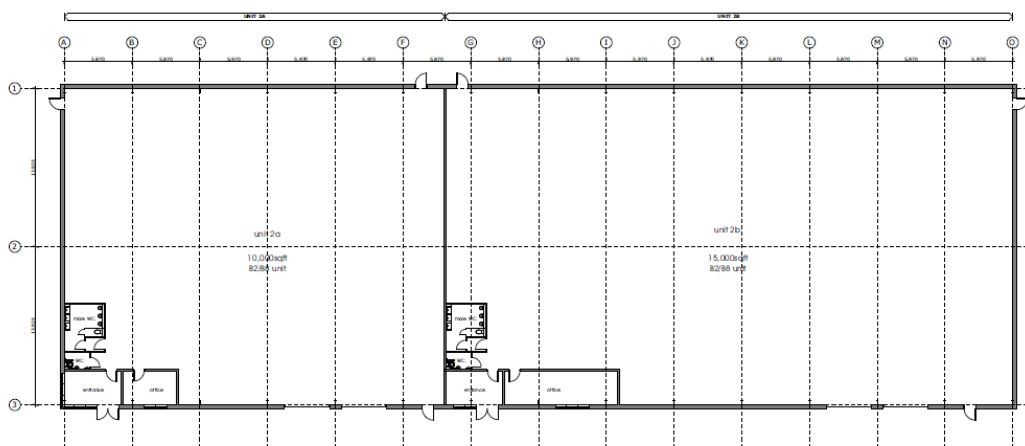
**Plot 2 (Class B2/B8 use) – general industrial/storage and distribution:**

- 3.2.8 Unit 2 would provide 25,000sqft (2,325m<sup>2</sup>) and contain potentially 2No medium sized units and service yard.

**Plot 2 Site plan**



**Plot 2 floor plan**



- 3.2.9 Unit 2 would be positioned on the corner of Greenbank Terrace and the new access road, with access into the site taken from the new access road. The service yard would front the new access road, with parking in front of the building. The side elevation of the building would face Greenbank Terrace.



Photos of Plot 2 – taken 28<sup>th</sup> September 2021:



*Looking west towards Plot 2 (taken from the new access road)*



*Looking west towards Plot 2*



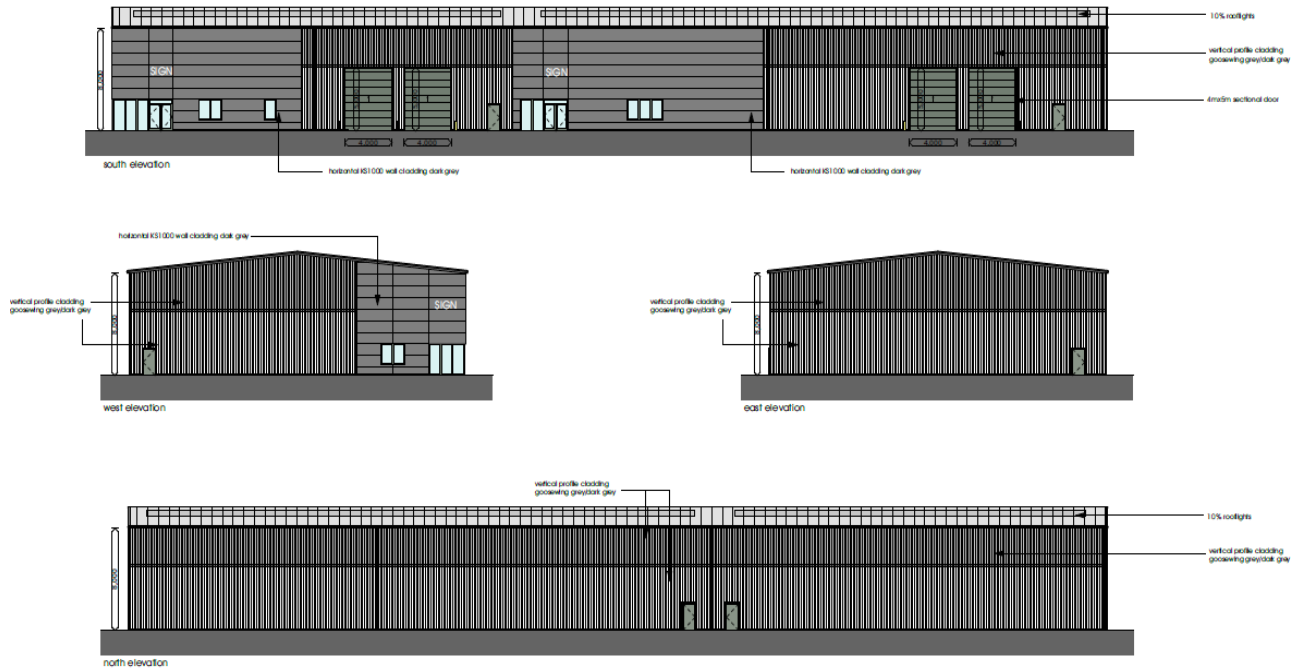
*Looking north towards Plot 2 (from the new access road)*



*Site access (from the new access road)*

#### Plot 2 elevations

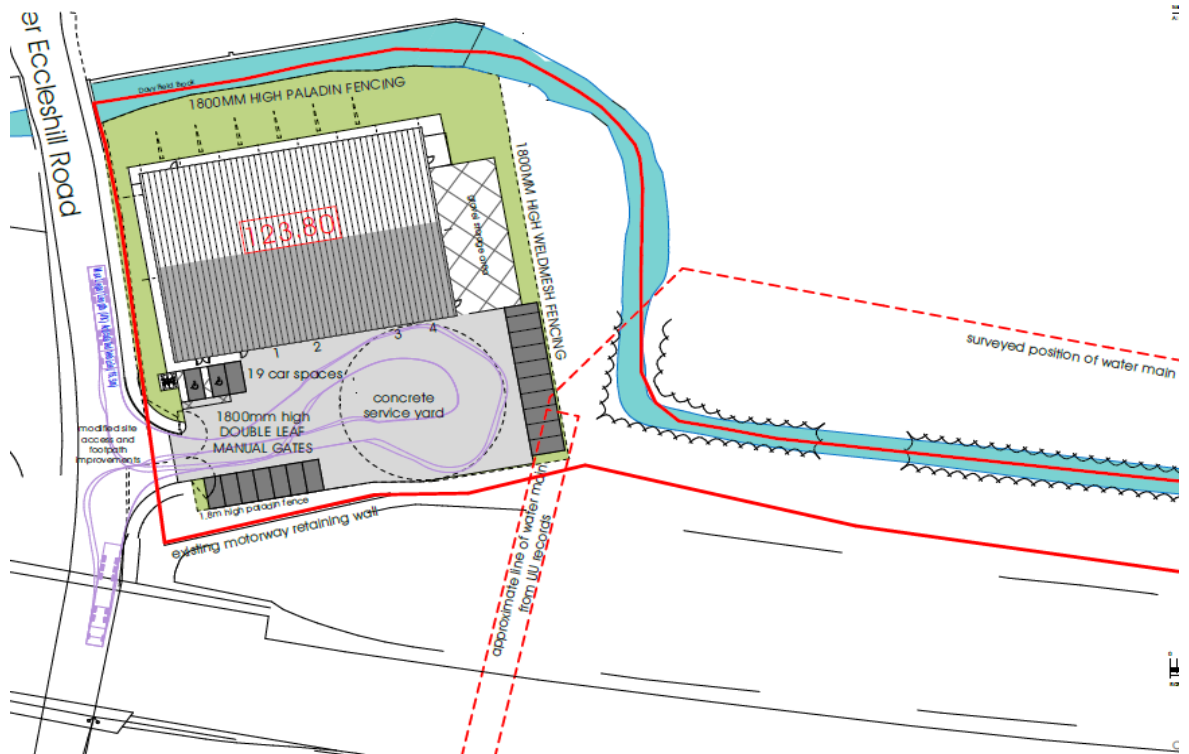
3.2.10 Unit 2 would have a similar modern appearance to Unit 1, although slightly larger with an eaves height of 8m, rising to just over 9m at the ridge.



### **Plot 3 (Class B2/B8 use) – general industrial/storage and distribution:**

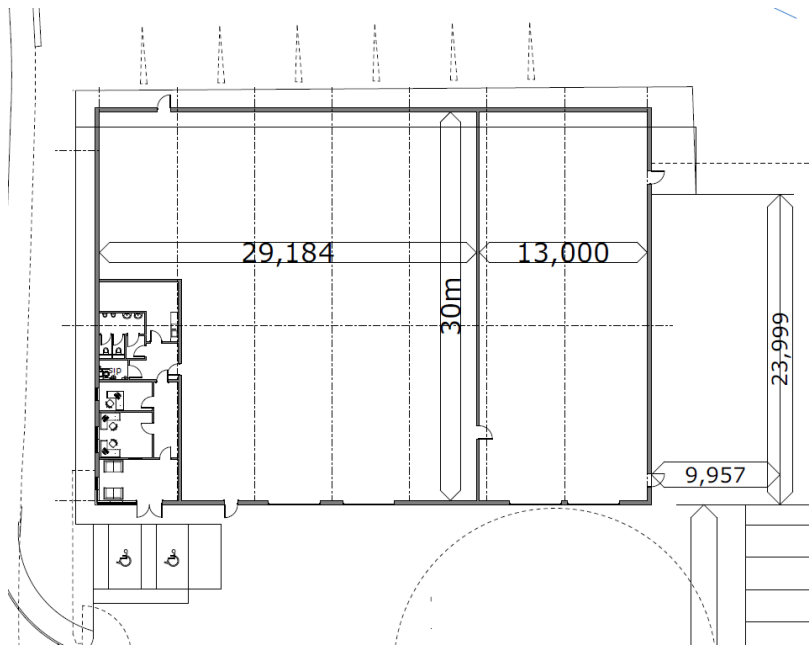
3.2.11 Unit 3 would contain 13,725sqft (1,275m<sup>2</sup>), with access from Lower Ecclesfield Road at the southernmost part of the development site. Davyfield Brook runs to the North and East of the site, and substantial tree cover screens the site from the East.

### **Plot 3 Site plan**





### Plot 3 floor plan



3.2.12 Unit 3 would again have a similar modern appearance to Units 1 and 2, measuring 42m x 29m, with an eaves height of 7m, rising to just over 8m at the ridge.

### Plot 3 photos – taken 28<sup>th</sup> September 2021:



*Looking south towards Plot 3 (taken from the new access road)*



*Looking into Plot 3 from the existing access on Lower Eccleshill Road*



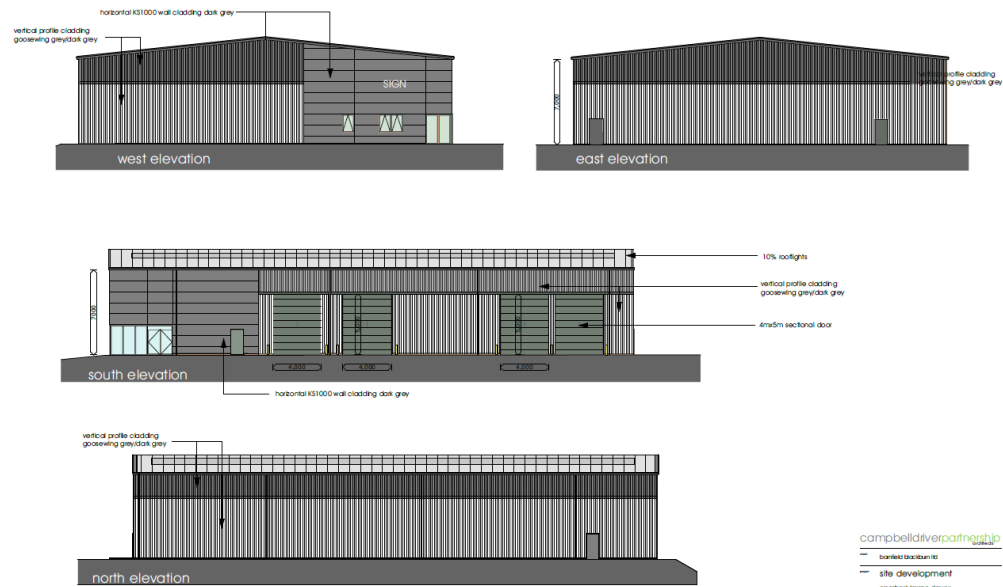
*Looking into Plot 3 from Lower Eccleshill Road*





*Existing access into Plot 3, Lower Eccleshill Road*

### Plot 3 elevations



### **Plot 4 – future development site**



*Future development site (Plot 4) - access from new access road.*

### **3.3 Development Plan**

3.3.1 Section 38(6) of the Planning and Compulsory Purchase Act 2004 requires that applications be determined in accordance with the development plan unless material considerations indicate otherwise.

3.3.2 The Development Plan comprises the Blackburn With Darwen Core Strategy and adopted Local Plan Part 2 – Site Allocations and Development Management Policies. In determining the current proposal the following are considered to be the most relevant policies:

#### **3.3.2 Core Strategy**

Policy CS1: A Targeted Growth Strategy

Policy CS2: Typology of Employment Lane

Policy CS3: Land for Employment Development

Policy CS4: Protection and reuse of employment sites

Policy CS13: Environmental Strategy

Policy CS15: Protection and Enhancement of Ecological Assets

Policy CS16: Form and Design of New Development

Policy CS18: The Borough's Landscapes

#### **3.3.3 Local Plan Part 2 (LPP2) (December 2015):**

- 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 28: Development Opportunities
- Policy 41: Landscape

### 3.4 Other Material Planning Considerations

#### 3.4.3 National Planning Policy Framework (The Framework) (2021)

The Framework sets out the government's aims and objectives against which planning policy and decision making should be considered. The following sections of the Framework are considered relevant to assessment of the proposal:

- Section 2 – Achieving sustainable development
- Section 8 – Promoting healthy and safe communities
- Section 11 – Making effective use of land
- Section 12 – Achieving well-designed places
- Section 14 – Meeting the challenges of climate change, flooding and coastal change
- Section 15 – Conserving and Enhancing the Natural Environment

### 3.5 Assessment

#### 3.5.1 Assessment of this Reserved Matters application is limited to the following matters:

- **Appearance:** Aspects of a building or place which affect the way it looks, including the exterior of the development.
- **Layout:** Includes buildings, routes and open spaces within the development and the way they are laid out in relation to buildings, routes and open space outside the development.
- **Scale:** Includes information on the size of the development, including the height, width and length of each proposed building.
- **Landscaping:** The improvement or protection of the amenities of the site and the surrounding area; this could include planting trees or hedges as a screen.

#### 3.5.2 The hybrid / outline approval for this site allows for 9,000m<sup>2</sup> of employment use and careers hub (B1/B2/B8/D1). This RM application relates to the provision of 4,520m<sup>2</sup> of employment use, in 3 units, ranging in size.

#### 3.5.3 The units are predominantly situated to the lower / South West area of the site, along Greenbank Terrace / Lower Ecclesfield Road. The units have been designed as speculative with indicative sub division indicated for marketing purposes.

#### 4.0 Appearance

4.1.1 Appearance is considered against Policy 11 of LPP2, which requires a good standard of design and will be expected to enhance and reinforce the established character of the locality and demonstrate an understanding of the wider context towards making a positive contribution to the local area. This includes enhance and reinforcing the established character of a locality. Key aspects of character which must be taken into account are the following:

- i) Existing topography, buildings and landscape features and their integration into the development;
- ii) Layout and building orientation to make best use of existing connections, landmarks and views;
- iii) Building shapes, plot and block sizes, styles colours and materials that contribute to the character of streets and use these to complement character;
- iv) Height and building line of the established area;
- v) Relationship of the buildings to the street; and
- vi) Frontage treatment such as boundary walls.

4.1.2 The appearance of all 3 industrial units would be very similar. They have been designed using high quality contemporary metal faced cladding materials in varying arrangements which are robust and reflect the industrial nature of the units. The use of different profile cladding materials breaks up the massing of the buildings and highlights different access points.

4.1.3 The proposal also uses the topography of the site to good effect and respects the character and history of the site and wider area. A 1.8m high paladin fence is considered appropriate boundary treatment, which would integrate appropriately into the street scene. Accordingly, the proposed appearance of the development is found to be acceptable.

#### Layout

4.1.4 Layout is assessed against Policy 11, as well as Policies 8 and 10.

4.1.5 Policy 8 requires a satisfactory level of amenity and safety is secured for surrounding uses and for occupants or users of the development itself; with reference to privacy / overlooking, and the relationship between buildings, including adequate daylight and sunlight admission.

4.1.6 As noted above, the proposed units will be appropriately sited and would not be detrimental to the street character.

4.1.7 The layout of the 3 units have been designed around the approved / existing access points from Milking Lane and Greenbank Terrace / Lower Ecclesfield Road, and have been influenced by existing site constraints, levels and

watercourses. The majority of the employment use created has been concentrated at the Southernmost part of the development site.

- 4.1.8 Each unit has been designed as a self-contained development with its own service yard and car parking surrounded by landscaping. The position of the units achieve an acceptable relationship with nearby residential properties, including those presently being assessed under RM application 10/21/1001, thereby ensuring acceptable levels of amenity.
- 4.1.9 No representations were received from local residents during the consultation period. The Council's Public Protection Officer raised no objections, subject to various conditions to mitigate the impacts. However, the majority of the suggested conditions have already been attached to the 10/18/1149 hybrid / outline approval. Therefore it is not necessary to repeat these conditions at RM stage.
- 4.1.10 Concerns were initially raised by the Council's Public Protection Officer about noise levels from Unit 1 potentially affecting the residential amenity of nearby residents. On this basis, it was agreed during the assessment of the application to restrict the use of Plot 1 to Class B1 use only. Members are advised that from the 1<sup>st</sup> September 2020, uses falling within Class B1 i.e. offices, research and development, and light industry, were abolished and replaced by the new Use Class E (g). As such, the use of Plot 1 would be restricted to uses falling under Use Class E(g) only.

#### Access

- 4.1.11 Access does not form part of this RM application. The link road and access points were approved under the outline approval 10/18/1149. However, the internal movements, servicing and parking provision etc. within each plot still needs to be considered when assessing the layout at this stage.
- 4.1.12 Assessment of access arrangements and other highway matters are considered against Policy 10 of LPP2, which requires that road safety and the safe, efficient and convenient movement of all highway users is not prejudiced, and that appropriate provision is made for off street servicing and parking in accordance with the Council's adopted standards.
- 4.1.13 The proposal is considered acceptable from a highway safety and efficiency perspective, following review of the submitted layout by the Council's Highways consultee. Revised plans were negotiated during the application process to address initial concerns. Amendments included the creation of additional parking spaces, and cycle storage.
- 4.1.14 As amended, each unit would have the following parking provision:
- Plot 1 (E(g) use) would have 25 spaces, including 4 mobility spaces.
  - Plot 2 (Class B2/B8 use) would have 37 spaces, including 3 mobility spaces. The site plan for Plot 2, as originally submitted, only catered

for 13 spaces. During the assessment of the application, this provision was increased to 25 spaces, and then to 37 spaces.

- Plot 3 (Class B2/B8 use) would have 19 spaces, including 2 mobility spaces.

4.1.15 The parking provision for Units 1 and 3 meet the requirements set out in the adopted BwD parking standards.

4.1.16 Unit 2, as originally submitted, would have had a notable shortfall in spaces when assessed against the adopted BwD parking standards. However, during assessment of the application, the applicant submitted amended plans to increase the parking provision. It has subsequently been noted that some of the parking spaces shown on the revised site plan for Plot 2 would not be viable, including three linear spaces that would compromise the servicing area. However, a revised site plan, to include the removal of these spaces, can be secured by condition. Any shortfall in spaces arising from these changes would not be significant, and is outweighed by the wider benefits of the proposal, including the economic benefit, and is therefore considered acceptable.

4.1.17 It should also be noted that an area identified for parking provision for Plot 1 (which would accommodate 6 spaces) lies to the north of Plot 1, and falls outside the red edge of the approved 10/18/1149 hybrid / outline approval. Therefore these spaces cannot be approved as part of this RM application. However, the parking area is still shown on the proposed plan for indicative purposes. A separate full planning application for this additional parking area has been submitted, under planning ref. 10/21/1112, and is currently under consideration.

4.1.18 Whilst raising no objections, the Council's Highways Officer did recommend a number of conditions to be attached to this application. However, the majority of those conditions relate to access, which has already been addressed by conditions attached to the 10/18/1149 hybrid approval, including the S278 works. Appropriate conditions have therefore only been attached where directly relevant to this RM application.

4.1.19 The access, parking and movements associated with all 3 of the units is therefore considered acceptable, and complies with Policy 10 of the Local Plan; the adopted parking standards; and the NPPF.

#### Scale

4.1.20 The scale of the proposed units would be appropriate for this location and topography. The scale of the buildings and plots would be relative to their use, and reflect the speculative nature of the development based on current market demands. Each would accommodate a large open warehouse/production space with small ancillary office and amenities.

4.1.21 Unit 1 would be the smallest of the units with an eaves height of 6m; Unit 2 the largest with an eaves height of 8m; and Unit 3 would have an eaves

height of 7m. These relatively small eaves and ridge heights reflect the plan size of each unit and ensure the buildings sit neatly within the topography of the site and the local area.

4.1.22 Accordingly, the proposed scale of the development is found to be acceptable.

#### Landscaping

4.1.23 Landscaping is assessed against Policy 11. Condition 25 of the hybrid approval required the submission of a landscaping plan prior to or at the same time as the submission of the first reserved matters application.

4.1.24 The proposed hard and soft landscaping treatments within each development plot have been designed to form a shared concrete service yard, car parking and footpaths. Each individual plot is to have a boundary treatment comprising a 1.8m high paladin fence.

4.1.25 Notwithstanding the detail submitted with this application, further detail will be submitted as part of an application to discharge conditions 23 and 24 of the hybrid / outline approval, following a full ecological survey. Biodiversity mitigation plans will be provided to highlight habitat creation and retention throughout the site.

4.1.26 Accordingly, the proposed landscaping is found to be acceptable.

#### Summary

4.1.27 This report assesses the Reserved Matters planning application for 3 industrial units. In considering the proposal, the relevant range of material considerations have been taken into account to inform a balanced recommendation that is considered to demonstrate compliance with the aims and objectives of the Local Development Plan and The Framework.

#### Other Matters

4.1.28 Members are advised of the following conditions attached to the Outline permission. These have been / will be addressed under the condition discharge application process at the appropriate time.

4.1.29 Hybrid approval 10/18/1149 (Full permission for the new access road)

4.1.30 The following conditions relating to the hybrid (full permission) for the new access road have all been discharged / complied with:

- Condition 1: Timeframe
- Conditions 2 - 4: Pre-commencement drainage details
- Condition 5: Contamination
- Condition 6: Pre-commencement construction management
- Condition 7: Pre-commencement tree survey
- Condition 8: Working hours

- Condition 9: Pre-commencement landscaping
- Condition 10: Motorway drainage
- Conditions 11 - 13: Pre-commencement drainage details
- Condition 14: Highways / visibility splays
- Condition 15: Approved drawings

#### 4.1.31 Hybrid approval 10/18/1149 (Outline consent)

4.1.32 The following conditions were attached to the hybrid (outline approval). Some of these conditions have been discharged, others remain outstanding. The detail submitted with this RM application directly addresses the requirements of conditions 16, 17, 18, 20, 21, 25 and 26, all of which required further detail to be submitted at or prior to the submission of this first RM application:

- **Condition 16:** Reserved matters submission
- **Condition 17:** Timeframe
- **Condition 18:** Phasing plan
- Condition 19: Pre-commencement S106
- **Conditions 20 -21:** Highways: Swept paths, Footpaths and cycle linkages
- Condition 22: Pre-commencement Construction method statement
- Conditions 23 - 24: Pre-commencement Ecology surveys, and Landscape and Habitat management plan
- **Condition 25:** Landscaping scheme
- **Condition 26:** Noise survey
- Conditions 27 - 29: Pre-commencement drainage details
- Condition 30: Drainage
- Condition 31: Contamination
- Condition 32: Working hours
- Condition 33: Pre-commencement Highways/motorway junction
- Condition 34: Highways/motorway junction
- Condition 35: Pre-commencement boundary fencing
- Condition 36: Motorway drainage
- Condition 37: Travel Plan
- Conditions 38 – 42: Pre-commencement flood mitigation, ground levels, and remediation strategy
- Condition 43: Highways / visibility splays
- Condition 44 (and duplicate Condition 46): Street management plan
- Condition 45: Pre-commencement Tree survey
- Condition 47: Air quality
- Condition 48: Site uses

## 5.0 RECOMMENDATION

### 5.1 Approve.

### 5.2 Delegated authority is given to the Strategic Director of Place to approve planning permission, subject to the following conditions:



1. Unless explicitly required by condition within this consent, the development hereby permitted shall be carried out in complete accordance with the proposals as detailed on drawings:

Job no. 18.107, Dwg no. 001 B: Location Plan, @1.

Job no. 18.107, Dwg no. 022 C: Plot 1 Site Layout, @ A1.

Job no. 18.107, Dwg no. 023 D: Plot 2 Site Layout, @ A1.

Job no. 18.107, Dwg no. 015 M: Plot 3 Site Layout, @ A1.

Dwg no. GAV029-001: Landscape General Arrangement, @ A0.

Dwg no. GAV027-002L: Plot 1 Landscape Layout, @ A0.

Dwg no. GAV027-003: Plot 2 Landscape Layout, @ A0.

Dwg no. GAV027-004 Plot 3 Landscape Layout, @ A0.

Job no. 18.107, Dwg no. 019 A: Site 1 Floor Plans, @ A1.

Job no. 18.107, Dwg no. 020 A: Site 2 Floor Plans, @ A0.

Job no. 18.107, Dwg no. 024 A: Site 3 Floor Plans, @ A1.

Job no. 18.107, Dwg no. 017 B: Site 1 Elevations, @ A1.

Job no. 18.107, Dwg no. 018 B: Site 2 Elevations, @ A0.

Job no. 18.107, Dwg no. 016 E: Site 3 Elevations, @ A1.

REASON: For the avoidance of doubt and to clarify which plans are relevant to the consent.

2. Unit 1 shall only be used for the purposes included within Class E (g) of The Town and Country Planning (Use Classes) Order 1987 (as amended), and for no other purpose, including any other purpose in Class E of the Town and Country Planning Use Classes (Amendment) Order 2005.

REASON: To ensure appropriate parking levels in accordance with the Council's adopted standards, and to safeguard the amenities of occupiers of residential properties in the area, in accordance with Policies 8 and 10 of the Blackburn with Darwen Borough Local Plan Part 2.

3. Prior to occupation of Units 1, 2 and 3, full details of the access gates for each plot, including how and when the gates will be operational, shall be submitted to and approved in writing by the Local Planning Authority. Thereafter the gates shall be installed and retained in accordance with the approved details.

REASON: To provide for the safety and convenience of users of the highway, for the free flow of traffic, in accordance with Policy 10 of the Blackburn with Darwen Borough Local Plan Part 2.

4. Cycle storage detailed on plans Job no. 18.107, Dwg nos. 022 C; 023 D; and 015M shall be implemented prior to occupation of the plots, and retained in accordance with the approved details.

REASON: To provide for safe sustainable travel options, in accordance with Policy 10 of the Blackburn with Darwen Borough Local Plan Part 2.

5. No construction shall commence on Plot 3 (including any earthworks) until details of the means of ensuring the water main/s laid within the site boundary are protected from damage as a result of the development have been

submitted to and approved in writing by the Local Planning Authority. The details shall include:

- a survey that identifies the exact location of the water main;
- the potential impacts on the water main/s from construction activities (including any construction compound);
- the impacts post completion of the development on the water main infrastructure that crosses the site and identify necessary mitigation measures;
- a timetable for implementation to protect and prevent any damage to the water main infrastructure both during construction and post completion of the development; and
- a pre construction condition survey.

A post construction survey shall be provided within 3 months of completion of the development.

Any mitigation measures shall be implemented in full prior to commencement of development on Plot 3 in accordance with the approved details and timetable and shall be retained thereafter for the lifetime of the development. In the event that the survey of the water main/s identify the buildings/plots as within a 5m standoff either side of the main (10m in total), the developer shall submit evidence to the Local Planning Authority that a diversion has been agreed with the relevant statutory undertaker and that the approved works have been undertaken prior to the commencement of development of the affected plot.

REASON: In the interest of public health and to ensure protection of the public water supply, in accordance with Policy 9 of the Blackburn with Darwen Borough Local Plan Part 2.

6. The noise rating level arising from the commercial/industrial premises shall not exceed 50dB(A) at residential premises. Assessment shall be made in accordance with BS4142:2014 'Methods for rating and assessing industrial and commercial sound'.

REASON: To protect neighbouring residents from any adverse amenity due to noise from the site in accordance with Policy 8 of the Blackburn with Darwen Borough Local Plan Part 2.

7. The approved uses shall be restricted to the following times:  
Monday to Sunday: 07:00 - 23:00 hours.  
Any variation of the above hours restriction must be submitted to and approved in writing by the Local Planning Authority.

REASON: To protect neighbouring residents from any adverse amenity due to noise from the site in accordance with Policy 8 of the Blackburn with Darwen Borough Local Plan Part 2.

8. The external walling and roofing materials to be used in the construction of the development hereby permitted shall be as specified in the approved details referred to in Condition No.1.

REASON: To ensure that the external appearance of the development is satisfactory in accordance with Policy 11 of the Blackburn with Darwen Borough Local Plan Part 2.

9. Prior to occupation of each of the units hereby approved, final layouts of car parking and servicing areas for each plot shall be submitted for approval, laid out in accordance with the approved details and thereafter permanently retained.

REASON: To ensure the servicing and parking arrangements for each plot are fully available for use at the time of occupation of the buildings, in accordance with Policy 10 of the Blackburn With Darwen Borough Local Plan Part 2, and the adopted Blackburn With Darwen parking standards.

## **6.0 PLANNING HISTORY**

- 6.1 **10/18/1149** - Hybrid Planning Application - Full planning permission - new link road and access points; Outline planning permission with all matters reserved (with all matters reserved except for access) for a mixed use development comprising a maximum of the following: 100 dwellings (C3), 9,000m2 of employment use and careers hub (B1/B2/B8/D1), and associated ancillary works. (Approved 20/02/20, subject to various conditions).
- 6.2 **10/21/1001** – Application for Approval of reserved matters for the appearance, layout, scale and landscaping of 76 dwellings, pursuant to permission 10/18/1149 – application currently under consideration.
- 6.3 **10/21/1112** - . Formation of additional car parking and landscaping to plot 1 pursuant to reserved matters application 10/21/0597 - application currently under consideration
- 6.4 **10/20/0627** - DOC application for conditions 1-15 of the full application part (access road) of the hybrid approval 10/18/1149 (All complied with / discharged).
- 6.5 **10/18/0911** – Demolition of 2 vacant office buildings (Prior Approval not required - 02/10/2018).
- 6.6 **10/15/1119** - The erection of up to 180 dwellings, open space and associated works including the construction of a link road together with the demolition of the existing redundant office buildings (Refused 17/11/2016 – S106 Agreement not completed).

6.7 **10/10/0551** - Residential development and link road at land between Milking Lane and Greenbank Terrace (Approved with conditions 19/11/2012).

6.8 **10/05/0317** - Redevelopment of the former Lower Darwen Paper Mill site to create high quality Business Park (Approved with conditions 28/06/2006).

## **7.0 CONSULTATIONS**

### Property / Growth

7.1 No further comment.

### Drainage / LLFA

7.2 No issues.

### PROW

7.3 No implications.

### Highways

7.4 No objections, subject to conditions including:

- S278 condition.
- Off-site highway works condition for the formation of the new access point for Plot 1.
- A Grampian condition for off-site highway works to deliver the new access points out onto Greenbank Terrace. This should also include new frontage footways, together with the associated drainage and lighting.
- Construction method statement.
- Access gate detail for Plots 1, 2 and 3.  
Note: gates are shown for Plots 2 and 3, but no gates are shown for Plot 1 – further detail is required.  
Clarity is also needed on when the gates will be operational.  
Two parking spaces behind the gates on Plot 3 may also need to be removed should the gates remain as shown on the current plans.
- Sightline details for Plots 1 and 2.
- Cycle parking detail for Plots 1, 2 and 3.

7.5 Initial concerns were raised to the plans as originally submitted, including parking provision in relation to the use proposed for each unit, applying the Council's adopted standards. These concerns have been addressed with the submission of amended plans and clarification of the intended use of each unit. Other matters can be secured by condition.

7.6 The full response from the Council's Highways Officer is shown below:

The submission details have been reviewed, and a site investigation has been undertaken.

The proposal seeks Approval of reserved matters for the appearance, layout, scale and landscaping of the employment units 1, 2 and 3, pursuant to permission 10/18/1149.

### Parking/Access

In accordance with the adopted parking standard, I have set out the parking requirement and reviewed access and layout for each plot

**Plot 1:**

- I understand this is a B1 use, car parking requirements are 1 car space per 35 sqm, this equates to 26sqm equates to 26 car Parking spaces. 25 spaces (inclusive of 6 spaces for disabled users) has been provided. The disabled provision is more than 10%, but it is acceptable if the end user requires this.
- No details of cycle of ptw parking is provided within the curtilage, these should be located near the entrance of the building and be secure and covered. Please request further information.
- There is concern the parking spaces (the number is acceptable) straddles outside the red edge of the boundary. I note the recent communication received from the case officer to report a new revised plan is to be submitted as amendment to this application.
- All parking spaces should conform to the standards council bays of 2.4m x 4.8m with 6m manoeuvrability into and out of the bays.
- There are no gates proposed to the access, is one intended, please clarify.

The access into the site was approved under the outline application and conveys 6m radii, with a 6.7m wide entrance. The entrance width would appear excessive, however on examination of the swept path, we acknowledge this is necessary to support delivery and servicing needs.

The formation of the new access point should be attached as off-site highway works condition.

The swept paths received are acceptable.

No details of sightlines have been received, please request this or condition accordingly.

**Plot 2**

- The use set out is B2/B8. We have assessed the application against the worst case scenario of the unit being predominately B2. The combined floorarea of 2322sqm/ 1 car space per 60sqm, equates to an allowance of 39 parking spaces. The provision offered is 13 spaces (inclusive of 4 disabled spaces). The disabled provision is more than 10%, but it is acceptable if the end user requires this. The parking spaces are considered less than the allowance, please request further consideration/provide clarification. The lack of spaces is not acceptable, as this would lead to congestion and safety concern on this busy section of highway.
- No details of cycle of ptw parking is provided within the curtilage, these should be located near the entrance of the building and be secure and covered. Please request further information.
- All parking spaces should conform to the standards council bays of 2.4m x 4.8m with 6m manoeuvrability into and out of the bays. Ideally parking should be separate to the servicing area, please reconsider this if the service needs would outweigh the service/delivery vehicles.
- There are gates to the site. It is noted that double leaf manual gates are proposed, when will these will be operational, please provide further details.

The access into the site is already established into the site and is acceptable.

The access into the site was approved under the outline application and conveys 10m radii, with a 7.3m wide entrance. The entrance width would appear excessive, however on

examination of the swept path, we acknowledge this is necessary to support delivery and servicing needs.

The swept paths received are acceptable.

No details of sightlines have been received, please request this or condition accordingly.

### **Plot 3**

- The use set out is B2/B8. We have assessed the application against the worst case scenario of the unit being predominately B2. Based on the floor area of 1275sqm/ 1 car space per 60sqm, equates to an allowance of 21 parking spaces. The provision offered is 19 spaces (inclusive of 4 disabled spaces). This is acceptable.
- No details of cycle of ptw parking is provided within the curtilage, these should be located near the entrance of the building and be secure and covered. Please request further information.
- All parking spaces should conform to the standards council bays of 2.4m x 4.8m with 6m manoeuvrability into and out of the bays. Ideally parking should be separate to the servicing area, please reconsider this if the service needs would outweigh the service/delivery vehicles.
- It is noted that double leaf manual gates are proposed, when these will be operational, please provide further details. The opening of the gates would impair parking in the 2 bays closest to the entrance, please reconsider and remove.

The access into the site is already established into the site and is acceptable.

The access into the site was approved under the outline application and conveys 10m radii, with a 7.3m wide entrance. The entrance width would appear excessive, however on examination of the swept path, we acknowledge this is necessary to support delivery and servicing needs.

### **Discharge of Conditions**

The two conditions referenced in the application 21 and 22.

The application resolves and addresses the requirement set out in condition 21.

As the swept path analysis are all acceptable.

### **Additional Information**

During the assessment a further drawing was received, in relation to Plot 2. The parking has increased to 25 spaces, which would support a B8 use, but not a B2 use. If the permission was restricted to a B8 use only, then the parking levels offered in the amended plan would be acceptable.

### **Other**

Please attach a Grampian condition for off-site highway works to deliver the new access points out onto Greenbank terrace. This should also include new frontage footways, together with the associated drainage and lighting.

No details of a construction method statement is received, please condition accordingly.

General highway principles also to be taken into consideration are as follows:

- All existing street furniture including street lighting should be removed/disconnected at the applicants expense and relocated at locations to be agreed with by the relevant highways officer, (should they be required to do so)

- Prior to any work commencing that affects the existing adopted highway contact to be made with the Local Highway Authorities office on Tel: 01254 273838 to undertake a condition survey.
- Any old entrances that are no longer required should be closed and reinstated back to full footway, at the developers expense
- The highway should not be obstructed, if indeed closure is required contact is to be made with the highway authority on Tel: 01254 273439

To conclude in principle we would support the application, subject to the above matters being addressed satisfactorily, and subject to a 278 condition being reiterated.

Please attach standard conditions/Informatives: Highways, 1, 2, 3, 4, 5, 8, 10, 11, 14, 15 and 17.

Further details received 1<sup>st</sup> October 2021

A general note for all plots as they have not supplied sightlines, please condition. Please also attach a condition for the access points located off Greenbank Terrace to be conveyed under a Grampian condition for off-site highways to be undertaken prior to operational use (scheme to be submitted prior to commencement of works) this should include footways, street lighting and associated drainage works.

Details of cycle facilities are provided (albeit there is no mention of PTW's), if they are external to the building, then please request details of security and coverage (or condition accordingly).

I failed to mention this ensure, but to ensure safeguarded access is available for pedestrians when entering the site, we would request a delineated route is provided to support safe passage from the highway up to the entrance of the buildings. Please request or condition accordingly.

The additional spaces they have provided for Plot 2 are not viable or supported, as they would compromise the servicing area. These should be removed. The spaces along the front of the site would place some strain on the turning movement, and should be reconsidered.

The spaces are less than the allowances set out for a B2 use, and would as a subsequence lead to vehicles being parked on the highway close to a busy highway junction, please request further review and revision.

All matters under other and standard conditions/Informatives are still applicable.

### Public Protection

7.7 No objections, subject to conditions and informatives:

- Plot 1 Units Use Restriction to minimise any loss of amenity at dwellings on Greenbank Terrace - Unit 1 will be limited to use class B1.
- Industrial/Commercial Noise Control
- Hours of Use Restriction
- Contaminated land condition(s)
- Air Quality
- Floodlighting

- Construction Phase Control Conditions: Hours of Site Works; Dust control; Noise & Vibration Control; and Floodlighting control.

With reference to the above application, I recommend that the following condition(s), informative(s) and/or comment(s) be included if planning permission is granted:

**Comment: Plot 1 Units Use Restriction**

The application indicates that the units at Plot 1 will be use classes B1, B2 & B8. To minimise any loss of amenity at dwellings on Greenbank Terrace, it has been agreed that these units will be limited to use class B1.

**Condition - Industrial/Commercial Noise Control**

The noise rating level arising from the commercial/industrial premises shall not exceed 50dB(A) at residential premises. Assessment shall be made in accordance with BS4142:2014 'Methods for rating and assessing industrial and commercial sound'

Reason: To ensure an acceptable standard of residential amenity.

**Condition – Hours of Use Restriction**

The approved use shall be restricted to the following times:

Monday to Sunday: 07:00 – 23:00 hours

Any variation of the above hours restriction must be approved in writing by the Planning Authority.

Reason

To ensure appropriate hours of use to minimise noise disturbance at residential premises.

**CONTAMINATED LAND CONDITIONS**

**Condition 1**

Prior to the commencement of construction works on site, the developer must submit to the Local Planning Authority (LPA) for written approval:

- A comprehensive desk study report, including a preliminary conceptual site model (CSM) in text, plan and cross-section form. Detailed proposals for subsequent site investigation based on the CSM shall be included as appropriate; the developer will be advised whether any further site assessment is required.
- If required by the LPA, the findings of the approved site investigation work, including an appropriate assessment of risks to both human health and the wider environment, arising from contaminants in, on or under the land (including ground gas) will be submitted. Where unacceptable risks are identified an updated CSM, remedial options appraisal and detailed remediation scheme shall be presented for approval. No deviation shall be made from this scheme without the written express agreement of the LPA.

**Condition 2**

Prior to the commencement of the permitted use, the developer must submit a comprehensive validation report to the LPA for written approval. The report shall demonstrate effective remediation in accordance with the agreed remediation scheme. All the installed remediation must be retained for the duration of the approved use and the LPA periodically informed in writing of any ongoing monitoring and decisions based thereon as appropriate.

**REASON:** To ensure that the site has been made 'suitable for use', and as such, does not pose a risk to future users of the site or the wider environment.

**Condition 3**



Should contamination be encountered unexpectedly during redevelopment, all works should cease, and the LPA should be immediately informed in writing. If unacceptable risks are identified, a remedial options appraisal and detailed remediation scheme should be presented, and agreed in writing by the LPA. No deviation shall be made from this scheme without the written express agreement of the LPA.

**REASON:** To protect the health of future occupiers of the site in accordance with Policy ENV3 of the Blackburn with Darwen Borough Local Plan.

**Air Quality:**

**Condition - Large Commercial Development**

Prior to the commencement of the development an air quality impact assessment shall be submitted, in writing, to the Local Planning Authority (LPA). The report shall include a **screening** assessment which determines whether an Air Quality Assessment (AQA) is necessary. Where an AQA is necessary, the **scope** of the assessment must be agreed with the LPA in writing. The assessment shall recommend appropriate mitigation if an adverse impact is identified in accordance with the LPA planning advisory note: 'Air Quality'.

**REASON:** In accordance with Policy 36 of the Blackburn with Darwen Borough Local Plan Part 2 and Paragraph 110 of the National Planning Policy Framework 2019, which states that developments should be designed to enable charging plug-in and other ultra-low emission vehicles in safe, accessible and convenient locations. This implements the requirements of Council's Air Quality PAN and the Principles of Good Practice in the EPUK & IAQM guidance Planning for Air Quality. These are readily achievable mitigation measures that reflect current good practice and help to reduce the cumulative impact of current and future developments.

**Floodlighting**

Should the proposed development include outdoor lighting I would recommend the following condition:

**Condition – Floodlighting (as appropriate)**

An outdoor floodlighting scheme shall be submitted to and approved in writing by the Local Planning Authority before the development commences. The floodlights shall be installed in accordance with the agreed scheme and retained for the duration of the approved use.

**Reason**

To minimise potential loss of amenity due to intrusive light pollution affecting residents living in the vicinity.

**Construction Phase Control Conditions**

**Condition – Hours of Site Works**

There shall be no site operations on any Sunday or Bank Holiday nor on any other day except between the following times:

Monday to Friday     08:00 – 18:00 hours

Saturday                09:00 - 13:00 hours

Any variation of the above hours restriction must be approved in writing by the Planning Authority.

**Reason**

To ensure appropriate hours of site work to minimise noise during the construction phase.

**Condition – Dust Control**

The commencement of the development shall not take place until there has been submitted to and approved in writing by the Planning Authority a scheme employing the best practicable means for the suppression of dust during the period of demolition/construction. The approved measures in the scheme shall be employed throughout this period of development unless any variation has been approved in writing by the Planning Authority.

**Reason**

To ensure that satisfactory measures are in place to alleviate any dust & dirt impact at adjacent residential premises.

#### **Noise & Vibration Control**

The following condition is recommended if pile driving works are required on site.

##### **Condition**

The commencement of the development shall not take place until there has been submitted to and approved in writing by the Planning Authority a programme for the monitoring of noise & vibration generated during demolition & construction works. The programme shall specify the measurement locations and maximum permissible noise & vibration levels at each location. At each location, noise & vibration levels shall not exceed the specified levels in the approved programme unless otherwise approved in writing by the Planning Authority or in an emergency.

**Reason**

To minimise noise/vibration disturbance at adjacent residential premises.

#### **Floodlighting Control (Construction Phase)**

The following condition is recommended if security floodlighting is required on site.

##### **Condition**

A floodlighting scheme shall be submitted to and approved in writing by the Local Planning Authority before the development commences. The floodlights shall be installed in accordance with the agreed scheme and retained for the duration of the works.

**Reason**

To minimise potential loss of amenity due to intrusive light pollution affecting residents living in the vicinity.

#### **Tree Officer**

7.8 No objections.

The applicant is proposing a good mix of native trees and shrubs in the right areas with more ornamental planting in formal areas. The scheme also includes the relevant maintenance and management information required for the planting to become established.

#### **Cleansing**

7.9 No issues.

#### **Highways Agency**

7.10 No objections. Suggested a minor revision to the original plans as submitted (moving the fence line back so as to improve access for maintenance of the motorway retaining wall alongside it), which was addressed during the course of the application. The follow up response to the amendment / re-consultation confirmed that the Highways Agency raise no objections to the proposal. Both responses are shown below:

**7.11 Initial HA response (prior to the plans being amended):**

***Background***

This application relates to the approval of reserved matters for the appearance, layout, scale and landscaping of the employment units 1, 2 and 3, pursuant to permission 10/18/1149 for a mixed use employment / residential development on land bordering the eastbound M65 off Greenbank terrace, Lower Darwen. Plot 3 (employment unit and associated car parking and landscaping) is the only plot sharing a boundary with the motorway.

The land in question has been previously developed since the motorway was constructed in 1997 and is currently vacant. Ground levels would remain the same for the site itself. However, the adjacent motorway is carried at a significant height above the site on a steep-sided embankment that in part is retained by a concrete retaining wall that is the responsibility of Highways England.

Our ownership Deed to the motorway land grant access to Highways England to 90 square metres of this site for the purposes of the construction and maintenance of the retaining wall, which cannot be accessed from an alternative route.

Whilst the development layout would not necessarily preclude this access, it assumed from the drawing (Plot 3 Landscaping ref. GAV027-004) as to the position of the proposed 1.8 metre high paladin fencing would be one metre from the retaining wall, which unless temporarily removed during any maintenance operations, may prevent access for maintenance works. With this in mind, it would need to be assumed that a section of the fence may need to be temporarily removed to facilitate this access.

Although we would have no objection to this in principle, this may result in inconvenience for the occupier of Plot 3. Consequently, we advise that consideration is given to the redesign of this section of the landscaping to relocate the fenceline parallel to the retaining wall to have a greater set-back distance so as to allow access via a small section of the tie-in fencing on Greenbank terrace as it approaches the motorway bridge eastern abutment. This would improve access for periodic inspection of the retaining structure and improve the width of the strip of land for access that may reduce the future need to encroach onto the site for any future works.

**7.12 Subsequent HA response to amended plans:**

The revision the fence line set out on the attached drawing should be fine to allow access for most maintenance instances without affecting the development itself. If major works were envisaged in the future where any part of the width for access presented any difficulties, then we would need to negotiate a temporary licence for working space with the site owner / operator. I notice that in the email below from Joe Barraclough from Campbell Driver Partnership that clarification is sought regarding the type of fence and its height to be used along the motorway boundary. We normally recommend a minimum height of 2 metres using a close-boarded fence or similar (so for example a Paladin fencing for this location may be suitable). Ultimately, the aesthetics are a matter for you as the LPA and the applicant to agree on.

**Network Rail**

**7.13 No comments.**

Electricity North West  
7.14 No comments received.

Lancashire Constabulary  
7.15 No comments received.

Ecology (GMEU)  
7.16 No comments received.

United Utilities  
7.17 No objections, subject to conditions (including UU standard conditions). The development may impact on existing assets and the associated easement strips of Plots 1 and 3. The precise location of the mains need to be confirmed. If this cannot be addressed pre-determination, a pre-commencement condition should be attached requiring until details of the means of ensuring the water main/s laid within the site boundary are protected from damage as a result of the development have been submitted to and approved by the Local Planning Authority in writing.

7.18 Whilst concerns were initially raised by UU, these related largely to conditions attached to the hybrid approval (now discharged). The full response is shown below:

With regards to your query, our concerns relate to Plots 1 and 3. According to our records, the development impacts on our existing assets and the associated easement strips.

The plans that you have been provided only give an approximate indication of the location of the mains, however in reality they may be located elsewhere. Therefore Water Developer Services request that the precise location of these mains are confirmed, usually by way of undertaking trial holes. If the applicant has evidence to demonstrate they have confirmed the location accurately, then it should be submitted to us for review asap.

I have confirmed with Sara Livesey in Water Developer Services that the applicant has not been in touch with her. It is my advice that they contact her as a matter of urgency to discuss the following:

**Plot 1**

There is a 160mm distribution main within the site, which will need the precise location confirming as it may be that the proposed buildings will impact on it or the associated easement strip. It is not acceptable for the development to be built on top of this water main or easement.

**Plot 3**

There is a 500mm pressurised trunk main within the site boundary, due to the nature of this water main and its large size, it may require the trial holes to include a supervised visit. However this should be confirmed with Sara.

Once the location of this main is confirmed, the following points may/ may not be relevant:

- The proposed landscaping plan needs to be in accordance with the planting guidance on pages 15 & 16 within our Standard Conditions document (a copy was issued with our original letter, however I have enclosed again for ease). Any other planting within the easement strip on either side of the water main will not be accepted.
- Should additional weight (i.e. soils, HGV lorries etc) be proposed on top of our existing asset, protection measures and a RAMs statement must be provided.
- A diversion is unlikely to be possible for this asset.

Should this matter not be addressed in time ahead of planning committee, our objection could be removed on the agreement that the suggested condition is attached to the Decision Notice:

***No construction shall commence (including any earthworks) until details of the means of ensuring the water main/s laid within the site boundary are protected from damage as a result of the development have been submitted to and approved by the Local Planning Authority in writing. The details shall include:***

- *a survey that identifies the exact location of the water main;*
- *the potential impacts on the water main/s from construction activities (including any construction compound);*
- *the impacts post completion of the development on the water main infrastructure that crosses the site and identify necessary mitigation measures;*
- *a timetable for implementation to protect and prevent any damage to the water main infrastructure both during construction and post completion of the development; and*
- *a pre and post construction condition survey.*

***Any mitigation measures shall be implemented in full prior to commencement of development in accordance with the approved details and timetable and shall be retained thereafter for the lifetime of the development. In the event that the survey of the water main/s identify the buildings/plots as within a 5m standoff either side of the main (10m in total), the developer shall submit evidence to the Local Planning Authority that a diversion has been agreed with the relevant statutory undertaker and that the approved works have been undertaken prior to the commencement of development.***

***Reason: In the interest of public health and to ensure protection of the public water supply.***

#### Environment Agency

- 7.19 An initial objection was also raised by the EA, which was again linked to the discharge of some of the hybrid approval conditions, in particular conditions 11, 12 and 13, which have now been discharged.
- 7.20 The EA has confirmed that their initial objection will be removed, and that they will submit a new formal response raising no objections prior to the Committee meeting. When received, the formal response will be reported to Committee in the update report.

- 7.21 Notwithstanding this, the EA has stated that the previous Flood Risk Assessment for the site will need to be updated to reflect the new flood risk scenario as a result of the de-culverting of Davy Field Drain and the impact of the altered levels. In their interim response, the EA has provided the following comments:

I will compile a “no objection” formal response for submission this afternoon to the commercial development. The FRA will need to be updated to reflect the new flood risk scenario as a result of the de-culverting of Davy Field Drain and the impact of the altered levels as a result of the building of the road.

There is currently no information accompanying this reserved matters application that would be sufficient to discharge conditions 38 – 41 from the outline application because the new flood risk has not been assessed in line with the new flood map for the site. That said, we have had sight of the new flood map of the site, through the discharge of the conditions for the “Full” part of the original hybrid application, so we are aware that it should be possible to mitigate the flood risk posed to the commercial units planned for south of the new spine road. Without this prior knowledge, we would likely object to the reserved matters proposal. However, **because conditions 38 - 41 are pre commencement conditions and no development can commence prior to their discharge, we will take the approach suggested. We would however like these reservations to form part of the report to the committee so that it is clear that no development can occur until flood risk to the new units has been properly assessed.**

#### Publicity

- 7.22 170 neighbouring properties were consulted during the consultation process relating to the initial scheme, and 4 site notices were posted on 14/07/21. A press notice was also advertised in the local newspaper (Press notice 13/07/21). No representations were received.
- 7.23 Following revisions to the parking provision at Unit 2, and moving the fence line back so as to improve access for maintenance of the motorway retaining wall, a further site notice was displayed (Additional site notice dated 28/09/21).
- 7.24 Final revisions to the site layout plans for Units 1, 2 and 3 have resulted in a further site notice (14 days consultation period) being displayed on 4th October. The formal deadline for consultation responses is therefore 18th October. Any subsequent responses that are not already covered in this report, will be reported to the committee in the update report.

**8.0 CONTACT OFFICER: Tom Wiggins – Planner, Development Management.**

**9.0 DATE PREPARED: 8th October 2021**

## **REPORT OF THE STRATEGIC DIRECTOR**

**Plan No: 10/21/0637**

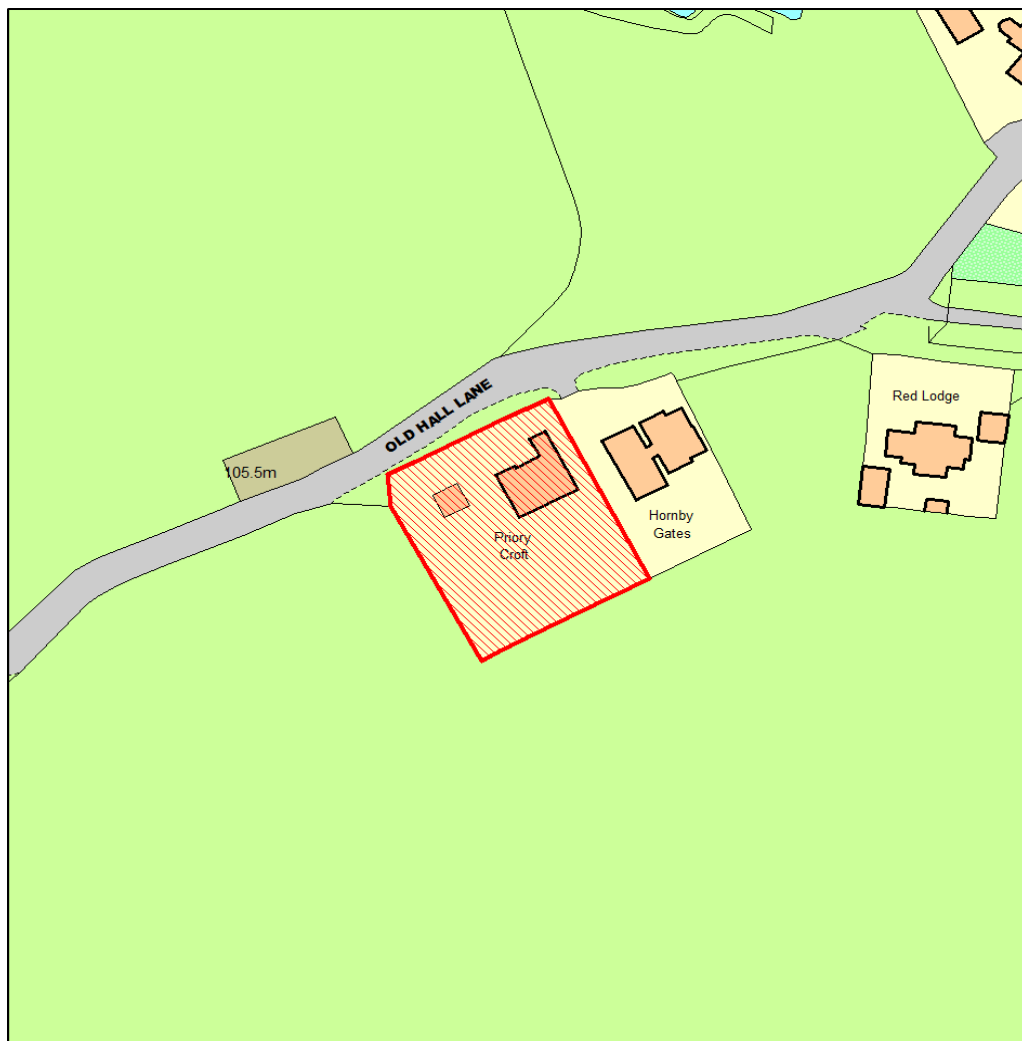
**Proposed development: Full Planning Application: Proposed covered terrace area to rear, roof terrace to western elevation, increase to ridge height, hip to gable roof alteration, front & rear dormers, a porch and alterations to existing elevations (retrospective).**

**Site address:  
Priory Croft  
Old Hall Lane  
Pleasington  
Blackburn  
BB2 6RJ**

**Applicant: Mrs Sahdia Aslam**

**Ward: Livesey With Pleasington**

**Councillor Derek Hardman  
Councillor Paul Marrow  
Councillor Mark Russell**



## **1.0 SUMMARY OF RECOMMENDATION**

### **1.1 APPROVE – Subject to conditions set out at paragraph 4.1.**

## **2.0 KEY ISSUES/SUMMARY OF PLANNING BALANCE**

2.1 This householder planning application is reported to the Committee following receipt of a Ward Member request for referral of a (typically) delegated item to the Planning & Highways Committee and subsequent acceptance of the referral. In addition, an objection has also been received from Pleasington Parish Council. This is in accordance with the adopted Scheme of Delegation.

2.2 Ward Members set out the following reasons for referral:

- *Unacceptable overlooking of adjacent property;*
- *lack of balcony screen;*
- *Inadequate plans;*
- *inappropriate given Green Belt location; and*
- *Brazen disregard for the planning process combined with the Council's unwillingness to implement a stop order means that this application requires full scrutiny to reassure residents that it has been fairly assessed.*

2.3 This recommendation follows detailed assessment of initial drawings and subsequent amendments, in consultation with neighbouring properties, Ward Members and the Parish Council, to arrive at a scheme which is considered to address concerns over the principle of the development, in relation to the Green Belt location, and neighbouring amenity impact. The proposal is, therefore, considered consistent with the Development Plan and The Framework.

2.4 The proposal is also satisfactory from a technical point of view, with all issues having been addressed through the application, or capable of being controlled or mitigated through application of planning conditions.

## **3.0 RATIONALE**

### **3.1 Site and Surroundings**

3.1.1 The application site (The site) relates to a detached dwelling house and associated curtilage (Use Class C3a), located to the south of Old Hall Lane, Pleasington, within the Green Belt, circa 70m to the east to the east of the Pleasington Village boundary.





Google maps image of application site edged in red

### **3.2 Proposed Development**

- 3.2.1 Retrospective planning permission is sought for a covered terrace area to the rear, a roof terrace to the western elevation, an increase to ridge height, a hip to gable roof alteration, front & rear dormers, a porch and alterations to existing elevations, as set out in the submitted drawings. The application is considered as retrospective on account of substantial works having commenced, including but not necessary limited to partial demolition of external walls, erection of dormers and the rear covered terrace. Details are set out in the submitted drawings, and site photographs below.
- 3.2.2 Members are advised that minor discrepancies exist between elements of the works undertaken to date and those detailed in the submitted drawings. Should the application be supported, works must proceed in accordance with the submitted / approved drawings.



Site photograph taken from the PROW to the south looking north towards application site: taken 15<sup>th</sup> July 2021



Site photograph taken within the application site showing extent of works carried out at property: taken 15<sup>th</sup> July 2021

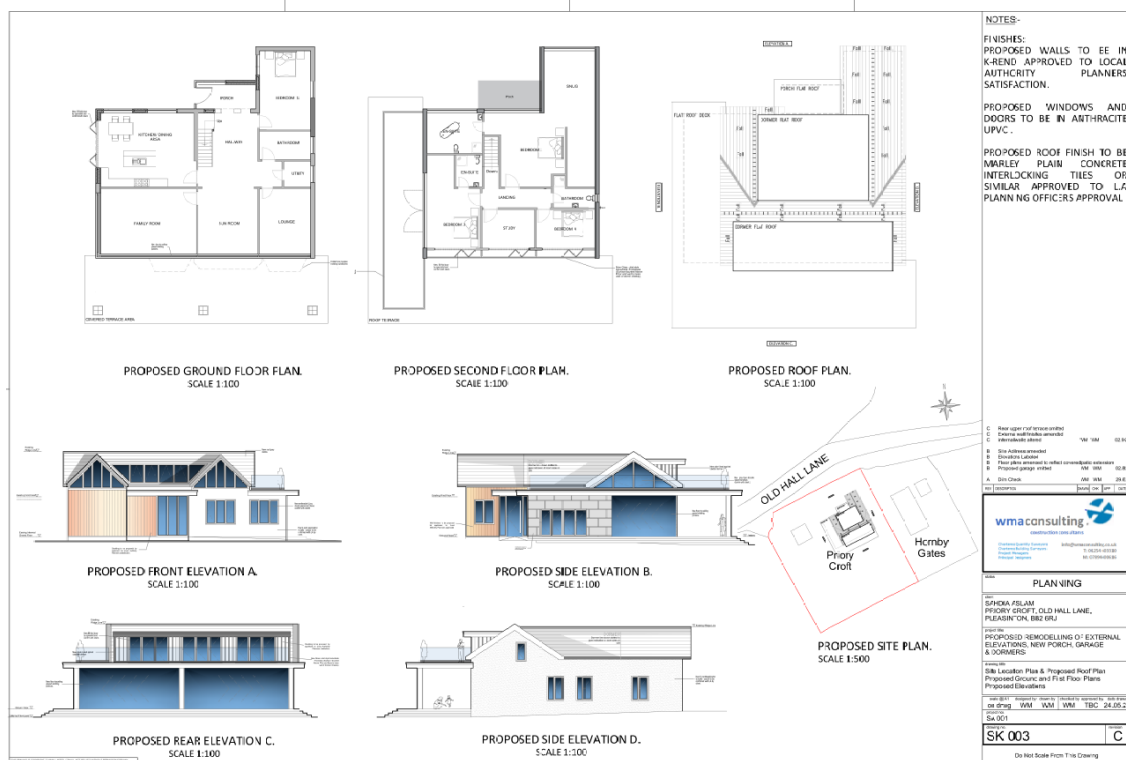




Site photograph taken within the application site showing extent of works carried out at property: taken 15<sup>th</sup> July 2021



Site photograph taken within the application site showing extent of works carried out at property: taken 15<sup>th</sup> July 2021



Extract from submitted amended floor plans and elevations – received 3<sup>rd</sup> September 2021

### 3.3 Development Plan

3.3.1 Section 38(6) of the Planning and Compulsory Purchase Act 2004 requires that applications be determined in accordance with the development plan unless material considerations indicate otherwise.

3.3.2 The Development Plan comprises the Core Strategy and adopted Local Plan Part 2 – Site Allocations and Development Management Policies. 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
- CS14 – Green Belt
- CS16 – Form and Design of New Development
- CS18 – The Borough Landscapes

#### 3.3.4 Local Plan Part 2 (LLP2)

- Policy 3 – The Green Belt
- Policy 6 – Village Boundaries
- 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 39 – Heritage
- Policy 41 – Landscape

### 3.4 Other Material Planning Considerations

#### 3.4.1 Residential Design Guide Supplementary Planning Document (2015)

#### 3.4.2 National Planning Policy Framework (The Framework) (2021)

Areas of The Framework especially relevant to the proposal are as follows:

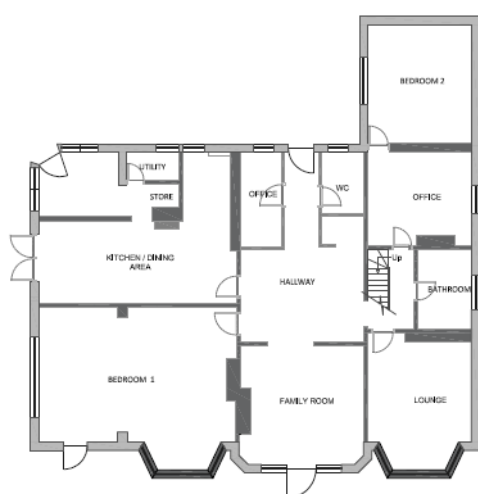
- Section 12: Achieving well-designed places
- Section 13: Protecting Green Belt land

#### 3.4.3 National Planning Policy Guidance (NPPG).

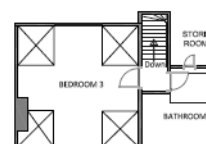
### 3.5 Assessment

3.5.1 The principle of the proposal is guided by the sites Green Belt location. Policy 3 is consistent with NPPF's direction that new buildings within the Green Built are inappropriate, subject to a number of exceptions, including the extension or alteration of a building provided that it does not result in a disproportionate addition over and above the size of the original building.

3.5.2 Members are advised that, although the proposal represents a substantial alteration to the appearance of the existing dwelling, it is not considered tantamount to a replacement dwelling, due to the retained extent and utilisation of existing internal floor area, foundations and external walls and roofing, notwithstanding the proposed rear extension / canopy.



GROUND FLOOR PLAN.  
SCALE 1:100



FIRST FLOOR PLAN.  
SCALE 1:100

Extract from submitted existing floor plan received 30<sup>th</sup> June 2021



PROPOSED GROUND FLOOR PLAN.  
SCALE 1:100

PROPOSED SECOND FLOOR PLAN.  
SCALE 1:100

Extract from submitted proposed floor plans received 3<sup>rd</sup> September 2021.

- 3.5.3 The proposal results in an approximate increase in volume of the original dwelling of circa 38%, taking into account an existing bedroom extension, approved in 1991. Increased massing from the public realm perspective of Old Hall Lane will result from the hip to gable alteration and front dormer. The maximum existing ridge height will not, however, be exceeded. Such increase is not considered to represent a disproportionate addition. Similar increased roof massing will result to the rear which is far less sensitive to the public realm, with Public Rights of Way to the south and west over 200m away.
- 3.5.4 Moreover, it should be recognised that a very significant proportion of the additional volume / massing could be achieved as Permitted Development, in accordance with Schedule 2, Part 1 Classes A and B (enlargement, improvement or other alteration of a dwellinghouse and enlargement of a dwellinghouse consisting of an addition or alteration to its roof, respectively).
- 3.5.5 For these reasons, the principle of the proposal is found to be acceptable, as a proportionate addition to the existing building that would not be harmful to the Green Belt.
- 3.5.6 Amenity  
Policy 8 requires a satisfactory level of amenity and safety is secured for surrounding uses and for occupants or users of the development itself; with reference to privacy / overlooking, and the relationship between buildings.
- 3.5.7 Securing satisfactory amenity levels for occupants of neighbouring Hornby Gates to the east is a key issue in the overall assessment. An amendment to

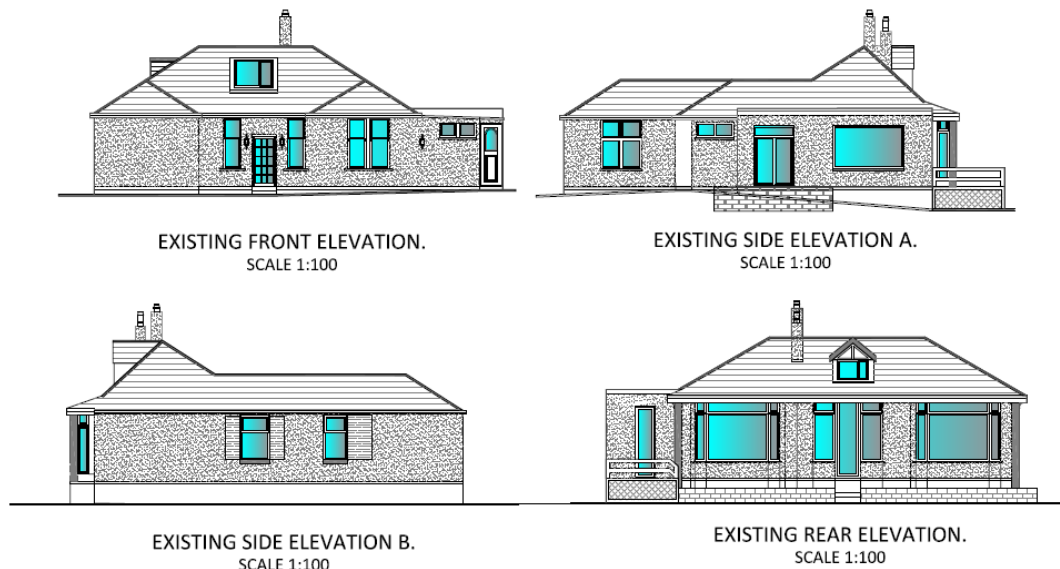
the original proposal relocates the roof terrace, as defined by the extent of the glass balustrade, to the western elevation of the dwelling (accessed via bedroom 3) from the rear of the dwelling which was in direct conflict with a primary window in the opposing side elevation of Hornby Gates, resulting in an unacceptable loss of privacy. No excessive privacy loss is considered to arise from the amended position of the roof terrace, notwithstanding its modest extension beyond the rear elevation of the dwelling. Separation between this element and the common boundary with Hornby Gates of circa 19m and primary windows at Hornby Gates of circa 24m, is considered sufficient to guard against any material privacy loss. Privacy impact arising from a proposed ground floor bedroom window to the side elevation of the dwelling is negated by the extent of boundary treatment between the two properties.

- 3.5.8 Although doors are proposed within the rear dormer, allowing access onto the roof of the covered terrace, a Juliet style railing is included, preventing unfettered access. The doors will serve only as a means of fire escape. Members are advised that use of this part of the roof as a typical roof terrace or similar would be unauthorised and subject to potential enforcement action in the event. This position will be re-enforced via application of a restrictive condition.
- 3.5.9 A modest increase in massing will result from the proposed alterations to the western side of the dwelling including an increase in eaves height of circa 200mm and an increase in ridge height of circa 1.2m along much of its length, though no higher than the highest point of the main ridge of the existing dwelling. No significant increase in overshadowing or dominance towards opposing bedroom windows at Hornby Gates, at a distance of circa 11m, is considered to arise (photograph below taken from bedroom window at Hornby Gates – dated 13<sup>th</sup> July 2021).
- 3.5.10 Accordingly, the relationship between the proposal and the Hornby Gates residence is found to be acceptable, in compliance with the requirements of Policy 8, the Residential Design Guide SPD and The Framework.
- 3.5.11 Highways  
Policy 10 requires that road safety and the safe and efficient and convenient movement of all highway users is not prejudiced and that appropriate provision is made for off street parking, in accordance with the Council's adopted standards.
- 3.5.12 Notwithstanding an increase in capacity from a three bedroom to a four bedroom dwelling, ample in-curtilage parking is retained.
- 3.5.13 Accordingly, highway impacts arising from the development are found to be acceptable, in accordance with the requirements of Policy 10 and The Framework.

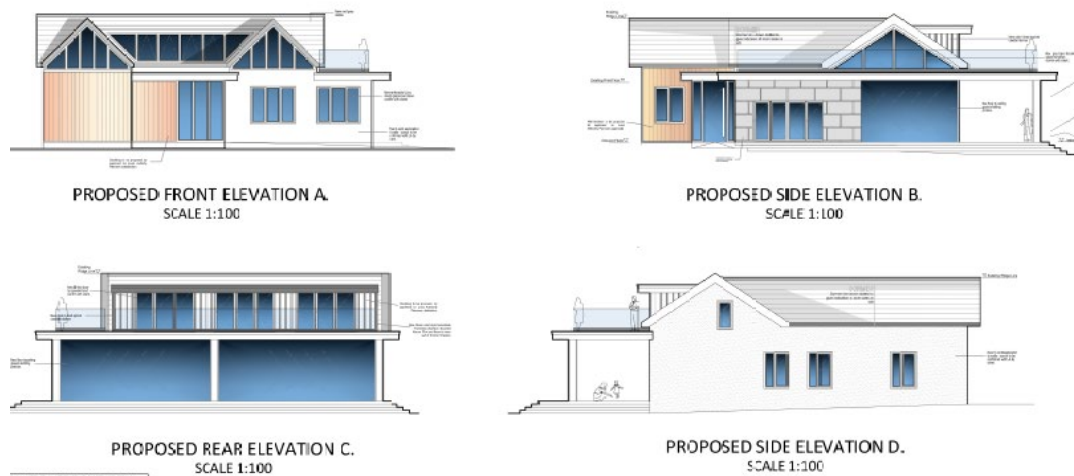


### 3.5.14 Design / Character & Appearance

Policy 11 requires a good standard of design and will be expected to enhance and reinforce the established character of the locality and demonstrate an understanding of the wider context towards making a positive contribution to the local area.



Extract from submitted existing elevations received 30<sup>th</sup> June 2021



Extract from submitted proposed elevations received 3<sup>rd</sup> September 2021

3.5.15 The application dwelling is read in conjunction with the neighbouring dwelling at Hornby Gates. Both are bungalows of sub-urban appearance, featuring a predominance of rendered walling, somewhat at odds with dwellings located further to the west / north west along Old Hall Lane which are of a character and appearance more typical of a rural location. Considered in this context, the contemporary alterations proposed, including the introduction of significant elements of glazing, are not considered to



undermine local distinctiveness. Moreover, the proposal remains satisfactorily proportionate in scale with Hornby Gates and the area in general.

3.5.16 Notwithstanding the varied palette of external materials proposed, including elements of render, Cedar cladding and cladding panels, in addition to the aforementioned glazing, it is recommended that materials are further considered via application of a condition requiring submission of samples.

3.5.17 Accordingly, the proposal is found to constitute good design, in accordance with the requirements of Policy 10, the Residential Design Guide SPD and The Framework.

3.5.18 Heritage

Policy 39 requires development with the potential to affect designated or non-designated heritage assets to sustain or enhance the significance of the asset.

3.5.19 The principle statutory duty under the Planning (Listed Building and Conservation Areas) Act 1990 is to preserve the special character of heritage assets, including their setting. LPA's should, in coming to decisions, consider the principle Act. Which states the following:

*Listed Buildings - Section 66(1)*

In considering whether to grant planning permission for development which affects a listed building or its setting, the local planning authority shall have special regard to the desirability of preserving the building or its setting or any features of special architectural or historic interest which it possesses.

3.5.20 The Framework defines the setting of a heritage asset as:

*The surroundings in which a heritage asset is experienced. Its extent is not fixed and may change as the asset and its surroundings evolve. Elements of a setting may make a positive or negative contribution to the significance of an asset, may affect the ability to appreciate that significance or may be neutral.*

3.5.21 Although the position of the Grade I listed Pleasington Priory, or the Church of St Mary and St John Baptist, to the west is recognised, the scale and household nature of the proposal as well of the relative separation of circa 170m, ensures a neutral impact on the listed building and its setting.

3.5.22 Accordingly, the proposal is found to comply with the requirements of Policy 39 and The Framework.

3.5.23 Other Matters

As noted in the above Member referral comments, Ward Members have expressed concern that the development has commenced and that the Council did not pursue the service of a Stop Notice. Members are advised that works have ceased, following informal officer requests

3.5.24 Complaints whilst works continued related to privacy impact arising from the presence of builders and the principle of works continuing in breach of planning control. Stop action under these circumstances was considered a disproportionate response to the breach in question.

3.5.25 Members are advised that, whilst the unauthorised works are undesirable and of understandable concern to the community, stop action under the circumstances would have been precedent setting and contrary to the accepted position that development may proceed without the benefit of planning permission, at an applicant's own risk. Only in the event of a serious threat to public amenity, safety or impacts to the wider environment would stop action be justified.

#### 3.5.26 Summary

This report assesses the householder planning application. The assessment demonstrates that the planning decision must be made in the context of assessing the merits of the proposal balanced against any potential harm that may arise from its implementation. This report finds that the proposal meets the policy requirements of the Blackburn with Darwen Core Strategy, Local Plan Part 2, adopted Supplementary Planning Documents and the National Planning Policy Framework.

## 4.0 RECOMMENDATION

### 4.1 Approve:

**Delegated authority is given to the Strategic Director of Place to approve planning permission, subject to the following conditions:**

1. Unless explicitly required by condition within this consent, the development hereby permitted shall be carried out in complete accordance with the proposal received 16<sup>th</sup> June 2021, drawings received 4<sup>th</sup> August 2021 and numbered: SK001, SK002 Rev B and amended drawing received 3<sup>rd</sup> September 2021 and numbered: SK003 Rev C.

REASON: For the avoidance of doubt and to clarify which plans are relevant to the consent.

2. Within 1 month of the development hereby approved, and notwithstanding the submitted details, written and illustrative details of all external walling, roofing materials, including their colour and texture, to be used in the construction of the building work, shall be submitted to and approved in writing by the Local Planning Authority. The development shall be implemented in strict accordance with the approved details.

REASON: To ensure that the external appearance of the development is satisfactory, in accordance with Policy 11 of the Blackburn with Darwen Borough Local Plan Part 2 and the adopted Blackburn with Darwen Design Guide Supplementary Planning Document.

3. Notwithstanding the submitted details, the cheeks and face of the dormer extensions hereby approved shall be clad in side-hung tile to match the existing roofing.

REASON: To ensure the proposal harmonises with the existing dwelling, in accordance with Policy 11 of the Blackburn with Darwen Borough Local Plan Part 2 and the adopted Blackburn with Darwen Design Guide Supplementary Planning Document.

4. The roof terrace hereby approved shall be limited to the area within the balustrade, as defined by the proposed roof plan indicated on drawing numbered: SK003 Rev B. The remaining roof area shall at no time be used as a roof terrace or similar.

REASON: To prevent overlooking / loss of privacy to occupants of Hornby Gates, in accordance with Policy 8 of the Blackburn with Darwen Borough Local Plan Part 2 and the adopted Blackburn with Darwen Design Guide Supplementary Planning Document.

## **5.0 PLANNING HISTORY**

- 5.1 10/91/1259 – Householder planning application for 'provision of an additional bedroom' (single storey front extension). Approved September 1991.

## **6.0 CONSULTATIONS**

- 6.1 As a householder application, consultation was limited to the public, the Parish Council and Ward Members. 9 letters were posted to the local community, a site notice was displayed and a press notice published (13/7/2021). In response, 5 objections were received (see Summary of Representations).

## **7.0 CONTACT OFFICER: Nick Blackledge – [Senior Planner]**

## **8.0 DATE PREPARED: 29<sup>th</sup> September 2021**

## 9.0 SUMMARY OF REPRESENTATIONS

### **Objection – Ward Councillor Mark Russell, received 22<sup>nd</sup> July 2021:**

Dear Nick,

I wish to object to the proposed development at Priory Croft, Old Hall Lane.

The development would result in unacceptable overlooking and loss of privacy for the adjacent residence.

The plans provided with the application are inadequate in detail and inaccurate in parts. The development does not appear to be proceeding in accordance with those plans. The proposed garage appears to entail the destruction of the existing hedge line.

Given the location within the Green Belt and within sight of a Grade 1 listed building, any development should be sensitive to its surroundings and this application fails to achieve that

Regards,

Mark Russell

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### **Objection – Kate Ainsworth, Received 08.07.21**

Good morning Councillor

I am emailing to ask for your help and to express my serious concern and objection to the proposed external alterations to Priory Croft on Old Hall Lane, Pleasington. Application Re. 10/2/0637

My house Hornby Gates, is next door Priory Croft and the proposed work as shown on the plans which were only received on the 1<sup>st</sup> July 2021 started on the 15<sup>th</sup> March 2021. Major work has been taking place since March without any consent or building inspections.

The plans for the development are very pretty designs but do not show any detailed measurements which does not give a clear picture of the final construction. The description of the proposed works, a single storey extension to form a new garage, front and rear dormer and porch is very misleading and I believe incorrect. The original house had one small bedroom and bathroom in the dormer. The new build will be a two storey house with 3 bedrooms, bathroom and storerooms upstairs. In truth this renovation is not an extension but a total re build of the house using one existing exterior wall.

The proposed site of the new garage is in front of the existing building line and will be up to and possibly be beyond the boundary line of the plot.

When the original plot of Priory Croft was split into two to build Hornby Gates the plans allowed total privacy for both houses. These new plans totally remove any privacy for Hornby Gates as the upstairs rooms and balcony of Priory Croft will allow viewing into the main living area of Hornby Gates and its garden. The extension of the house on the southern elevation will also result in blocking out half of the view from the living room window.

I would be very grateful if you could view the proposed works extension from the view point of Hornby Gates and take my objection to the planning committee. The fact that major construction has taken place before plans were submitted and planning permission obtained, gives me great concern about the legitimacy of this construction.

Yours sincerely

Kate Ainsworth

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**Comments – Katie Ainsworth, Received 15.07.21**

Hi Nick

Thank you for visiting my home on Tuesday and explaining the process of planning applications and how objections are dealt with. Below are the points that Alan Croston made when he looked at the application and the plans.

- I am unable to see any written dimensions on the plans which makes it impossible to judge the proposal, neither is there a scale bar on the drawings to overcome the problem of trying to measure on the screen. Most planning authorities require one or both of the above to enable everyone to assess what is proposed
- There appears to be a discrepancy between existing and proposed ground floor plans which hides a massive extension in a southerly direction
- The proposed garage impinges on the boundary planting and again there are no dimensions to be able to assess this.
- The written description of the development does not adequately cover the scale of work being actively built. Before work commenced there was only a small dormer bedroom and shower under the sloping eaves, now there are three bedrooms one study and two store rooms and a bathroom.
- Three rooms will open out onto a large south facing terrace, ( no fencing) which is half covered by a flat roof which means that the terrace can be actively used at all times. From this terrace there are views into the living room and patio area behind the bungalow which was hitherto completely private, this results in Hornby Gates being adversely affected.
- The increased bulk of the building and raised eaves height by 1.2 metres will overshadow my bungalow as it lies on the east side of Priory Croft. This is supposed to be a Green Belt area where the planning authority give special regard to the character of this open rural patch of the Borough, whereas the proposal is a large incoherent, non domestic design which will not only affect me but all those viewing the area.
- As work is well underway, demolition materials have been tipped on the east side of the former garden, changing levels and potentially having a further adverse impact on Hornby Gates.

I know we covered most of these points in our discussion on Tuesday but I would like these points to be formally noted in my objection. Do I need to send my objection to planning @blackburn.gov.uk as suggested by Mark Russell or are you planning at blackburn.gov.uk.

Best Regards  
Kate

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**Objection – Kate Ainsworth, Hornby Gates, Old Hall Lane, Pleasington, Received 13.09.21**

Hi Nick

Please note the following objections to the new plans for Priory Croft, Pleasington

1. The description of works is again incorrect stating the address as the Priory not Priory Croft, and Pleasinton and not Pleasington.
2. The covered terrace to the rear has had the glass balustrade removed suggesting that the roof terrace will not be used, but the three rooms opening onto the terrace still have three sets of bi-fold doors which will allow the roof terrace to be still in use if not officially, and will over look my lounge, patio and garden area.
3. The two car garage re-appears on the plans but there are no measurements and I do not think that there is room for this building without taking down the hedge and breaking the boundary of the building plot. I myself applied to move my garage in 2016 and was told in no uncertain terms that I could not build in front to the present building line and could not go anywhere near the boundary edge of my plot, despite the fact that I had more space and would not be close to the boundary line.
4. Priory Croft has plenty of space to extend the house on the western boundary without interfering with any other buildings and I am very disappointed that the extension on the southern aspect of the house will cut across half of my lounge window.
5. A question on the application form asks are there any trees in near proximity to the building which has been answered no, when in fact there are two very large mature trees in the garden of Priory Croft.

Please take these strong objections into consideration when making a decision on this planning application and if necessary take them to the planning committee.

Regards

Kate Ainsworth, Hornby Gates, Old Hall Lane, Pleasington.

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**Objection – Kate Ainsworth, Hornby Gates, Old Hall Lane, Pleasington, Received 17.09.21**

Good Morning Nick

I have found and looked at the latest plans for Priory Croft which are an improvement on the previous plans. I am pleased the terrace on the rear elevation C has been changed with the Juliet balustrade preventing access onto the balcony via the three bi fold doors. However I question the need for such a large balcony which cannot be accessed or used.

My main objection to the latest plans is that the terrace on the west elevation B extends beyond the width of the house and will therefore still be able to view into my lounge window and garden. I know that they will be standing further away from my house but when the builders have been on the temporary terrace working in that area their presence is very obtrusive. Surely there is no need for this terrace to extend beyond the width of the building.

Best regards

Kate

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**Comment – Pam & David Southworth , Pleasington Old Hall, received 21<sup>st</sup> July 2021**

Further to my email of 24 May 2021, I wish to comment on the above Planning Application which has, at last, been submitted by the current owners. We have not received the letter which was promised but have no objections to the proposed building, if that is what will be delivered. However, due to the fact that the rules have not been adhered to up to this point we are concerned that unless strict observation, from now on, is undertaken, we fear that this will not be the case.

We can see from the plans that an additional double integral garage is to be built to the left of the property and fear that the existing garage will be demolished and another dwelling will be built on its site. We presume that another planning application will be necessary and wonder whether that will materialise before the building is completed? Again we hope that constant monitoring would prevent this.

Our objections to the HGV parked on site still remain.

Kind regards,  
Pam & David Southworth  
Pleasington Old Hall

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**Objection – Eileen Smith, Clerk to Pleasington Parish Council, Received 22.07.21**

Full Planning Application - Proposed external alterations, single storey extension to form new garage, front/rear dormer and porch at Priory Croft Old Hall Lane Pleasington Blackburn BB2 6RJ 10/21/0637

Good morning,

Pleasington Parish Council wish to strongly object to this retrospective planning application in the green belt. The plans, as supplied, are not consistent with works already carried out on the site, and neither do they reflect the current layout of two neighbouring properties. A first floor extension already built is not noted on the plans at all. The plans are not to scale and make it almost impossible to accurately assess the application. Even the name of the property is incorrect.

I list some of the inaccuracies :

There is no balustrade shown on the extensive balcony .

There is no privacy shown to Hornby Gates .

The comparative heights of the front door to say the garage door is incorrect .

The proposed materials include grey cladding.

The plan sizes compared to the survey are incorrect .

There are no dimensions on the drawings .

There is no illustration of variation in the land levels .

The original garage has not been removed from the proposals .

Heights of the balcony roof are different on the different elevations .

The roof plan does not work .

The ceiling heights in some of the roof areas will mean changing the roof or the layout .

There are large windows at first floor over-looking old hall lane which are in store rooms?

The plans as a whole, and the external detail, which is visible from the Grade 1 listed Pleasington Priory, are not in keeping with the rural location of the property, and the new garage to the front elevation of the property appears to come right up to, and indeed into, the existing hedge boundary. Plans for a garage to the front of the neighbouring property have previously had to be altered.

Works currently being carried out need to be stopped immediately and properly-drawn plans submitted for consideration.











Regards,

Eileen Smith, Clerk to Pleasington Parish Council

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**Objection – Eileen Smith, Clerk to Pleasington Parish Council, Received 16.08.21**

Re : revised application for Priory Croft, Old Hall Lane, Pleasington 10/21/0637

The Parish Council have considered the revised application and would like to comment as follows :

The revised plans still do not tally with the description in the application, or indeed with the work already carried out on the site, and as such are still not fit for purpose.

In particular the new garage referred to in the description is not shown on the revised plans. We would suggest that no planning decision can be made until all the technical issues with this application are clarified.

Nothing in the revised application changes our original letter of objection and we would like this to stand in any further discussions.

Eileen Smith, Clerk to Pleasington Parish Council

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**Objection – Duncan Isherwood, Parish Councillor, Received 07.07.21**

Morning all .

Attempted to send a long email last night but it was too large !

Attached are the submitted drawings for what is described on the drawings as works to the priory! ( this must be altered )

Please all ... study the drawings carefully to look at the appalling detailing and sizes of doors / windows / floor heights etc . One example is the comparable heights of the bifolds on elevation A ( in the centre ) compared to the front door and sliding glass doors!! .

Plus check carefully the materials suggested on a rural property within visual range of a grade 1 listed building.

On a separate email I will send a group of photos taken last week which still show what looks like a sea container at first floor which does not relate to anything on the drawings . .

There is no balustrade shown at first floor on the massive balcony and there is no balcony screen shown overlooking the gardens of Hornby gate .

An additional garage is shown on the old hall lane elevation built out beyond the building line and almost into the front hedge .

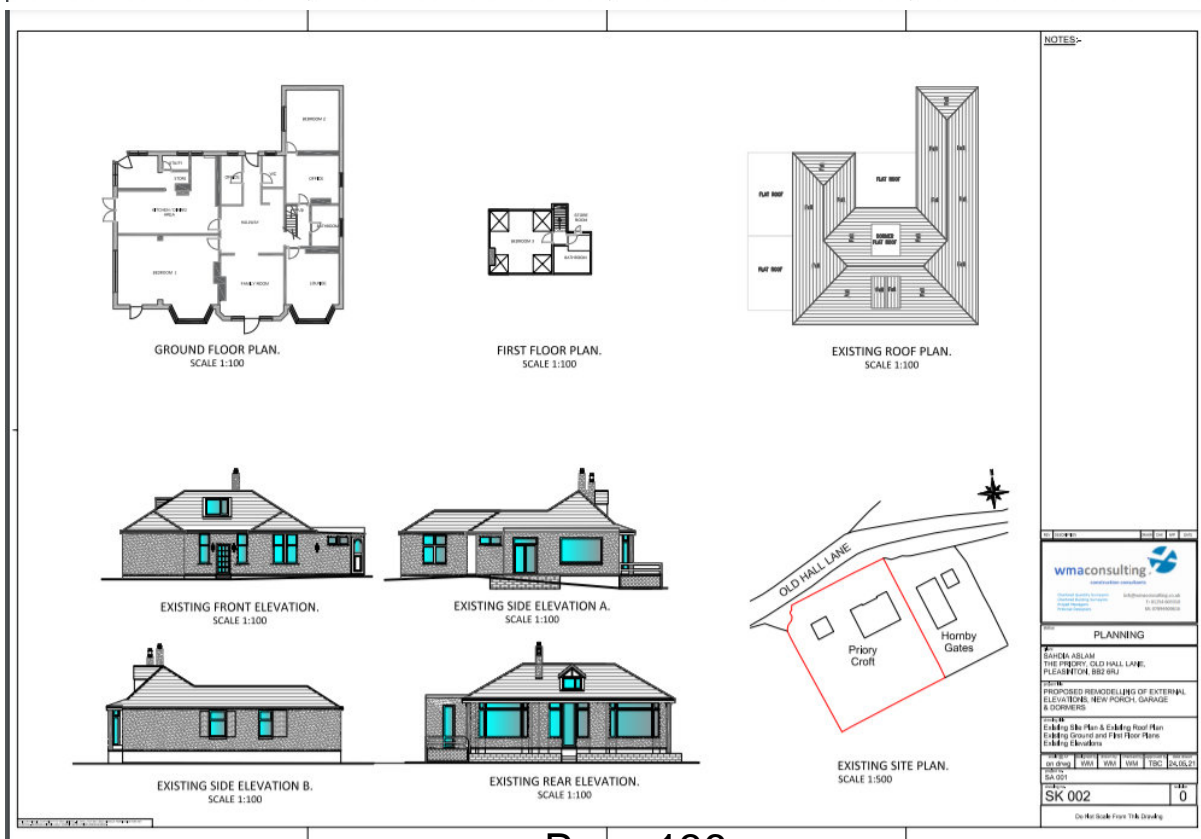
Obviously Gavin and his team will need to carefully review after the consultation period ( around another 14 days ) however given a decision will not be issued for another 6 weeks the amount of work carried out could require even more changes to the building if required . This is very concerning if the developer does not stop work and manages to finish before an appeal ( if refused ) is decided . If an appeal was won the precedent potentially set is very serious .

Finally I must add that as an Architect I have struggled to understand the drawings which puts everyone else in a very difficult position . These are the worst drawings I have ever seen .

For clarity the proposed side elevation A faces the Priory , elevation B faces Hornby Gate and the rear elevation the Sandy path .

I do hope Building Control have been alerted .

Photos to follow



Duncan Isherwood RIBA

Pleasington parish councillor

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**Objection – Duncan Isherwood, Parish Councillor, Received 09.08.21**

Good afternoon Nick .

Thanks for giving us the opportunity to comment on the revised application . I appreciate I have a technical advantage being an Architect but this email I would like putting on the file as another objection from me as Parish Councillor of Pleasington .

I have studied the revised drawings and there are obvious improvements however would you take the following on board please .

1. Pleasington is misspelt on all the drawings .
2. The description includes the reference to a new garage which according to the drawings has been removed .
3. Would a scheme of this size normally have a D&A / planning statement attached . I would have expected to supply one for a scheme of this size .
- 4 . I would suggest you ask for at least 2 cross sections be prepared as part of the application drawings as there are assorted problems particularly at first floor with head heights in some of the rooms . Also there are complications in the north elevation at first floor with windows and head heights plus the current extension on site bears no relation to the current plans as illustrated .
- 5 . Kate Ainsworth led me to understand the first floor doors onto the balcony were being altered to windows . They are clearly now bi fold doors opening onto the balcony which now has a glass balustrade . There is no obscure 1800 mm high balustrade to the side facing Hornby Gate ( see elevation D ) ... in fact the plan drawer has shown a person looking into the garden and living room of Hornby Gate .
6. Both ground and first floor plans show a heavy black line on the line of the glass walls to south facing elevations . Surely they should decide if these are glass walls or solid .
7. Please ask the plan drawer to clarify the first floor windows facing north as they are in places not shown on the plan and in others do not relate to the rooms behind .
8. Q4 on the application form still states there will be a new garage .
9. Are you sure the way Q12 has been answered correctly . The name is different .
10. I am still concerned about the variable heights of the sliding glass doors at ground floor as they vary so much on the south , west and north elevations .

I am more than happy to clarify any of the above if needed .

Regards Duncan



## **REPORT OF THE STRATEGIC DIRECTOR**

**Plan No: 10/21/0742**

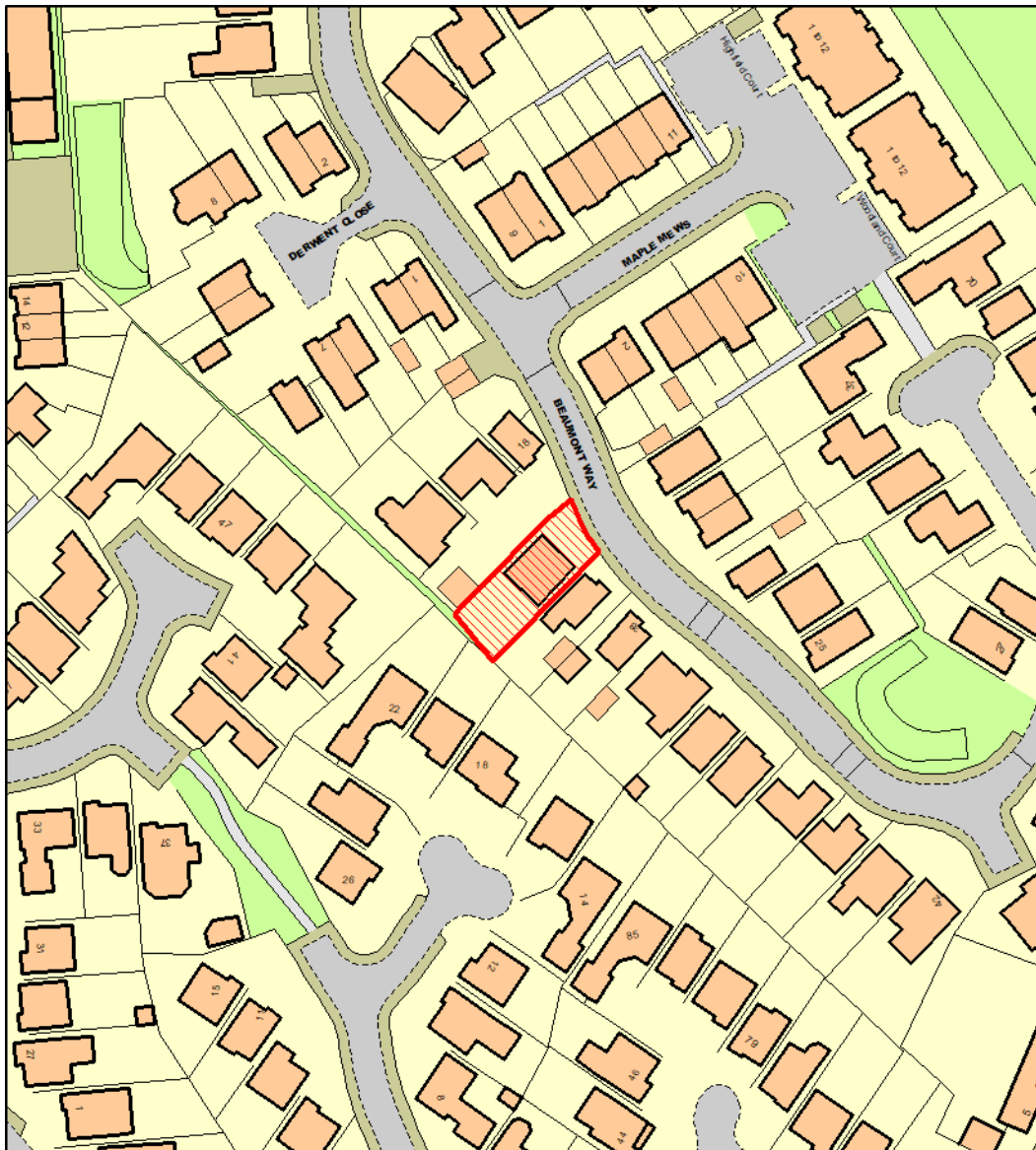
**Proposed development: Full Planning Application for Proposed single storey at rear and conversion of garage into habitable room**

**Site address:**  
**24 Beaumont Way**  
**Darwen**  
**BB3 3SG**

**Applicant: Mr Usman Shahid**

**Ward: Darwen South**

**Councillor Kevin Connor**  
**Councillor Lilian Gladys Salton**  
**Councillor Andrew Walker**



## **1.0 SUMMARY OF RECOMMENDATION**

- 1.1 **APPROVE** – Subject to conditions, as set out in paragraph 4.1

## **2.0 KEY ISSUES/SUMMARY OF PLANNING BALANCE**

- 2.1.1 The application is reported to the Committee in accordance with the Chair Referral Scheme of the Scheme of Delegation as the works are retrospective and due to the volume of representations received from local residents.
- 2.1.2 This proposal relates to the conversion of a domestic integral garage into living space (including associated external alterations), and a single storey extension to the rear. Neighbours were notified about the proposed development by letter on 8th July 2021, and 6 letters of objections were received, citing concerns relating to loss of privacy, parking, and other matters. Some of the issues raised are not planning considerations. However, all issues raised by neighbours are addressed later in this report, at Para 3.5.
- 2.1.3 Assessment of the application finds that the proposal is acceptable and complies with the relevant policies. It is acknowledged that there would be some impact on the amenity of adjoining residents. However, these impacts are not considered to be excessive or unacceptable. Therefore, in accordance with the presumption in favour of sustainable development as set out in the NPPF, the proposal is considered acceptable.

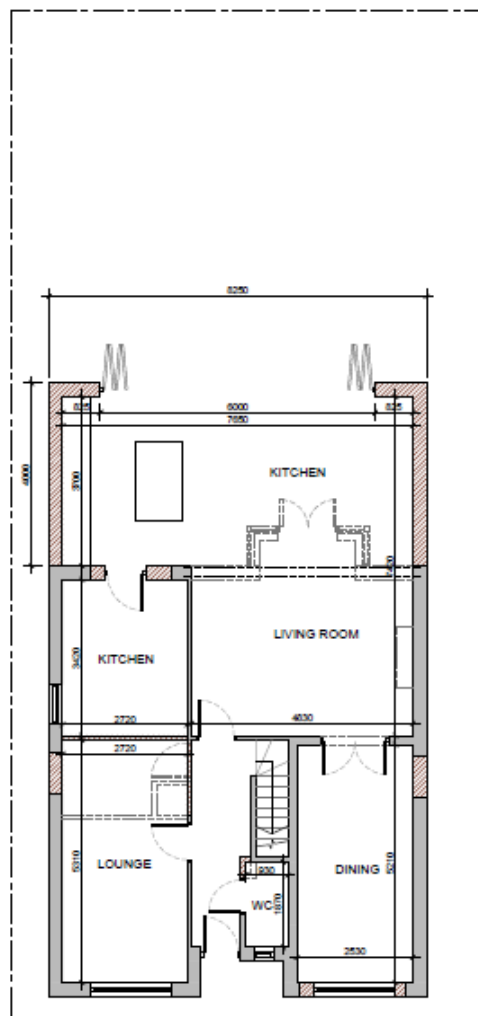
## **3.0 RATIONALE**

### **3.1 Site and Surroundings**

- 3.1.1 The application site lies within an established residential area within the Blackburn urban boundary, in a Coal Low Risk area. The application site itself is on relatively flat land, but there are notable differences in land levels to some of the adjoining neighbours, in particular to the north-west (side) and south-west (rear) of the site, where the land levels drop.

### **3.2 Proposed Development**

- 3.2.1 The proposed site, floor plans, elevations, and site photos are shown below:







Rear elevation



Looking towards no. 26 (on right)



Looking towards no. 26  
nos. 22, 20, and 18 (on left)



Looking from rear garden towards



View from front of no. 22



Looking towards front elevation of no. 22, from the side boundary fence

Site photos taken 23<sup>rd</sup> July 2021.

### **3.3 Development Plan**

3.3.1 Section 38(6) of the Planning and Compulsory Purchase Act 2004 requires that applications be determined in accordance with the development plan unless material considerations indicate otherwise.

3.3.2 The Development Plan comprises of the Core Strategy (2011) and Local Plan Part 2 – Site Allocations and Development Management Policies (2015). In determining the current proposal the following are considered to be the most relevant policies.

#### **3.3.3 Core Strategy**

- Policy CS16: Form and Design of New Development

#### **3.3.4 Local Plan Part 2**

- Policy 1: The Urban Boundary
- Policy 8: Development & People
- Policy 10: Accessibility & Transport
- Policy 11: Design

### **3.4 Other Material Planning Considerations**

#### **3.4.1 National Planning Policy Framework (NPPF)**

#### **3.4.2 BwD Parking Standards**

#### **3.4.3 Residential Design Guide Supplementary Planning Document (SPD):**

- Policy RES E1: Materials
- Policy RES E2: 45 Degree Rule

- Policy RES E3: Separation distances
- Policy RES E4: Detailing your extension
- Policy RES E5: Over Development
- Policy RES E7: Rear extensions
- Policy RES E19: Extensions and parking

### **3.5 Assessment**

3.5.1 In assessing this full application the following important material considerations are taken into account:

- Visual Amenity / Design
- Residential Amenity
- Highways / Parking
- Other matters

#### **3.5.2 Amenity**

3.5.3 CS Policy 16 and LP Policy 11 require a good standard of design and an understanding of the site's wider context. The Design SPD, in relation to siting, scale and appearance, reinforces this. In particular, rear extensions should be subordinate to the original house; and the design be in keeping with the existing property.

3.5.4 In design/visual amenity terms, the single storey rear extension would be subordinate to and in keeping with the existing house, using matching materials. The roof would be hipped, with bi-fold doors spanning the full width of the rear elevation.

3.5.5 External alterations to the front elevation to replace the garage door with a window would be done sensitively, and would precisely match the other ground floor window in the existing front elevation of the property. The rear extension and the alterations to the front elevation have both been designed to respect the character of the existing house in terms of design, appearance and materials.

3.5.6 The proposal therefore complies with the aforementioned policies and guidance.

#### **3.5.7 Residential amenity**

3.5.8 LP Policy 8 and the Residential Design SPD require a satisfactory level of amenity for surrounding occupants including light, privacy and overlooking. Concerns have been raised by neighbours about the extension having an overbearing impact due to its size, scale and massing, and existing land levels. Concerns were also raised about loss of privacy.

3.5.9 The proposed extension would have a hipped roof and would project 4m from the existing rear elevation. All windows in the extension would be in the rear elevation (bi-fold doors).

3.5.10 Policy RES E3 of the Residential Design SPD states that:

*“In relation to residential extensions, the Council will normally apply the following space standards:*

- i) a separation of no less than 21 metres shall be maintained between facing windows of habitable rooms;*
- ii) where windows of habitable rooms face a blank gable or a wall with only windows to non-habitable rooms, a separation of no less than 13.5 metres shall be maintained; and*
- iii) for each additional storey above 2 storeys, or where land levels create an equivalent difference in the heights of the buildings, the Council will require the distances referred to in i) and ii) to be increased by 3 metres.*

*In assessing space standards in relation to proposed extensions the Council will take account of the circumstances of the individual site.”*

3.5.11 To the rear (south-west)

3.5.12 The properties (and garden areas) to the rear lie on lower ground. However, the proposed extension would only be single storey and comprises a hipped roof, sloping down towards the boundary.

3.5.13 The separation distance from the rear extension to the rear elevations of these properties would be between 21m and 22m. The existing rear garden fence would ensure no overlooking from the single storey extension into these properties and garden areas. The rear elevations are also slightly staggered, which further lessens the impact.

3.5.14 Therefore, despite the difference in land levels, taking into consideration the individual circumstances of this site, the separation distances to the rear are considered acceptable.

3.5.15 To the (north-west) side

3.5.16 There is also a notable difference in land levels to a row of properties to the side (nos. 22, 20 and 18 Beaumont Drive) whose front elevations face the side elevation of the application property, and also lie on lower land.

3.5.17 With a separation distance of only 12m, the proposal would have some impact in terms of outlook of these neighbours (particularly no.22 Beaumont Drive), but this is not considered unduly excessive or overbearing given these properties already face the much larger side elevation of the existing two storey dwelling, and the extension would be no closer to these properties than the existing side elevation the house.

3.5.18 The position of the windows in the front elevation of no. 22 Beaumont Drive mean that one of the 2 front windows already faces a detached garage belonging to no.22 Beaumont Drive, whilst the other faces the side elevation of the house. The hipped roof of the extension also reduces the impact. The

impact on the residential amenities of the occupiers of these properties is therefore considered acceptable.

#### 3.5.19 To the (south-east) side

3.5.20 Whilst on a broadly similar land level to the application site, the immediate neighbour at no. 26 Beaumont Drive is set further back than the application property. However, there is an existing conservatory on the rear elevation, nearest to the boundary, and the 45 degree rule would as set out in the Design Guide SPD would be met. There are no windows proposed in the side elevations of the extension, and the impact on the residential amenity of the occupiers of 26 Beaumont Drive is therefore considered acceptable.

#### 3.5.21 Other amenity considerations

3.5.22 Considerable weight has also been given to what could be constructed under permitted development rights. Whilst neighbours have objected to the proposal, a detached dwelling can normally extend up to 4m from the rear elevation without requiring planning permission.

3.5.23 Access to the rear garden would be retained down the side of the house, and adequate amenity/garden space would be retained. Therefore the proposal is not considered overdevelopment of the plot.

3.5.24 All factors considered, on balance the impact on residential amenity is considered acceptable, and the proposal complies with the aforementioned policies and guidance in terms of its impact on residential amenity.

#### 3.5.21 Highways / parking

3.5.22 Policy 10 requires highway safety is not compromised, and that there is an adequate level of parking. The BwD Parking Standards require a certain number of spaces, dependant upon the number of bedrooms in the property. If bedroom numbers increase as a result of proposed development, the relevant parking standards should be applied.

3.5.23 Neighbours have raised concerns about a lack of parking in the area, and that any increase in on-street parking in the area would cause problems on the local roads.

3.5.24 However, the proposal only relates to a single storey rear extension, and the conversion of an existing integral garage into additional living space (a dining room).

3.5.25 The number of bedrooms at the property would not be increased as a result of the proposal, meaning there would be no change to the in-curtilage parking requirements as set out in the adopted BwD Parking standards.

3.5.26 Furthermore, the conversion of a garage into ancillary living space does not generally require planning permission.

3.5.27 Any change to the internal layout as shown on the proposed plans, including the creation of an additional ground floor bedroom, would need amended plans to be submitted to and approved by the Council.

3.5.28 Although tighter restrictions were requested by neighbours, in this context, an additional is not considered reasonable or necessary in the circumstances.

3.5.29 Highway safety would not be compromised, and the proposal complies with policy requirements.

#### 3.5.30 Neighbour objections

3.5.31 The proposal has prompted a number of objections from neighbours, which have been fully considered in the assessment of this application (above). The are referred to in detail in Section 9 of this report.

3.5.32 However, some of the issues raised, cannot be considered as part of the planning application process. This includes loss of view, whereas issues raised about the existing retaining wall and a sewer drain to the side of the boundary wall are private civil matters.

3.5.33 It is noted that the ground floor layout of the proposal includes 2 kitchens within the proposed ground floor layout. This has been queried with the applicant, and the smaller kitchen is intended to be a utility room. Notwithstanding this, in isolation the internal layout is not a material consideration for this planning application, unless it would lead to other impacts such as bedrooms / parking requirements. In this case, whether it is a kitchen or a utility room would not affect the amenity of neighbours, or the outcome of this application.

3.5.34 Despite the issues raised in the objections received, the proposal is considered to meet policy requirements and is considered acceptable development.

## **4.0 RECOMMENDATION**

### **4.1 APPROVE subject to the conditions below:**

1. Unless explicitly required by condition within this consent, the development hereby permitted shall be carried out in complete accordance with the proposals as detailed on drawings:

Dwg no. 00: Site location plan and Proposed site plan, @A3

Dwg no. 02: Proposed floor plans and elevations, @A3.

REASON: For the avoidance of doubt and to clarify which plans are relevant to the consent.

2. The development hereby permitted shall be begun before the expiration of three years from the date of this planning permission.

REASON: Required to be imposed pursuant to Section 51 of the Planning and Compulsory Purchase Act 2004.

3. Notwithstanding the submitted details, the external materials to be used in the construction of the development hereby permitted shall match those used in the existing building.

REASON: To ensure that the external appearance of the development is satisfactory in accordance with Policy 11 of the Blackburn with Darwen Borough Local Plan Part 2 and the adopted Blackburn with Darwen Design Guide Supplementary Planning Document.

## **5.0 PLANNING HISTORY**

- 5.1 10/02/0236 – Erection of 112 No Dwellings and associated infrastructure

## **6.0 CONSULTATIONS**

- 6.1.1 The planning application was received by the Local Planning Authority (LPA) on 7<sup>th</sup> July 2021. 9 Neighbour consultation letters were sent out on 8th July 2021, including all addresses adjoining the application site.

- 6.1.2 In response, 6 letters of objections were received.

## **7.0 CONTACT OFFICER: Tom Wiggans, Planner**

## **8.0 DATE PREPARED: 12<sup>th</sup> October 2021**

## 9.0 SUMMARY OF REPRESENTATIONS

### Objection from M Barbaro, 22 Beaumont Way, Received 30.07.21

28<sup>th</sup> July 21

Planning Service

Dear Mr Wiggans

RE Planning Application 24 Beaumont Way-  
Ref10/21/0742

I would like to comment regarding this matter.

They have a retaining wall on the side of my garage which is showing some bulging and movement towards my garage There is also a sewer drain located just on the other side of the wall.

I am concerned that the extra weight of the large extension will have considerable negative effect on the future state of the wall.

Kind Regards

M.Barbaro

22 Beaumont Way

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### Objection from Paul Adams, 17 Beaumont Way, Received 29.07.21

Reference 10/21/0742

17 Beaumont Way

BB33SG

Paul Adams



I have some concern over possible parking/access to properties in the near vicinity as there are already a number of houses locally with several vehicles.

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**Objection from Kieron Lowe, Received 15.07.21**

Dear Mr Wiggans,

**Re Planning Application – 24 Beaumont way Darwen - Ref: 10/21/0742**

I write further to your letter dated 8<sup>th</sup> July 2021 (received on the 14<sup>th</sup> July 2021) and our telephone conversation on the 14<sup>th</sup> July 2021, during which I raised my concerns in relation to the above mentioned application. I would like the opportunity to set out my reasons in writing, as suggested within your letter, and confirm my address for future reference is 26 Beaumont Way Darwen BB3 3SG.

In relation to the garage conversion I do not raise any objections in relation to the same.

Having viewed the application and plans, on the website, my main concerns are in relation to the large extension to be built to the rear of the property and these are listed as follows:

1. Loss of light/overshadowing to habitable rooms of our property
2. 45 degree rule to be considered
3. Loss of privacy
4. Residential visual amenity to our current living conditions.
5. Loss of view
6. Overdevelopment of the site
7. The extension will be overbearing in size, scale and mass and will overall have a dominating effect on our property.

I am aware that only three people live in this large detached accommodation and I would question why such a large extension is necessary, taking into consideration that the garage is also to be converted into living accommodation.

All of the above will have a detrimental effect upon our existing living conditions and will impact us severely on the enjoyment of using our conservatory, dining room and garden.

We wish to object to the planning application proceeding and would like to be kept fully informed in relation to this matter..

I look forward to hearing from you.

Kind regards,

Kieron Lowe

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**Objection from Kieron Lowe, Received 28.07.21**

28<sup>th</sup> July 2021

Dear Mr Wiggans,

**Re: Planning Application 24 Beaumont way – Ref: 10/21/0742**

Further to your recent visit and our telephone discussion I have again reviewed the plans in relation to the above planning application and would like to comment further. The plans show that there are to be two kitchens in the property and I would question as to why this would be needed for a family of three people.

In my previous email I did not object to garage conversion, however, I noted that the garage was to be converted into a dining room. I now have grave concerns that this may actually be used as a bedroom. I therefore wish to object to the same proceeding. Would it be documented that this conversion may only be used as a dining room and can you confirm the neighbour will be informed of this and must adhere to the same.

From the above I question whether additional family members will be moving into the property. If this is to be the case then I would raise issues with parking outside of my property and the properties surrounding. This is already a very busy road with many houses having two/three vehicles per household, leading to cars frequently being parked on the road, causing obstructions and problems when reversing or entering driveways.

Please keep me informed on this matter.

Kind regards

Kieron Lowe

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**Objection from Nino & Anna Sciambarella, Received 16.07.21**

Dear Mr Tom Wiggans.

We spoken by telephone the other day about the proposed planning permission ref 10/21/0742 at 24 Beaumont Way Darwen BB3 3SG.

one of the things I mentioned on our telephone conversation, was that I was concerned about my privacy as my patio door on my living room

are facing the house ( 24 Beaumont Way ).

and I also said that if there was going to be a lot of windows that I wold seriously object.

You have kindly explained how I cold get access to view the proposed plans and I did.

After viewing the plans, I can seen there is going to be a lot of breach of privacy as there is a full front of glass doors.

My house is at a lower level than 24 Beaumont Way and there is no way possible to block their view.

We already experiencing people from that address looking in from their bedroom windows.

My wife spotted one person at the window either with a camera or a telephoto lense.

This Email is to confirm that We strongly OBJECT.

Please reply and advice.

Thank You.

Nino and Anna Sciambarella

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**Objection from Scott & Leanne Wilson-Mayor, 22 Spire Close, Darwen, Received 14.07.21**

Good afternoon,

My husband and I received a letter with regards a planning application for the aforementioned property. This property is directly behind our home and these proposed plans would drastically reduced privacy on our home, therefore we object to the proposed plan.

Kind regards

Scott & Leanne Wilson-Mayor

## **REPORT OF THE STRATEGIC DIRECTOR**

**Plan No: 10/21/0747**

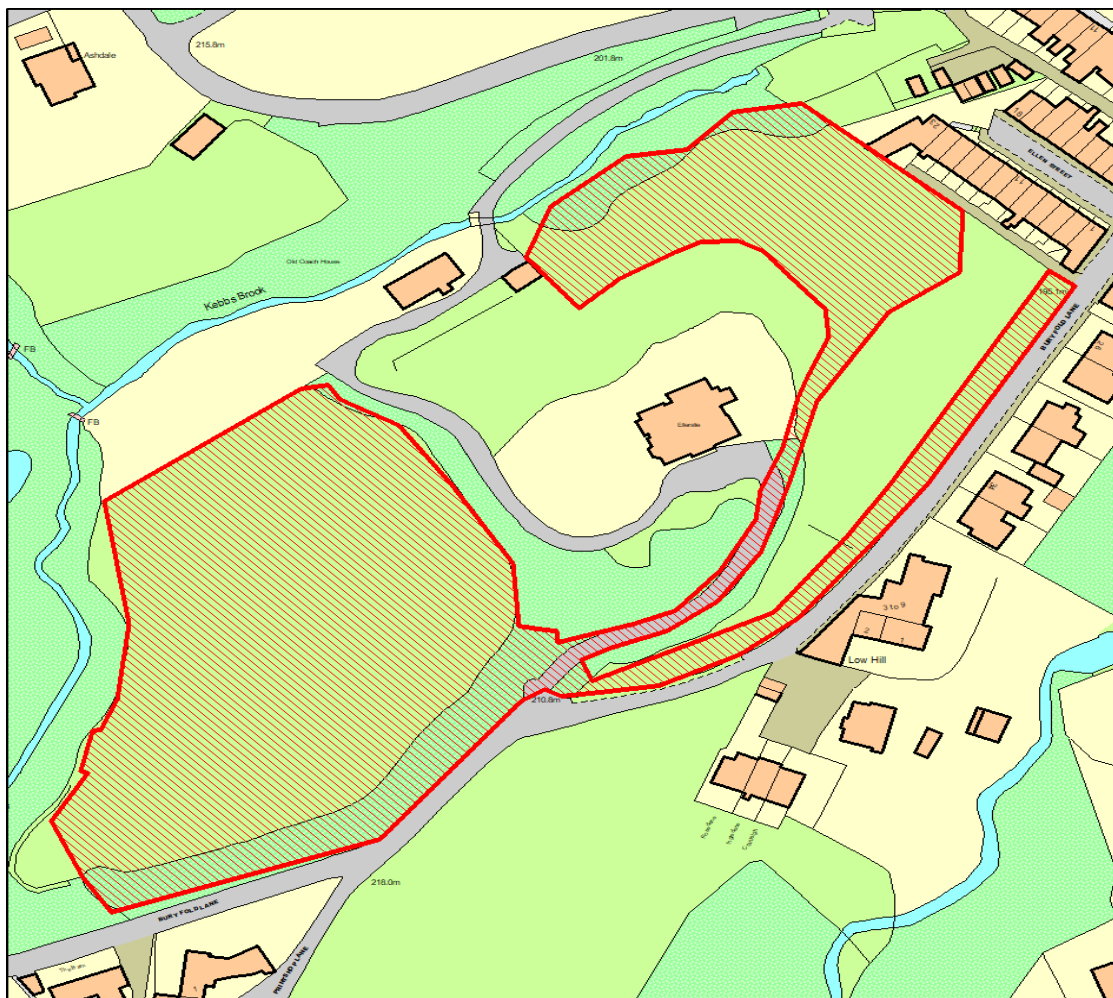
**Proposed development: Minor Material Amendment: Variation of condition 5 pursuant to application 10/21/0090 'Variation of Condition No.5 pursuant to Reserved Matters application 10/19/0642 for the appearance, landscaping, layout and scale for 18 dwellings; pursuant to Outline Approval 10/15/1081 - to amend the design of the proposed houses and include a private access to plot 5 to include a basement floor at plot 5 and associated landscaping.**

**Site address:  
Ellerslie  
Bury Fold Lane  
Darwen  
BB3 2QG**

**Applicant: Ms Patricia da Silva**

**Ward: Darwen South  
Ward: Whitehall**

**Councillor Kevin Connor  
Councillor Lilian Salton  
Councillor Andrew Walker**



## **1.0 SUMMARY OF RECOMMENDATION**

### **1.1 APPROVE – Subject to conditions, as set out in paragraph 4.1.**

## **2.0 KEY ISSUES/SUMMARY OF PLANNING BALANCE**

- 2.1 This planning application is submitted under the provision of section 73 of the Town and Country Planning Act 1990, pursuant to approval of Reserved Matters for the appearance, landscaping, layout and scale for 18 dwellings on land allocated for housing under Policy 28/12 of the Local Plan Part 2. This application represents a Minor Material Amendment to a previous Minor Material Amendment, seeking to vary previously approved drawings (set out in condition no. 5 – drawings received 4<sup>th</sup> February 2021), to amend plot 5 to include a basement floor. The application is reported to Committee as a proposed amendment to the original Reserved Matters application approved by Committee in January 2021, in accordance with the adopted Scheme of Delegation.
- 2.2 Members are advised that the principle of 18 dwellings and a subsequent amendment to the house type at Plot 5 are established under previous permissions. Assessment of this application is strictly limited to the proposed addition of a basement floor to the house type at Plot 5 and associated landscaping.
- 2.4 The assessment finds the proposed amendment to be acceptable, in maintaining a satisfactory appearance and scale of the dwelling together with proportionate landscaping. All technical issues have been addressed through the application or are capable of being controlled through planning conditions.
- 2.5 Members are respectfully reminded that the previously approved amendment to the house type at Plot 5 was considered and approved in the context of enabling development, with the plot being subject to a private sell off, including a significant non-refundable deposit paid to the applicant / developer, thereby enabling commencement of works to widen a section of Bury Fold Lane prior to the undertaking of any house building, as required by condition no. 5 attached to the Outline permission.
- 2.6 Members are further advised that support for this amendment does not influence conditions attached to the Outline permission which require compliance prior to commencement of development. This includes the need to undertake carriageway widening along a section of Bury Fold Lane, prior to the construction of any houses. Moreover, support for the proposal, as a Minor Material Amendment, will have the effect of creating a new planning permission alongside the original Reserved Matters permission and previous Minor Material Amendment. It would, therefore, still be open to the developer to implement either of the permissions.

### 3.0 RATIONALE

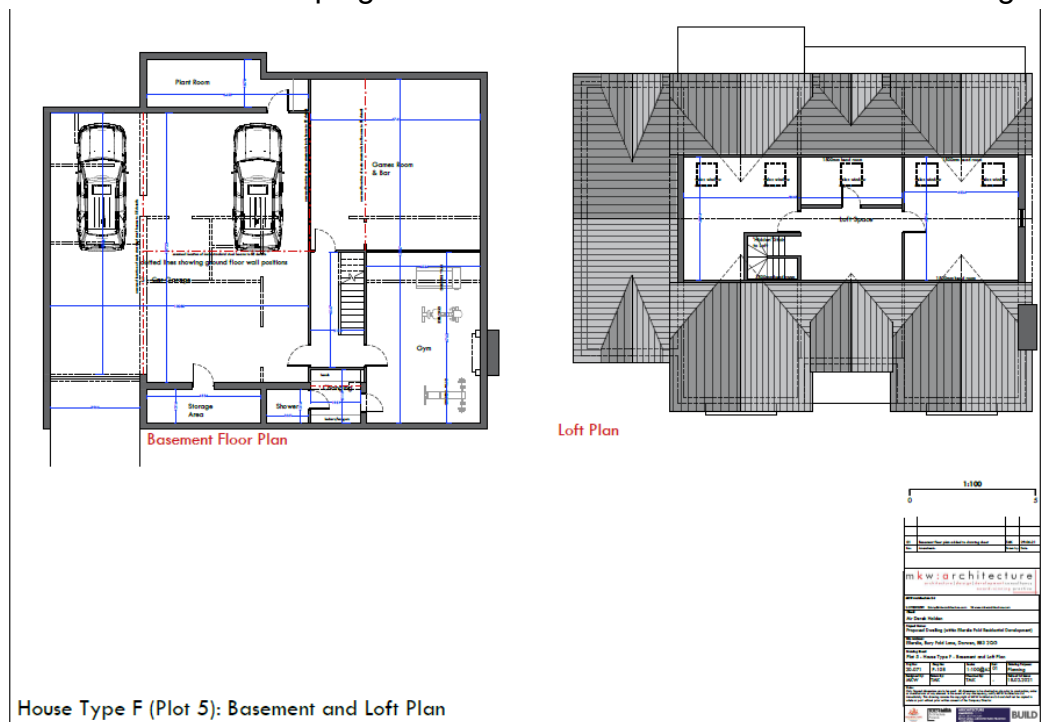
#### 3.1 Site and Surroundings

3.1.1 The application site (the site) relates to Ellerslie House, surrounding grounds, and access thereto, from the junction of Bury Fold Lane with the A666, Bolton Road. Ellerslie House is a large, impressive detached mid-19<sup>th</sup> Century dwelling located to the north west of Bury Fold Lane. The site lies within the south eastern edge of Darwen's urban boundary. The site is bound by housing to the east and open countryside to the north, south and west. A Listed Building is located to the south at Low Hill, being sited at the edge of the footpath to Bury Fold Lane. Large mature trees, some of which are protected by Tree Preservation Order, envelop the site and there is a watercourse known as Kebbs Brook to the north. The site is accessed from the A666 Bolton Road via Bury Fold Lane.

3.1.2 Topography rises steeply from the rear of terrace properties on Ellen Street toward Ellerslie, where the land continues to rise more gradually toward the west. There is also a drop in land level from south to north toward Kebbs Brook.

#### 3.2 Proposed Development

3.2.1 Variation of condition 5 pursuant to application 10/21/0090 – “Variation of Condition No.5 pursuant to Reserved Matters application 10/19/0642 for the appearance, landscaping, layout and scale for 18 dwellings; pursuant to Outline Approval 10/15/1081 to amend the design of the proposed houses and include a private access to plot 5” - to include a basement floor at plot 5 and associated landscaping. Details are set out in the submitted drawings.



Extract from submitted basement and loft plan received 7<sup>th</sup> July 2021



determining the current proposal, the following are considered to be the most relevant policies:

### 3.3.3 Core Strategy

- CS7 – Types of Housing
- CS8 – Affordable Housing Requirement
- CS15 – Ecological Assets
- CS16 – Form and Design of New Development

### 3.3.4 Local Plan Part 2 (LPP2)

- 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 18 – Housing Mix

## 3.4 **Other Material Planning Considerations**

### 3.4.1 Residential Design Guide Supplementary Planning Document

### 3.4.2 National Planning Policy Framework (The Framework)

The area of The Framework especially relevant to this proposal is:

- Achieving well-designed places

## 3.5 **Assessment**

### 3.5.1 Assessment of the original Reserved Matters application was limited the following matters:

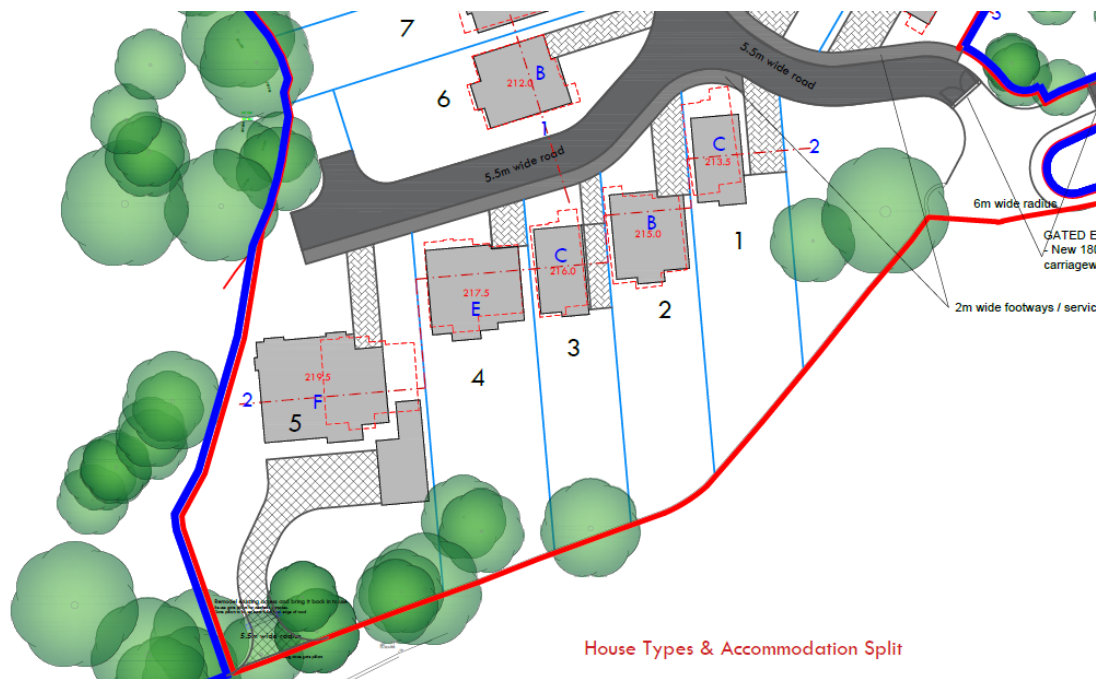
- **Appearance:** Aspects of a building or place which affect the way it looks, including the exterior of the development.
- **Landscaping:** The improvement or protection of the amenities of the site and the surrounding area; this could include planting trees or hedges as a screen.
- **Layout:** Includes buildings, routes and open spaces within the development and the way they are laid out in relation to buildings, routes and open space outside the development.
- **Scale:** Includes information on the size of the development, including the height, width and length of each proposed building.

### 3.5.2 This Minor Material Amendment application is limited to these matters, in the context of assessing the amended house type at Plot 5.

### 3.5.3 The site policy (LPP2 – Policy 28, site 28/12) has no specific requirements for any of the reserved matters, beyond a direction of the potential use of the site for ‘small scale residential’. Policy 11 (Design) of LPP2 is the primary policy that guided the original assessment.



- 3.5.4 The proposed amendment maintains the principle of a bespoke, larger house type in comparison to those otherwise approved within the development. Although it represents something of a departure from the contemporary design of the other house types, featuring more traditional gable roof profiling, the fenestration, external walling and roofing materials will appear broadly consistent with the remainder of the development, notwithstanding the relatively modest increase in scale.
- 3.5.5 It should be recognised that Plot 5 is an end plot of a row, positioned at the south western extremity of the site. Consequently, the amendment will be read less in conjunction with the other house types. This would not be the case if the plot sat within the row. In this context, the proposed appearance and scale, taking into account the increased massing arising from modest ground excavation facilitating access to the basement garage and retained landscape feature to the front garden, is considered to be acceptable. The aforementioned benefit of enabling development for the requisite road widening scheme to Bury Fold Lane should also be afforded continued weight.



Extract from submitted site plan showing location of Plot 5 – received 6<sup>th</sup> October 2021

- 3.5.6 The proposal is otherwise acceptable when considered against all other issues arising from assessment of Reserved Matters, including amenity, environmental and highway impact.
- 3.5.7 Accordingly, the proposed amendment remains compliant with the design requirements of Policy 11 and The Framework.
- 3.5.8 Section 106 obligations  
Members are advised that this amendment does not affect the section 106 Agreement attached to the outline permission, requiring the following financial contribution towards:

- a. Affordable Housing - A formula detailing “‘x’ no. of dwellings x (42.5% of average affordable house value) x 20% =£y contribution) towards the provision of affordable housing off-site in the locality. The average affordable house value is set at £150,000.
- b. Public Open Space –. The formal provision is to be provided via a lump sum of £1406 per dwelling which would be used to enhance existing open space/ play areas at Watery Lane and Ashton Park, as well as land drainage improvements to Blacksnape football pitches; in accordance with the Council’s Playing Pitch Strategy.

#### 3.5.9 Summary

This report assesses the Minor Material Amendment relating to Plot 5. Assessment of the relevant material considerations finds the proposal to be in accordance with Development Plan and The Framework.

### 4.0 **RECOMMENDATION**

#### 4.1 **Delegated authority is given to the Strategic Director of Place to approve planning permission, subject to the following conditions (including those attached to the original Reserved Matters permission):**

1. Prior to first occupation of the development hereby approved, a Management and Maintenance Plan for the approved internal highway and communal open space shall be submitted to and approved in writing by the Local Planning Authority. The development shall be maintained and managed in accordance with the approved details.

REASON: To ensure an appropriately maintained communal open area in the interests of visual amenity and biodiversity, in accordance with Policies 11, 9 & 40 of the adopted Blackburn with Darwen Borough Local Plan Part 2.

2. Notwithstanding the submitted details, prior to commencement of the development hereby approved, samples of all external walling and roofing materials, including their colour, to be used in construction of the building work shall be submitted to and approved in writing by the Local Planning Authority. The development shall be implemented in accordance with the approved details.

REASON: To ensure that the external appearance of the development is satisfactory, in accordance with Policy 8 of the Blackburn with Darwen Borough Local Plan Part 2 and the adopted Blackburn with Darwen Design Guide Supplementary Planning Document.

3. Prior to first occupation of the development hereby approved, details of the gated access into the site shall be submitted to and approved in writing by the Local Planning Authority. Details shall include the precise location of the gates, their elevational appearance and opening radii. The gates shall be installed in accordance with the approved detail upon completion of the approved development.

REASON: In the interests of highway safety and to ensure that the external appearance of the development is acceptable, in accordance with Policies 10 and 11 of the adopted Blackburn with Darwen Local Plan Part 2.

4. No development shall take place until a long-term Woodland Management Plan has been submitted to and approved in writing by the local planning authority. The approved Plan shall be adhered to throughout the lifetime of the development.

REASON: In order to safeguard retained woodland, in the interests of visual amenity and biodiversity, in accordance with Policy 9 and 40 of the adopted Local Plan Part 2.

5. Prior to occupation of the development hereby approved, details of the elevation / appearance and opening radii of the gates at the secondary access to Plot 5 shall be submitted to and approved in writing by the Local Planning Authority. The gates shall be installed in accordance with the approved detail upon completion of the approved development.

REASON: In the interests of highway safety and to ensure that the external appearance of the development is acceptable, in accordance with Policies 10 and 11 of the adopted Blackburn with Darwen Local Plan Part 2.

6. Unless explicitly required by condition within this consent, the development hereby permitted shall be carried out in complete accordance with the proposal received 27<sup>th</sup> June 2019; as detailed on drawings numbered: 16097 - LP, 16097 - 110 - Rev E, 16097 - CFP, 16097 - 113 - Rev C, House Type A - 16097 - 201, House Type B - 16097 - 202, House Type C - 16097 - 203 and House Type E - 16097 - 204; the amended proposal received 4<sup>th</sup> February 2021, as detailed on drawings numbered: 20-071 P-001 Rev 03, 20-071 P-002 Rev 02, House Type A 20-071 P-106, House Type B 20-071 P-105, House Type C 20-071 P-101, House Type E 20-071 P-103 and House Type F 20-071 P-102 Rev 01, 20-071 P-104 and 20-071 P-108; and the amended proposal received 7<sup>th</sup> July 2021, as detailed on drawings numbered: 20-071 P102 Rev 03, 20-071 P104, 20-071 P108 Rev 01 and 20-071 P109.

REASON: For the avoidance of doubt and to clarify which plans are relevant to the consent.

## **5.0 PLANNING HISTORY**

10/15/1081: Outline planning permission, granted by Planning & Highways Committee on 1<sup>st</sup> August 2016, for the erection of 22 three and four bedroom dwellings and access. Approved by Committee 1/08/2016.

10/19/0642: Approval of Reserved Matters, granted by Planning & Highways Committee on 17<sup>th</sup> January 2020, for the appearance, landscaping, layout and

scale for 18 dwellings; pursuant to Outline Approval 10/15/1081. Approved by Committee 17/01/2020.

10/20/0090: Variation of Condition No.5 pursuant to Reserved Matters application 10/19/0642 for the appearance, landscaping, layout and scale for 18 dwellings; pursuant to Outline Approval 10/15/1081 - to amend the design of the proposed houses and include a private access to plot 5. Approved by Committee 15/04/2021.

## **6.0 CONSULTATIONS**

- 6.1 As a Minor Material Amendment proposal involving a modification of house type and minor landscaping, consultation was limited to the public and Ward Members. 13 letters were posted to the local community, a site notice was displayed and a press notice published (05/08/2021). No written representations were received.

## **7.0 CONTACT OFFICER: CONTACT OFFICER: Nick Blackledge – [Senior Planner – Development Management].**

## **8.0 DATE PREPARED: 5<sup>th</sup> October 2021.**

## **REPORT OF THE STRATEGIC DIRECTOR**

**Plan No: 10/21/0825**

**Proposed development: Minor Material Amendment: Removal of Condition No.7 - "CS2 gas protection measures shall be incorporated into the development hereby approved, in accordance with the details specified in the Phase 3 'Environmental Investigation Risk Assessment and Remediation Strategy', Ref. LKC 19 1398, dated December 2019" - pursuant to planning application 10/21/0277 - "Residential development consisting of 30 dwellings and associated infrastructure works."**

**Site address:**

**Land off Lomond Gardens  
Blackburn**

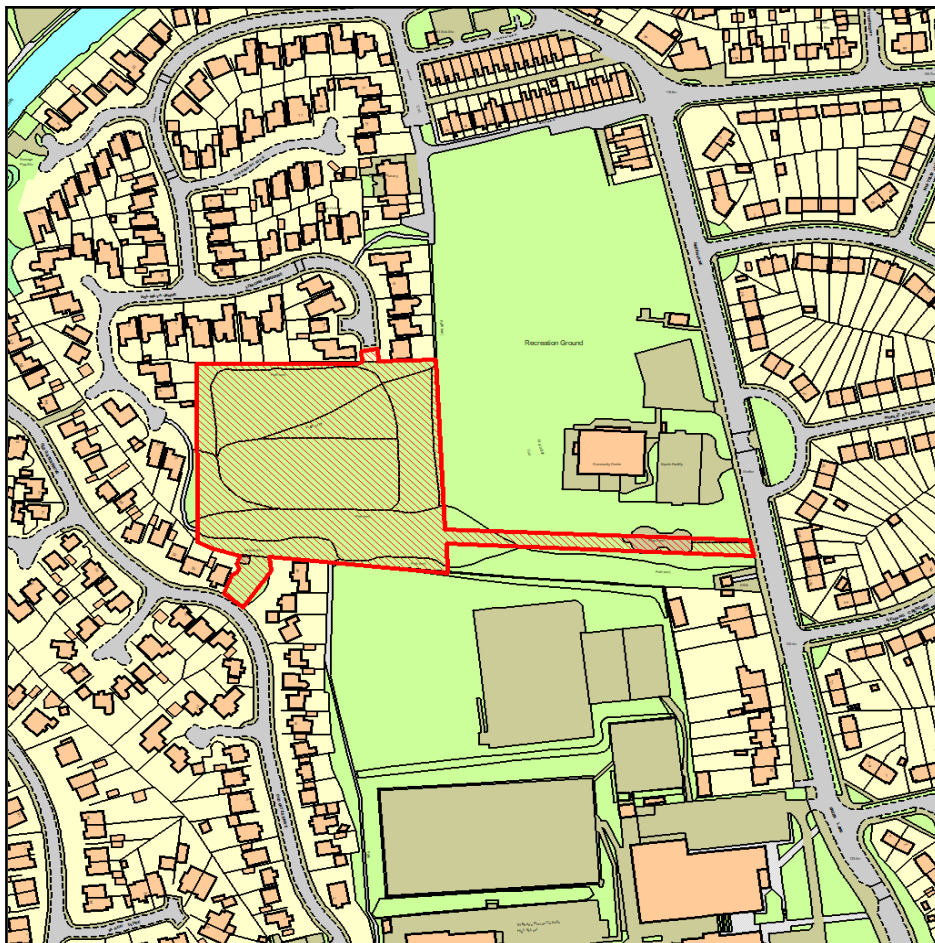
**Applicant: McDermott Homes Ltd**

**Ward: Livesey With Pleasington**

**Ward: Mill Hill & Moorgate**

**Councillor Derek Hardman  
Councillor Paul Marrow  
Councillor Mark Russell**

**Jim Smith  
Damian Talbot  
Julie Gunn**



## **1.0 SUMMARY OF RECOMMENDATION**

- 1.1 APPROVE – Subject to a Section 106 Agreement of £515,000, relating to Affordable Housing, Green Infrastructure / Public Open Space provision / enhancement, education provision; and conditions set out at paragraph 4.1 (including removal of condition no.7 attached to the original permission).**

## **2.0 KEY ISSUES/SUMMARY OF PLANNING BALANCE**

- 2.1** This planning application is submitted under the provision of section 73 of the Town and Country Planning Act 1990, pursuant to full planning permission granted for a residential development consisting of 30 dwellings and associated infrastructure works. The application represents a Minor Material Amendment seeking to remove the following condition (no. 7) attached to the permission: *“CS2 gas protection measures shall be incorporated into the development hereby approved, in accordance with the details specified in the Phase 3 'Environmental Investigation Risk Assessment and Remediation Strategy', Ref. LKC 19 1398, dated December 2019”*. The application is reported to Committee as a proposed amendment to the original grant of full planning permission (10/21/0277) by Committee in July 2021 subject to a Section 106 Agreement, in accordance with the adopted Scheme of Delegation.
- 2.2** Members are advised that the principle of the development is established under the original permission. Assessment of this application is strictly limited to the proposed removal of the above stated condition. Furthermore, Members are advised that the s106 agreement has been signed by the developers, and the local authority and was completed on the 1<sup>st</sup> July 2021.
- 2.3** Assessment of the application finds the proposed amendment to be acceptable, in maintaining satisfactory levels of amenity and safety for future occupants of the development and the wider public, by guarding against any evident threat of ground contamination. Remaining conditions attached to the original planning permission will be re-produced in a subsequent permission, should this application receive support.
- 2.4** Support for the proposal, as a Minor Material Amendment, will have the effect of creating a new planning permission alongside the original permission. It would, therefore, still be open to the developer to implement either of the permissions.

## **3.0 RATIONALE**

### **3.1 Site and Surroundings**

- 3.1.1** The application site (the site) is located to the south west of Blackburn, measuring approximately 1.15 hectares in area (illustrated below).

- 3.1.2 The site, with the exception of POS on Old Gates Drive and land adjacent to Green Lane Community Centre, was formerly in use as a cinder all weather pitch, used by St Bede's RC High School. It has not, however, been used for this purpose since 1997, as evidenced by the assimilation of the all-weather surface into the general landscape.
- 3.1.3 There are informal pathways located around the perimeter of the site which connect into Nook Terrace to the north east and Solway Avenue to the west. A Public Right of Way (PROW) runs along the western and southern perimeter of the site. The PROW continues in a southerly direction along the edge of the St Bede's RC High School playing fields, from where it can be accessed from the west via Solway Avenue.
- 3.1.4 The site is bounded by residential properties to the north, south and west which are positioned with their side and rear elevations facing into to the site. To the east is the Green Lane Community Centre and grassed recreation grounds. Green Lane and residential properties are located beyond. St Bede's RC High School and associated playing fields are located to the south east, beyond which is Livesey Branch Road and more residential properties.

### **3.2 Proposed Development**

- 3.2.1 The applicant seeks removal of Condition No.7 - "CS2 gas protection measures shall be incorporated into the development hereby approved, in accordance with the details specified in the Phase 3 'Environmental Investigation Risk Assessment and Remediation Strategy', Ref. LKC 19 1398, dated December 2019" - pursuant to planning application 10/21/0277 - "Residential development consisting of 30 dwellings and associated infrastructure works." The rationale behind the proposal is to evidence that the CS2 gas protection measures secured via this condition is no longer necessary, as set out in the submitted additional Ground Gas Risk Assessment.



Approved McDermott's Site Plan, Dec 2019.

### 3.3 Development Plan

3.3.1 Section 38(6) of the Planning and Compulsory Purchase Act 2004 requires that applications be determined in accordance with the development plan unless material considerations indicate otherwise.

3.3.2 The Development Plan comprises the Core Strategy and adopted Local Plan Part 2 – Site Allocations and Development Management Policies. In determining the current proposal the following are considered to be the most relevant policies:



### 3.3.3 Core Strategy

- CS13 – Environmental Strategy

### 3.3.4 Local Plan Part 2

- Policy 1 – The Urban Boundary
- Policy 7 – Sustainable and Viable Development
- Policy 8 – Development and People

## 3.4 **Other Material Planning Considerations**

### 3.4.4 National Planning Policy Framework (The Framework) (2019)

### 3.4.5 National Planning Policy Guidance (NPPG).

## 3.5 **Assessment**

- 3.5.1 Assessment is considered in the context of Policy 8 which requires a satisfactory level of amenity and safety is secured for surrounding uses and for occupants or users of the development itself, including but not limited to pollution.
- 3.5.2 A Ground Gas Risk Assessment is submitted with this application. This is in addition to an assessment previously reviewed during the course of the original application. The current assessment concludes that no gas protection measures or radon precautions are required for the site. Following review of the assessment, the Council's Public Protection consultee confirms agreement with this conclusion and recommends removal of the condition, in support of this application. This is further supported by submission of an email from the applicant confirming specification of the proposed foundations.
- 3.5.3 Support is offered subject to a recommendation that a final Verification Report is submitted detailing any post remedial soil analysis to evidence that no contaminated material remains. Members are, however, advised that no such mechanism exists to require the applicant to submit a Verification Report, either under the scope of this application or conditions attached to the original planning permission. Instead, discovery of unexpected ground contamination during construction of the development is captured via the following condition (no. 8) attached to the original permission.

*Should contamination be encountered unexpectedly during redevelopment, all works should cease, and the LPA should be immediately informed in writing. If unacceptable risks are identified, a remedial options appraisal and detailed remediation scheme should be presented, and agreed in writing by the LPA. No deviation shall be made from this scheme without the written express agreement of the LPA.*

*REASON: To protect the health of future occupiers of the site, in accordance with Policy 8 of the adopted Blackburn with Darwen Borough Council Local Plan Part 2.*

3.5.4 In the event of unexpected contamination being encountered, the applicant would be obligated to comply with the requirements of the condition.

3.5.5 Accordingly, the proposal is found to comply with the requirements of Policy 8 and The Framework.

3.5.6 Summary

This report assesses the Minor Material Amendment, proposing removal of the aforementioned condition no. 7. The assessment finds the proposal to be acceptable, as in accordance with Development Plan and The Framework.

#### **4.0 RECOMMENDATION**

##### **4.1 Approve subject to:**

- (i) **Delegated authority is given to the Strategic Director of Place to approve planning permission, subject to an agreement under Section 106 of the Town & Country Planning Act 1990, relating to the payment of £515,000; plus a monitoring fee of £5,099.**

**Should the Section 106 agreement not be completed within 6 months of the date of the planning application being received, the Strategic Director of Place will have delegated powers to refuse the application.**

- (ii) The following conditions:

1. The development hereby permitted shall be begun before the expiration of three years from the date of the original planning permission 10/21/0277 i.e. 2<sup>nd</sup> July 2021.

REASON: Required to be imposed pursuant to Section 51 of the Planning and Compulsory Purchase Act 2004.

2. Unless explicitly required by condition within this consent, the development hereby permitted shall be carried out in complete accordance with the proposal received 15th March 2021 and with the following drawings numbered: LO-01, SL-02b, SD41, SD-SW1a, BTP-01b, ML-01a, 6312.01 Rev C, REFA - 20011/01/1 Rev D.

Garage type: SD/SG/B/01-2F

House types:

Cader: CAD 1.7

Cleveland Brick: CLE 1.7

Maidstone Brick: MAI 1.7

Kellet Brick: KEL 1.7

Chatham Brick: CHA 1.7  
Bowfell Brick: BOW 1.7  
Garth: GAR 1.7; and

The Ground Gas Risk Assessment (Groundtech Consulting, July 2021), received 19<sup>th</sup> July 2021.

REASON: For the avoidance of doubt and to clarify which plans are relevant to the consent.

3. The exterior of the dwellings hereby approved shall be constructed in strict accordance with the materials specified in the submitted Design & Access Statement produced by McDermott Homes, received 15<sup>th</sup> March 2021, the submitted House Type drawings and corresponding 'Materials Layout' drawing numbered: ML-01a.

REASON: To ensure that the external appearance of the development is satisfactory; in accordance with Policy 11 of the Blackburn with Darwen Borough Local Plan Part 2 and the adopted Blackburn with Darwen Design Guide Supplementary Planning Document.

4. The development hereby approved shall be implemented in strict accordance with the boundary treatments specified in elevation drawings numbered SD41 and SD-SW1a, and the corresponding boundary treatments layout drawing numbered: BTP-01b.

REASON: To safeguard residential amenity and to ensure the external appearance of development is acceptable, in accordance with Policies 8 and 11 of the adopted Blackburn with Darwen Borough Council Local Plan Part 2.

5. No development shall commence until any remediation works and/or mitigation measures to address land instability arising from coal mining legacy, as may be necessary, have been implemented on site in full in order to ensure that the site is made safe and stable for the development proposed.

Remedial works shall be carried out in accordance with authoritative UK guidance.

REASON: To ensure a safe form of development in response to historic coal activity at the site, in accordance with Policy 8 of the adopted Blackburn with Darwen Borough Council Local Plan Part 2.

6. Prior to the occupation of the development, or it being taken into beneficial use, a signed statement or declaration prepared by a suitably competent person confirming that the site is, or has been made, safe and stable for the approved development shall be submitted to the Local Planning Authority for approval in writing. This document shall confirm the methods and findings of the intrusive site investigations and the completion of any

remedial works and/or mitigation necessary to address the risks posed by past coal mining activity.

REASON: To ensure a safe form of development in response to historic coal activity at the site, in accordance with Policy 8 of the adopted Blackburn with Darwen Borough Council Local Plan Part 2.

7. Should contamination be encountered unexpectedly during redevelopment, all works should cease, and the LPA should be immediately informed in writing. If unacceptable risks are identified, a remedial options appraisal and detailed remediation scheme should be presented, and agreed in writing by the LPA. No deviation shall be made from this scheme without the written express agreement of the LPA.

REASON: To protect the health of future occupiers of the site, in accordance with Policy 8 of the adopted Blackburn with Darwen Borough Council Local Plan Part 2.

8. Each dwelling shall have its own dedicated electric vehicle charging point. Each charging point will have a type 2 conductor and minimum rating of 3.7kW 16A. External points will be weatherproof and have an internal switch to disconnect electrical power.

REASON: in the interests of air quality management and protection of health, in accordance with Policy 8 of the Blackburn with Darwen Borough Local Plan Part 2.

9. Gas fired domestic heating boilers shall not emit more than 40mgNO<sub>x</sub>/kWh.

REASON: In the interests of improving air quality and to protect the health of resident, in accordance with Policy 8 of the Blackburn with Darwen Borough Local Plan Part 2.

10. The construction of the development hereby permitted shall only take place between the hours of 08:00 and 18:00 Monday to Friday, 09:00 to 13:00 on Saturdays and not at all on Sundays or Bank Holidays.

REASON: To protect the amenity of residents, in accordance with Policy 8 of the Blackburn with Darwen Borough Local Plan Part 2.

11. Foul and surface water shall be drained on separate systems.

REASON: To secure proper drainage and to manage the risk of flooding and pollution, in accordance with the requirements of Policy 9 of the Blackburn with Darwen Borough Local Plan Part 2.

12. The drainage for the development hereby approved, shall be implemented in strict accordance with the surface water drainage strategy prior to

occupation, as set Preliminary Drainage Strategy indicated on drawing Ref: REFA - 20011/01/1 Rev D, November 2020.

REASON: To promote sustainable development, secure proper drainage and to manage the risk of flooding and pollution, in accordance with Policies 9 and 36 of the Blackburn with Darwen Borough Council Local Plan Part 2.

13. The drainage easement zone shall be incorporated into the development hereby approved, as indicated on drawing numbered: OGD032 Rev R1, dated December 2020.

REASON: In order to protect the Local Authority's water drainage asset, in accordance with Policy 9 of the Blackburn with Darwen Borough Council Local Plan Part 2.

14. Prior to occupation of any of the dwellings hereby approved, a Surface Water Management and Maintenance Scheme shall be submitted to and approved by the Local Planning Authority. The scheme shall provide for:

- a) The arrangements for adoption by an appropriate public body or statutory undertaker;
- b) Arrangements concerning appropriate funding mechanisms for its on-going maintenance of all elements of the sustainable drainage system (including mechanical components), including:
  - i) on-going inspections relating to performance and asset condition assessments
  - ii) operation costs for regular maintenance, remedial works and irregular maintenance caused by less sustainable limited life assets or any other arrangements to secure the operation of the surface water drainage scheme throughout its lifetime;
- c) Means of access for maintenance and easements where applicable.

The approved scheme shall be adhered to in perpetuity.

REASON: To promote sustainable development, secure proper drainage and to manage the risk of flooding and pollution, in accordance with Policies 9 and 36 of the Blackburn with Darwen Borough Council Local Plan Part 2.

15. Prior to the commencement of any above ground construction works, a nesting birds and roosting bats scheme shall be submitted to an approved in writing by the Local Planning Authority. The scheme shall provide for nest / roost boxes or bricks at various interval throughout the site. The scheme shall be incorporated into the development in strict accordance with the approved detail.

REASON: To provide roosting / nesting opportunities for Bats and birds, in accordance with the requirements of Policies 9 and 40 of the Blackburn with Darwen Local Plan Part 2.

16. No site clearance or construction works on site shall be carried out during the bird nesting season (March to August), unless the absence of nesting birds has been confirmed by further survey work or on-site inspections.

REASON: To ensure the protection of nesting birds, in accordance with the requirements of Policies 9 and 40 of the Blackburn with Darwen Local Plan Part 2.

17. The development shall be carried out in strict accordance with the submitted Tree Protection Scheme, prepared by Bowland Tree Consultancy Ltd, dated February 2021. Specified tree protection measures shall be adhered to throughout the period of construction.

REASON: Trees represent a public benefit by way of visual amenity and should therefore be protected at all times, in accordance with Policies 9 and 40 of the Blackburn with Darwen Borough Local Plan Part 2.

18. The development hereby approved shall be implemented in strict accordance with the 'Landscape Proposals' Plan numbered: 6312.01 Rev C, dated April 2020. Planting shall be carried out during the first available planting season following completion of the works, and thereafter retained. Trees and shrubs dying or becoming diseased, removed, or being seriously damaged within five years of planting shall be replaced by trees and shrubs of similar size and species to those originally required to be planted during the first available planting season after the loss of the trees and / or shrubs.

REASON: To ensure that there is a well laid scheme of healthy trees and shrubs in the interests of visual amenity and biodiversity, in accordance with Policies 9, 11 and 40 of the Blackburn with Darwen Borough Local Plan Part 2.

19. Prior to occupation of the development hereby approved, a Landscape Management and Maintenance Strategy shall be submitted to and approved in writing by the Local Planning Authority. The strategy shall cover all landscaped areas of public open space and it shall detail a programme of works including scheduled frequencies of weeding and watering for the duration of the development, as well as replacement planting of dead diseased or damaged trees and shrubs within a five year period from the implementation of the approved landscape scheme referenced in condition no. 13. The strategy shall be implemented in accordance with the approved detail.

REASON: To ensure that there is a well maintained scheme of healthy trees and shrubs in the interests of amenity in accordance with Policies 9, 11 and 40 of the Blackburn with Darwen Borough Local Plan Part 2.

20. Construction work shall take place in strict accordance with the details set out in the submitted Construction & Environmental Management Plan produced by McDermott Homes, dated 10<sup>th</sup> May 2021 and corresponding 'Management Plan' drawing numbered: CMP-01. All measures which form part of the approved details shall be adhered to throughout the period of demolition and construction.

REASON: In order to avoid the possibility of the public highway being affected by the deposit of mud/or loose materials which could create a potential hazard to road users, to protect the amenity of the occupiers of the adjacent properties and to protect the visual amenities of the locality, in accordance with Policy 10 of the Blackburn with Darwen Borough Local Plan Part 2.

21. Prior to the occupation of any of the dwellings hereby approved, details of the proposed arrangements for future management and maintenance of the proposed streets within the development shall be submitted to and approved by the Local Planning Authority. The streets shall thereafter be maintained in accordance with the approved management and maintenance details until such time as an agreement has been entered into under section 38 of the Highways Act 1980 or a private management and Maintenance Company has been established.

REASON: To ensure that the estate streets serving the development are maintained to an acceptable standard in the interest of residential / highway safety, in accordance with Policy 10 of the Blackburn With Darwen Borough Local Plan Part 2.

22. Prior to the occupation of the development hereby approved, details of the proposed arrangements for future management and maintenance of the proposed streets within the development shall be submitted to and approved by the Local Planning Authority. The streets shall thereafter be maintained in accordance with the approved management and maintenance details until such time as an agreement has been entered into under section 38 of the Highways Act 1980 or a private management and Maintenance Company has been established.

REASON: To ensure that the estate streets serving the development are maintained to an acceptable standard in the interest of residential / highway safety in accordance with Policy 10 of the Blackburn With Darwen Borough Local Plan Part 2.

23. Visibility splays shall not at any time be obstructed by any building, wall, fence, hedge, tree, shrub or other device exceeding a height not greater than 1 metre above the crown level of the adjacent highway.

REASON: To ensure the safe, efficient and convenient movement of all highway users, for the free flow of traffic, in accordance with Policies 10, 11 and 40 of the Blackburn with Darwen Borough Local Plan Part 2.

24. Garages hereby approved shall only be used for the purpose of parking domestic vehicles and / or domestic storage. They shall not be externally altered or converted into habitable room space until and unless planning permission has been granted.

REASON: In order to retain sufficient off street parking spaces, in the interests of highway safety and efficiency, in accordance with Policy 10 of the Blackburn with Darwen Borough Local Plan Part 2.

25. Construction vehicle access shall be from Green Lane. Following completion of the development hereby approved, the temporary construction access along its entire length from Green Lane to the developed area, as indicated on the submitted Local Plan numbered: L0-01, dated February 2020, shall be reinstated to its former condition, to the satisfaction of the Local Authority.

REASON: Whilst the access is suitable as a temporary measure to serve construction traffic, it is unsuitable as a permanent means of access due to its construction not being to adoptable standard, its failure to serve as a gateway entrance to the site and its impact on land allocated as Green Infrastructure, in accordance with Policies 9, 10, 11 and 40.

## **5.0 PLANNING HISTORY**

5.1 10/19/0542 – Outline planning permission with all matters reserved for residential development (up to 35 dwellings) – granted by the Committee at their meeting on the 15<sup>th</sup> August 2019.

10/21/0277 – Full planning permission for residential development consisting of 30 dwellings and associated infrastructure works – granted by the Committee at their meeting on the 17<sup>th</sup> June 2021.

## **6.0 CONSULTATIONS**

### **6.1 Public Protection**

No objection to removal of condition.

Town and Country Planning Act 1990 (as amended). 10/21/0825 Removal of Condition No.7 "CS2 gas protection measures shall be incorporated into the development hereby approved, in accordance with the details specified in the Phase 3 'Environmental Investigation Risk Assessment and Remediation Strategy', Ref. LKC 19 1398, dated December 2019." pursuant to planning application 10/21/0277 "Residential development consisting of 30 dwellings and associated infrastructure works"

The following reports/communications were submitted with this application:

☐ *Ground Gas Risk Assessment. Lomond Gardens. Groundtech Consulting. June 2021*



☞ E-mail from Mark Wilkinson dated 28/9/21 detailing the specifications of the proposed foundations.

After submission of the above report/E-mails and discussion via E-mail and phone with Mark Wilkinson, McDermott Homes and Bradley Massey, Groundtech I can now recommend the removal of condition 7.

Following the additional delineation and possible remediation of potential fuel on site please submit a final Verification report including details of any post remedial soil analysis to show no contaminated material remains. Upon receipt of a satisfactory Verification Report Condition 8, the unexpected contamination condition, can be considered satisfied.

I would take this opportunity to reiterate that the responsibility for the safe development of the site rests with the developer. Actions or omissions on their part may lead to liability being incurred under Part IIA. Those providing expert advice to developers should be aware of the future reliance that may be placed on it. Should unexpected contamination be discovered on site at any time during the development please stop work and contact this department immediately.

I trust this clarifies this Departments position. Should you require any further information, I can be contacted at the above number, or alternatively email [david.johnson@blackburn.gov.uk](mailto:david.johnson@blackburn.gov.uk).

## **6.2 Public Consultation**

Consultation was carried out by display of site notices and a press notice, published 2<sup>nd</sup> September 2021. No written representations were received.

## **7.0 CONTACT OFFICER – Nick Blackledge – [Senior Planner]**

## **8.0 DATE PREPARED: 7<sup>th</sup> October 2021**

## **REPORT OF THE STRATEGIC DIRECTOR**

**Plan No: 10/21/0879**

**Proposed development: Variation/Removal of Condition/Minor Material Amendment for Variation of Condition No 3 pursuant to planning application 10/12/0158 "Change of use of basement to Internet Cafe (class A1), formation of self-contained flat at first floor and alterations to the eastern elevation" - to increase opening hours to 9am to 10pm Monday to Sunday, and removal of Condition no.4 to allow for any use within Use Class E.**

**Site address:**

**Basement 75B East Park Road  
Blackburn  
BB1 8DW**

**Applicant: Mr Nadeem Sadiq**

**Ward: Shear Brow & Corporation Park**

**Councillors: Cllr Hussain Akhtar, Cllr Suleman Khonat, and Cllr Zainab Rawat**



## **1.0 SUMMARY OF RECOMMENDATION**

- 1.1 APPROVE subject to the revision of condition 3 of 10/12/0158, to enable the premises to operate from 9am to 10pm daily, and the removal of condition 4 to enable permitted changes to other uses within class E of the Use Classes Order.**

## **2.0 KEY ISSUES/SUMMARY OF PLANNING BALANCE**

- 2.1** This application is before the Committee due to the public interest in the case, including the receipt of 28 letters and 1 petition of objection and 3 letters and 4 petitions of support.
- 2.2** The proposal relates to an extension of the business operating hours that will provide for the growth of the existing business and support job retention and creation. The submission also seeks to remove a restriction limiting the use of the premises as an internet café; allowing permitted changes to other uses within use Class E. The proposal is consistent with the Borough's overarching growth strategy. It is also satisfactory from a technical point of view, with all issues being appropriately controlled or mitigated through planning conditions.

## **3.0 RATIONALE**

### **3.1 Site and Surroundings**

- 3.1.1** The application site is an existing commercial unit positioned on the west side of Shear Brow, in close proximity to the junction with The Croft. The premises sit within a group of commercial units serving as a local centre, though without any formal designation within the adopted development plan – refer to photographs below.
- 3.1.2** The application property occupies the basement level of the building. The unit holds a planning approval, 10/12/0158, *for use as an internet café*. The planning approval includes a number of conditions that seek to limit the use and preserve residential amenity standards. The premises as can be seen from the site photograph below is known as “The Basement Café”, and is operating as such as referred to on the following web page, such a use falling within Use Class E (b).

<https://thebasementvenueblackburn.business.site/>

- 3.1.3** The immediate setting is predominantly commercial in nature, with a mix of retail functions, restaurants, hot food takeaways and a further education college. The wider locality is characterised by residential uses.



Case officer site photographs taken 19<sup>th</sup> August 2021

### 3.2 Proposed Development

- 3.2.1 Planning approval 10/12/0158 permitted a change of use of the premises from ancillary storage to an internet cafe. That approval contained a number of conditions intended to safeguard residential amenity; notably this includes condition 3 that limits the hours of operation to 9am to 6pm Monday to Saturday, with no opening in Sundays or Bank Holidays; and condition 4 that restricts the development to the use applied for i.e. internet cafe and prevents

permitted changes within use class A1 (as replaced by Class E within the 2020 changes to the Use Classes Order).

- 3.2.2 On receipt the current application sought to vary condition 3 of the 10/12/0158 approval to allow for extended operating hours from 9am to 11pm, daily. Through negotiation, the applicant has agreed to amend the application to now extend the operating hours to 9am to 10pm daily.
- 3.2.3 In addition, the proposal also seeks to remove condition 4 of 10/12/0158 to allow for otherwise permitted changes within use class E, which has replaced use class A1.
- 3.2.4 Class E more broadly covers uses previously defined in the revoked Classes A1/2/3 – retail/financial and professional services/café uses.

### 3.3 Development Plan

- 3.3.1 Section 38(6) of the Planning and Compulsory Purchase Act 2004 requires that applications be determined in accordance with the development plan unless material considerations indicate otherwise.
- 3.3.2 The Development Plan comprises the Core Strategy and adopted Local Plan Part 2 – Site Allocations and Development Management Policies. 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

#### 3.3.4 Local Plan Part 2:

- Policy 8 – Development and People

### 3.4 Other Material Planning Considerations

#### 3.4.1 National Planning Policy Framework (The Framework)

- Section 2: Achieving sustainable development
- Section 6: Building a strong, competitive economy

### 3.5 Assessment

- 3.5.1 The application seeks to; (i) ***extend the hours of operation controlled via condition 3 of 10/12/0158, which limits use of the premises to 9am to 6pm Monday to Saturday. The amended proposal seeks to allow for operation 9am to 10pm daily.*** (ii) ***remove condition 4 that ties the use of the building to an internet café.***
- 3.5.2 The proposal has generated significant levels of objection, as set out within section 9.0 of this report. The objections can be broadly categorised as falling

in to 3 areas; parking related issues; noise and disturbance related to both patrons coming and going and noise generated within the building; and littering.

3.5.3 Background: Condition 4 of 10/12/0158 currently reads as;

*“The premises shall be used for the purposes described in the 'Design and Access Statement' received on 6th February 2012, and for no other purpose, including any other purpose in Class A1 of the Town and Country Planning Use Classes (Amendment) Order 2005.*

*REASON: To safeguard the amenities of the adjoining premises and the area generally in accordance with saved Policies R17 and T9 of the Blackburn with Darwen Borough Local Plan”.*

3.5.4 The impact of the condition is to tie the use of the building as an ‘internet café’. In 2012 an internet café would have amounted to a class A1 use – the condition therefore restricted otherwise permitted changes to other A1 based uses, such as shops and hairdressers, and prevented any proposals under the Prior Approval process to change the use of the property from A1 “retail” use to A3 “café use”. Subsequently, the government has introduced the Town and Country Planning (Use Classes) (Amendment) (England) Regulations 2020, which came into effect on the 1<sup>st</sup> September 2020, to amend the Town and Country Planning (Use Classes) Order 1987. The effect of which is to completely remove class A and replace it with a newly formed class E development, to allow for greater flexibility as a result of the changing trends associated with commercial properties.

3.5.5 The impact of the changes is that the applicant’s request to remove condition 4 would enable the use of the building to change without the need for planning approval to uses covered within class E, such as shops, sale of food and drink for consumption on the premises, financial and professional services. The applicant has not identified an end use on the submitted application form, though as can be seen from paragraph 3.1.2 above, the sign attached to the property and the associated website linked to the property illustrates the property is being use as café use within Use Class E. Members are advised from the original planning permission 10/12/0158, Condition No.5 would remain in place, and ***this prevents the cooking or reheating of food on the premises within the basement area.*** As such, it is not considered necessary to restrict the use within Use Class E. In effect, the removal of condition 4 would therefore open up the option of operating alternative high street uses, which in land use terms would be unlikely to materially harm the living standards of neighbouring residents.

For clarity, Condition No.5 reads as:

*“No cooking or re-heating of food shall take place within the basement area.*

*REASON: To prevent loss of amenity, by virtue of odours, at nearby residential premises and in accordance with saved Policy R17 of the Blackburn with Darwen Borough Local Plan.”, and*

Condition No.6 reads as:

*“Customers must not enter or use the rear yard area at any time.*

*REASON: To prevent loss of amenity by virtue of noise, odour and disturbance at nearby residential premises and in accordance with saved Policy R17 of the Blackburn with Darwen Borough Local Plan.”*

Members are advised that both of these conditions will remain in place. So, whilst the premises is currently advertised as “The Basement Café” on the hyperlink in paragraph 3.1.2, Condition Nos 5 and 6 provides extra controls in terms of the cooking and reheating of food on the premises. **Any concerns from neighbours relating to noise arising from the property are matters to be controlled and investigated by the Public Protection Team, as this could be a statutory nuisance under the Environmental Protection Act 1990.**

- 3.5.6 Highways: Core Strategy Policy 22: Accessibility Strategy and Local Plan Policy 10: Accessibility and Transport, aim to ensure that new developments provide appropriate provision for access, car parking and servicing so as to ensure the safe, efficient and convenient movement of all highway users is not prejudiced.
- 3.5.7 Given the proposal includes a request to remove condition 4, which ties the use to an internet cafe, as well as modification of condition 3 to allow extended use in to the evening and at weekends, the main highway considerations are (i) whether lifting the use restriction would be likely to affect parking requirements – and by association highway safety interests. (ii) whether the proposed extension of hours will lead to a highway safety conflict, sufficient to warrant refusal
- 3.5.8 The Council does not have an adopted standard for an internet café, not least as it has become an obsolete land use given modern technologies. As such comparisons for parking requirements for other uses supported within Class E is problematic. However, when applying the adopted standards for alternative uses such as non-food retail or financial/professional services, the overall parking requirement generally equates to 2-3 parking spaces.
- 3.5.9 The lack of dedicated parking for the unit, allied to the high demand for the limited on-street spaces in the locality has been a repeated theme. However, this matter has previously been tested on appeal in this location. In the Council’s refusal of application 10/08/0140 affecting 213 Shear Brow [*decision date 4<sup>th</sup> August 2008, Planning Inspectorate appeal decision date, 13<sup>th</sup> August 2008*] – which was based upon highway concerns and subsequently overturned on appeal – the Inspector found that the site lies within a sustainable location given the accessibility of public transport and the large population within walking distance. Irrespective of the availability of on-street parking the proposal was consistent with national policy to promote sustainable transport. Given that appeal decisions are material considerations in the assessment of subsequent applications, it is considered this position is



still valid, particularly so given the emphasis within the revised 2021 NPPF. Paragraph 111 states:

*“Development should only be prevented or refused on highways grounds if there would be an unacceptable impact on highway safety, or the residual cumulative impacts on the road network would be severe.”*

- 3.5.10 The above position is supported by the assessment of the highway officer on this current application; *“It is noted that the use is approved and the changes to hours offers no change to the parking offer available. We do however acknowledge that the hours change proposed could be suitably supported by the on street provision in the immediate locality. The current on street parking, is situated around the triangle at the top of Shear Brow/East Park Road, together with parking bays along East Park Road. This is fully occupied during the day; however, there is availability in the evening as the shops around the centre shut at 18.00 pm. Therefore, on balance the change in hours is supported by highways”.*
- 3.5.11 In summary, the proposed removal of condition 4 to allow other class E uses of the basement is unlikely to lead to the generation of significant additional parking needs, compared to the current authorised position. Similarly, the relaxation of hours is also unlikely to lead to significant additional parking generation or negative highway safety interests given the sustainable nature of the location. Finally, the presence of illegally or inconsiderately parked vehicles would appear to be matters for parking enforcement, rather than for control via the planning process.
- 3.5.12 Residential Amenity: Policy 8 of the LPP2 relates to the impact of development upon people. Importantly, at section (ii) of the policy there is a requirement for all new development to secure satisfactory levels of amenity for surrounding uses and future occupiers of the development itself. Reference is made to matters including; noise, vibration, odour, light, dust, privacy/overlooking and the relationship between buildings.
- 3.5.13 The public objections consistently raise concerns with the impact of the development later in the evening. The issues centre on the associated comings and goings of patrons and occasional noise generated within the building. Examples include but are not limited to; raised voices, music playing within the building, revving of engines and slamming of car doors.
- 3.5.14 The immediate setting of the property is within a local parade of shops and looser group of commercial units that are located around the ‘triangle’ that forms the junction of East Park Rd and Shear Brow. Residential uses characterise the wider locality. The retail units adjoining the application site are long-standing uses that do not have restricted opening hours. Furthermore, a number of local businesses including ‘The Clove’ restaurant and hot food takeaways operate until 11pm or later.
- 3.5.15 The Council’s Head of Public Protection has offered the following position; *“Whilst I accept that extending the opening hours may be appropriate, I’m concerned that allowing the premises to open until 11pm will result in noise*



*that will have an unacceptable impact on residents living nearby. Parking will be on-street, and in some instances outside neighbouring homes, so noise from customers and vehicles will be evident. This noise is more likely to be intrusive later in the evening when other background noise is less prominent. It is therefore recommend that Condition No.2 pursuant to planning application 10/12/0487 is varied as follows: The use hereby permitted shall only take place between the hours of 11:00 and 22:00”.*

3.5.16 The applicant has agreed to amend the proposed opening hours in line with the Head of Public Protection’s request. Accordingly, the proposal now requests a 10pm close, rather than the 11pm set out in the original application.

3.5.17 It is submitted that the negotiated change to the proposed hours amounts to a reasonable and proportionate change that balances the business needs of the applicant against the amenity of neighbouring residents, according with the requirements of Policy 8 of the LPP2.

3.5.18 Other Matters: Members should note that many of the other anti-social impacts raised by objectors, such as littering or the presence of rats, appear to be wider community issues without any tangible link to the application property. Furthermore, when considering the application, which relates to an increase in hours of operation and relaxation to a range of high street uses – specifically excluding uses incorporating the cooking or reheating of food, due to the retention of condition no.4 of application 10/12/0158 - it is unclear how the current application can be directly related to increased littering or higher pest numbers. Accordingly, resisting the application on these issues cannot be justified.

#### **4.0 RECOMMENDATION**

**APPROVE subject to the removal of condition 4 and amendment of condition 3 of 10/12/0158 to read as follows;**

The use hereby permitted shall only take place between the hours of

9:00am and 10:00pm - Daily

REASON: To safeguard the amenities of adjacent residential uses and the area generally in accordance with Policy 8 of the Blackburn with Darwen Borough Local Plan.

#### **5.0 PLANNING HISTORY**

10/12/0158 - Change of use of basement to Internet Cafe (class A1), formation of self-contained flat at first floor, and alterations to the eastern elevation – approved by the Committee at their meeting on the 24<sup>th</sup> May 2012.

10/11/0693 – Change of use of vacant basement to internet café – Refused permission on the 7<sup>th</sup> November 2011.

10/10/0488 - Change of use of Vacant Basement to a Internet Cafe.  
Repositioning of Entrance Gates and Raising of Garden Wall to rear. Refused permission on the 27<sup>th</sup> September 2010 – Dismissed on Appeal by the Planning Inspectorate on the 9<sup>th</sup> February 2011.

10/05/1274 – Change of use to hot food takeaway – refused permission on the 23<sup>rd</sup> January 2006.

## **6.0 CONSULTATIONS**

### **6.1 Highways:**

It is noted that the use is approved and the changes to hours offers no change to the parking offer available. We do however acknowledge that the hours change proposed could be suitably supported by the on street provision in the immediate locality.

The current on street parking, is situated around the triangle at the top of Shear Brow/East Park Road, together with parking bays along East Park Road. This is fully occupied during the day; however, there is availability in the evening as the shops around the centre shut at 18.00 pm.  
Therefore, on balance, the change in hours is supported by highways.

### **6.2 Public Protection:**

Whilst I accept that extending the opening hours may be appropriate, I'm concerned that allowing the premises to open until 11pm will result in noise that will have an unacceptable impact on nearby residents living nearby. Parking will be on-street, and in some instances outside neighbouring homes, so noise from customers and vehicles will be evident. This noise is more likely to be intrusive later in the evening when other background noise is less prominent. I therefore recommend that Condition No.3 pursuant to planning application 10/12/0158 is varied as follows: The use hereby permitted shall only take place between the hours of 9:00 and 22:00.

### **6.3 Public Consultation:**

36 neighbouring premises have been individually consulted by letter and a site notice displayed. The consultation process has been repeated following amendment to the application in terms of the revised opening hours. Any further representations received since the writing of this report, will be reported in the Update Report.

28 letters and 1 petition of objection and 3 letters and 4 petitions of support have been received. See section 9.0 of this report for the summary.

## **7.0 CONTACT OFFICER: Martin Kenny, Principal Planner**

## **8.0 DATE PREPARED: 8<sup>th</sup> October 2021**

## 9.0 SUMMARY OF REPRESENTATIONS

### Support – Cllr Zainab Rawat. Received – 03/08/2021

**RE: The Basement Venue & Cafe, 75b East Park Road, Blackburn, BB1 8DW  
Frurt Frozen Yogurt, 213 Shear Brow, Blackburn, BB1 8DU**

Dear Planning Department

The two businesses are located within the Shear Brow and Corporation Park Ward.

Throughout the last 18 months, businesses have been faced with a number of challenges and it has been an extraordinarily difficult time, particularly for small independent businesses.

I am writing to support the two named establishments and believe that as a Council we should be supporting local businesses as they provide employment and the success of businesses is vital for our local economy and for our COVID recovery plans.

Blackburn with Darwen Council have successfully distributed a range of financial support and assistance through Government schemes and going forward the commitment to supporting local business is imperative.

An extension of trading hours for the two businesses would be in line with other businesses that are based within the area.

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### Objection – Soofyan Valli. Received – 25/08/2021

I am writing this email regarding the two businesses one which is the basement cafe and the other which is the frurt. It has come to my attention and some of the residents these two shop/businesses have requested extending there hours, I also understand there is not much the planning department can do to stop this request but I would still like to remind the people who maybe in the decision making process of my opposition to this request by these businesses.

As the councillors in the ward are already aware of the situation the shear brow ward has and is facing regarding traffic increase, illegal parking, residents have recently received parking tickets as they are unable to park there cars outside there own houses as the increase of traffic has made it impossible at certain times to find any parking at all and have no other choice but to park there vehicles on single yellow lines which is not allowed.

Staying focused on the area where these two businesses are situated there is very limited parking and I have witnessed many of times where near miss accidents have occurred because of cars parked in places where drivers vision is impaired. There are residents driveways blocked off so you the occupier is either unable to leave the premises or park the vehicle in the drive way.

On occasions it has got to a stage where the police have had to get in touch with owners of these vehicles to move them. Obviously this is a highway issue. If these businesses are allowed to extend there hours it just means there is no one to police the illegal parking after the parking enforcement officers finish there shift. The police will not attend for this.

Also on the issue of littering customers do sit in there cars (illegally parked) and throw there rubbish on the streets for residents to clean. Councillor akhtar is well aware of the hard work the community are doing for a safer cleaner area.

If the the council is going to approve this may I suggest there is some form of railings on either side of the Croft where the frurt business is situated to prevent cars from parking on the corner of the

junction. Also visible signs where customers to these businesses are made aware they should and must not park there vehicles on single yellows or anywhere near the junction.

Also I would just like to add if these does go onto the panel if 6 or more people have voiced there opposition then the deciding councillors who do get voted in by the residents take careful consideration of there voices. If it wasn't for the residents they would possibly not be in a position to make any decisions. We vote them in for them to voice our concerns not the businesses and the councils. There are guidelines to follow by government which I totally understand but ultimately it's the residents who have the final say for any individual councillor when it comes to who represents them.

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**Objection – Sahih Ali. Received – 26/08/2021**

I recently received letters in the post regarding the above references which have applied for planning to open with extended hours.

Let me firstly say I have no problems with these shops opening but as a resident on East Park road the problems I have recently encountered has really frustrated me and some residents, though they will not take time out to write in regarding this (A shame really).

My concerns are that my property which is pretty much at the top of the street where these shops are has two garages on the croft, The Property has a bus stop in-front of it and I'm restricted to parking there.

Since the opening of the Clove I have noticed that parking has now become a massive issue the limited space available after 6pm and the litter has become a nightmare. Bins over flowing on the streets and a once a reputable area is turning into a junkies back yard. Also traffic in the area is a big problem now too.

I currently get no parking on the rear of my house where my garages are either if it's not taken up by residents on the street it's a customer at one of the venues on the corner, The Garages has lines to show not to block and yet people are still inconsiderate.

There is also issues with rats in the area and this is becoming more of a problem with the rubbish thrown out by customers. The noise of cars late at night and the drug abuse in the area has become like a harvesting ground due to a more open feel in the area with shops open late.

I am happy to have the shops open with its current working hours but when its off peak id rather have my parking and late food consumers restricted in the area.

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**Objection – Zamir Dor, Resident of The Croft. Received – 27/08/2021**

I am resident on The Croft, and my family and I have been residents on the Croft for over 26 years.

I emailing you today to voice my objection to recent planning application to extend the operating hours of 2 business located at 213 Shear Brow and 75B East Park Road, both businesses being less than 50 metres from my home.

I would like to clearly state that I by no means object to business's operating in the local community, I fully appreciate the role small, independent businesses play in the community by offering employment and contributing to the local economy. However these business should not adversely impact or affect the residents in the community they operate. This particular fact is clearly outlined when planning permission was first granted to the businesses in question. The previous application clearly restrict opening times to 09:00 and 19:00 Monday to Friday and 09:00 and 17:00 Saturday and no opening Sunday or Bank Holidays. Reasoning include "safeguard the amenities of adjacent residential uses and the area generally in accordance with saved policy R17 of the Blackburn with Darwen Borough local plan". My question is why is this no longer being considered, by extending the

opening hours, we would exacerbate the current problem we are currently experiencing further, and set precedent for other commercial units to apply for extended hours turning a residential area into a commercial hub.

Over the last year these businesses have already attracted a high volume of traffic, impacting the residents of the croft, due to the fact customers are often parking on The Croft as no other parking is available. As a result local residents find it difficult to find parking especially during the evenings, where it is not uncommon for customers to be eating in their cars whilst parked on the street. Extending opening hours would aggravate the parking issue further into the evening. The residents have often found customers parking on the corner of the croft creating a bottle neck forcing cars to reverse back on to Shear Brow.

Furthermore due to fact customers are often found to be eating in their cars, litter is now common place on the streets and pavements with half eaten items, containers and bottles, which also has seen to worsen the rodent issues in the area.

Finally I was hoping you could clarify, the planning application referenced 10/21/0880 states "Variation of Condition No 2 pursuant to planning application 10/12/0487 "Change of use from beauticians to hairdressers" - to increase opening hours to 11am to 11pm Monday to Sunday" . Why does it state beautician to hairdressers when the business in question is a Café / Dessert Parlour.

I would implore you to take these points into consideration when reviewing these application.

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**Objection - Mrs Ali, 65 East Park Road, Blackburn. Received – 27/08/2021**

Good Morning,

My name is Mrs Ali I live at 65 East Park Road, I am writing with regards to planning applications 10/21/0879 & 10/21/0880.

Both these buildings are situated near my house, I would like to reject both applications as East Park Road is already a busy area and we struggle with parking as it is, this will make things 10x worse. I have young children who go to school these extended opening hours with disrupt there sleeping. There is already an issue with litter and people not using the street bins properly this again will make things worse. People that come to the basement for parties or get together come out of the venue and loiter around the streets making noises and smoking, I do not want my kids being exposed to that.

Please do take into consideration my points when making your decision.

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**Objection – M Master. Received – 31/08/2021**

I have received two letters of planning application near my area for a two different properties, 213 Shear Brow and Basement 75B East Park Road which are going to be worked on at the same time. This does not look great in my eyes as we have a small number of parking spaces which can barely keep the residents of the area at bay but with more workers coming in will make it more difficult to handle. Also the noise disturbance will increase as people like me with family will be going sleep before 11pm where the workers would still be working which is also another problem as we cannot let this be a continuous problem. Also i have a son with

Autism which will affect him a lot as he has a sensitive hearing problem which will get affect his sleeping schedule with all the work that may occur during the day and evening which is not great for him and the family.

Hope you can understand the situation and find a sensible solution to this problem.

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**Objection – Riyaz Adam, Resident of The Croft. Received – 01/09/2021**

Hi,

I am a resident of The Croft, Bb1 8dy and it has come to my attention that the following businesses that already operate beyond their permitted hours have requested a permanent extension of hours.

I would be very opposed to this as there are numerous issues the later opening times cause for residents in this area.

Since the opening of Frurt and The Basement there have been numerous parking violations outside the businesses in question that seem to go unpunished as the council does not have the means to have enforcement officers always around this area.

In my personal experience there are people parked around these premises on yellow lines or even on resident driveway lines late at night either waiting in the cars including uber/just eat drivers or actually eating in the cars causing unnecessary traffic and causing issues for residents that cannot park around their houses.

The noise pollution caused by late night parties at the Basement is unacceptable, including the disregard by the party goers blocking resident driveways and parking on yellow lines.

There is clearly a rodent problem in the area being further exasperated by businesses such as these, whereby people eating in their cars have been emptying their meals onto the pavement and roads on many occasions.

Speaking to the residents around the area they are very angry with the problems faced on a daily basis and would be further angered by approving these extended hours.

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**Objection – Feeroz, East Park Road, Blackburn. Received – 03/09/2021**

Hi,

I am a resident of The Croft, Bb1 8dy and it has come to my attention that the following businesses that already operate beyond their permitted hours have requested a permanent extension of hours.

I would be very opposed to this as there are numerous issues the later opening times cause for residents in this area.

Since the opening of Frurt and The Basement there have been numerous parking violations outside the businesses in question that seem to go unpunished as the council does not have the means to have enforcement officers always around this area.

In my personal experience there are people parked around these premises on yellow lines or even on resident driveway lines late at night either waiting in the cars including uber/just eat drivers or actually eating in the cars causing unnecessary traffic and causing issues for residents that cannot park around their houses.

The noise pollution caused by late night parties at the Basement is unacceptable, including the disregard by the party goers blocking resident driveways and parking on yellow lines.

There is clearly a rodent problem in the area being further exasperated by businesses such as these, whereby people eating in their cars have been emptying their meals onto the pavement and roads on many occasions.

Speaking to the residents around the area they are very angry with the problems faced on a daily basis and would be further angered by approving these extended hours.

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**Objection – Tom Farran. Received – 03/09/2021**

Dear sir, I wish to raise my objection to the above application on the grounds of it being contrary the well-being of the residential community

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**Objection – Mr & Mrs Yakub Mall, 219 Shear Brow, Blackburn. Received – 07/09/2021**

Dear Mr Martin Kenny

I hope this email finds you well.

We are the residence of 219 Shear Brow  
Blackburn BB1 8DU, Mr & Mrs Yakub Mall. We are part of the Shear Brow & East Park Road Community Group.

We have resided at the above property for just over 14 years. I would describe ourselves as working class people & at the same time we support the local community to keep it clean, tidy & safe where we can.

The main purpose for this email is to highlight some disappointing issues that have risen recently in the Shear Brow & East Park area.

- Number of businesses opening, mainly food related yet NO communication to the residence before hand for permissions. Open long hours too.
- Increased levels of littering with overfilling bins & using the area as tipping point
- Social Behaviour - Alcohol & Drug related - gangs in the back alley ways as it easy access and hideaways
- Parking for the residents who live in the area taken by customers who are coming to the restaurants, takeaways, dessert bars & local buisnesses

When we moved in the area there was not many businesses in the area. We used to be informed by letter by the council that a new business is due to open in the area and we were given an option to respond if this was to cause any issues to contact.

Recently say last 2 years number of local buisnesses have opened in the area Shear Brow & East Park without residence being informed. These business owners also think they have priority for there deliveries & on street parking because they own buisnesses.

Due to this not being properly followed through the council with communication with residence, buisnesses have been allowed to be open hilly nilly, most of the concerns raised in the bullet points above are because of this matte. Due to the increased businesses they are taking over our streets, parking, more littering & social behaviour has increased. Just to add the council have not followed a clear structure in first place and then failed to monitor this issue.

As residence we find it a struggle to find parking after a long hard working day or even when we come from a daily shop. Previously been fined as we had parked in non parking area on the street.

This really cannot continue & this matter needs to be taken seriously.

Please feel free to contact us to help make the area efficient for resident parking, clean/tidy, safe & for the residents mainly.

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**Objection – Ibrahim Issa, 59 East Park Road, Blackburn. Received – 08/09/2021**

I'm living at this address from last 25 years There was one business under one roof Now all changed two or three business under one roof All business owners not living round here Be honest Lot of problems for parking .litters . Anti social behaviour problem Speeding car on Eastpark road During the night some times noises rounds here

So pls

I'm against these planning of hours 11am to 11pm You grants them planing as present Keep it Pls keep in your mind residents problems Thanks

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**Objection – Ibrahim Issa, 59 East Park Road, Blackburn. Received – 13/09/2021**

I'm sorry to say

I'm against it

Reason is there are lot of problem of parking Litters.

Traffics

Anti social behaviour

There used to be peaceful in area

Now we r prisoners in our own home

If we go out for few hours parking gone Difficult to crossing road No policing for wrong parking

There r one business in one roof now two to three businesses in same roof Owners of businesses not living in this wards They don't know what difficulties we residents got to face We request you not to extend pls

We r human living in this wards

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**Objection – Idris Ali. Received – 08/09/2021**

Dear Mr Kenny,

I would like to take my rights to object to any new food business opening on shear brow in the college area or any businesses Getting extended hours as it will cause much more increase in the area. We are already facing massive problems with the planning loophole being use by an outlet operating as a burger takeaway. There is a big Increase in traffic, unlawful parking on zebra crossing, zig zags, double yellow lines, driveways being blocked etc, big littering, anti social behaviour, extremely high noise all which is severely impacting amenities and safety in the area.

We desperately need the council to take appropriate actions in the area and clampdown on any business which have and are causing these issues.

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**Objection – Latif Kothia, 16 Colenso Road, Blackburn. Received – 10/09/2021**

Ref: 10/21/0880 213 Shear Brow Blackburn BB1 8DU

Dear Mr Kenny,

I am writing to you to **object** to the above planning application for the increase in opening hours on the following grounds:

1. Highway safety
2. Public protection – it will have a negative impact on preserving the environment from:
  - safety of pedestrians
  - noise pollution
  - anti social behaviour
  - littering
  - rats, mice etc
3. traffic, parking – it will drastically increase traffic and impact on local residents. There is already inadequate parking, especially after 6pm when nearby residents require on-street parking.

As you may already be aware, there has been a sharp rise in cafes & takeaways on Shear Brow which is severely affecting the residents. Our community environment, and the relation between the outlets and the surrounding residents will be damaged, the right balance will not be struck.

With the large numbers of people already visiting the premises, a further increase of numbers will exacerbate the situation. The negative impact on permitting the extended hours will significantly outweigh the benefits. The applicant is already breaking the rules by operating beyond their permitted operating hours. The reason why the hours were restricted to 9.00-18.00 M-F, 9-4

Saturday & closed on Sunday was to protect local residential amenities, it would secure a satisfactory level of amenity and safety for surrounding uses and noise.

A residents meeting took place on Thursday 2<sup>nd</sup> September at the Revidge Fold Church. Although the meeting was arranged at short notice, over 70 residents attended the meeting. Councillors Khonat & Akhtar attended the meeting, and I'm sure they will confirm that there was not a single attendee in favour of the application, there was a unanimous objection for the reasons I have listed above.

Please do not hesitate to contact me if you wish to discuss further.

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**Further Objection – Latif Kothia, 16 Colenso Road, Blackburn. Received – 30/09/2021**

Dear Mr Kenny,

Further to my correspondence dated 9 Sept 2021 regarding concerns over planning applications 10/21/0879 & 10/21/0880, I have attached a pdf, kindly provided by Lancashire Constabulary recently, detailing the complaints from local residents relating to illegal parking, blocked driveways, anti-social behaviour & car accidents.

I hope this provides yet further evidence to corroborate our serious concerns around Highway safety, Public protection & traffic issues should, God forbid, the applications be recommended for approval.

I trust this information will be shared with the public protection and highways team who are being consulted on this application to help them complete their assessment.

Kind regards

**PLEASE NOTE THE DOCUMENT PROVIDED BY THE LANCASHIRE CONSTABULARY IS NOT INCLUDED IN THIS SECTION FOR DATA PROTECTION ISSUES – MEMBERS ARE ADVISED THAT THE DOCUMENT HAS BEEN CONSIDERED DURING THE ASSESSMENT OF THE APPLICATION.**

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**Objection – Farida Kothia, 16 Colenso Road, Blackburn. Received – 10/09/2021**

Martin Kenny,

I object to the above applications wanting to open late. The problems in the area are already clearly evident:

Traffic impact

Unlawful parking on zebra crossing, zig zags, double yellow lines, driveways being blocked etc

Littering

Anti social behaviour

Noise

The extended hours will cause an increase in the issues listed above which is already severely impacting amenities and safety in the area.

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**Objection – Talha Mataria, 32 The Croft. Received – 10/09/2021**

I would like to object against both planning applications below. I am a resident at 32 the croft and have already a lot of issues regarding parking, additional traffic, anti social behaviour, littering and rats in the area. The extension of hours for these businesses will only add the above issues and not reduce. We already have a lot issues finding paking in the evenings and these will only get worse if the businesses are allowed to open later.

Both of these premises are already staying open for longer hours than allowed to do so. Please refuse these applications in the interest of nearby residents.

10/21/0880 Frurt 213 Shear Brow Blackburn BB1 8DU

To increase opening hours to 11am to 11pm Monday to Sunday.

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## **Objection – Mr & Mrs Valli, 215 Shear Brow. Received – 10/09/2021**

Thank you for engaging us in the consultation process by inviting us as residents to comment on the planning application numbers **10/21/0879** and **10/21/0880** relating to **75 East Park Road and 213 Shear Brow**. The applications comprise of the below key elements:

1. Request for change of use
2. formation of self-contained flat and
3. extension of opening hours till 11pm Mon to Sunday including Bank Holidays.

### **Context**

To put things into context we have lived in the neighbourhood for over a decade. This area appealed to us for varying reasons in particular the excellent local amenities in the area provided by the local businesses.

We recognise local businesses to be an integral part of our community and appreciate all the hard work they put in to serve the local neighbourhood and surrounding communities. We acknowledge that local businesses are constantly challenged by competition and changing demands of the consumer requiring them to adapt their business model to suit.

The last 12 months have been difficult for all, including our local businesses in the area we are happy to support them where possible. In the same breath we would equally expect the local businesses to take into consideration the impact of their business models on the local residents and local amenities. In addition to this, we also expect the Local Authority to work with both residents and businesses alike to address key issues in the area making it a pleasant place for us all to co-exist in harmony.

### **Our Concern:**

We have no objection against the proposed change of uses for both the applications and the formation of the self-contained flat and their current operating hours as stipulated in previously approved planning application numbers 10/12/0158 condition 3 & 10/12/0487 condition 2. The current hours of operation are in keeping with the adjacent businesses on East Park Road. Our concern is the negative impact the proposed hours will have on the adjoining neighbours and the amenities in the area in general. These concerns are based on witnessing the negative impact of the businesses opening till late hours over the last 12 months.

Both of the above-mentioned approved applications were subjected to restricted hours of operation to safeguard the adjoining residential uses and the area generally in accordance with saved policy R17 of BwD Local Plan.

The LPA was correct in its assessment anticipating the detrimental impact the businesses would have had they not controlled the opening hours. We can testify to this based on what we have witnessed on the ground during the last 12 months.

Some of the detrimental impact of the businesses operating till late at night are described below;

#### **1. Recurring Traffic Congestion:**

As you will be aware that Shear Brow is a feeder road and is highly traffic sensitive with multiple peak times during the week including:

- 07:45 – 09:15 (school drops offs and commuters)
- 15:45 – 17:45 (school pick ups, commuters and madrasah drop offs)
- 19:00 - :19:45 (evening madrasah return)

During the recurring peak hours the residents experience high volume of traffic, noise and air pollution and look forward to the quiet and peaceful evenings. On most days the traffic comes to a standstill affecting multiple junctions such as East Park Rd, St James Rd causing bottle necks and chaos. There are varying reasons for this but mainly because the urban area has out-populated its roadway and increasing demands of parking which in turn narrows the main road and pavements affecting both drivers and pedestrians alike. We strongly believe that the proposal to permit the extended opening hours application will further exacerbate the problem and harm the already under pressure amenities causing irreversible damage to both us as adjoining neighbours and the area generally.

## **2. Parking**

Having the benefit of observing these businesses operate over the last 12 months outside the permitted hours up to 11pm, we have at first hand witnessed the recurring pattern of behaviour of customers visiting. Neither of the businesses have any off-street parking provision for their customers hence rely on the public highway for parking. The majority of the customers attracted by the businesses are from outside the area who travel by cars and have the tendency to wanting to park as close to the shops as possible. Due to the location of their entrances the closest parking available on the highway is at the junction of Shear Brow and The Croft. There are single yellow lines restricting parking between 9-6pm which is in line with their approved opening hours, but does not take into account the hours they are actually operating which restricts our ability to turn in and out of our driveway. The double parking on The Croft forms a bottle neck at the junction of Shear Brow compromising the line of sight for drivers and access/egress. The cars frequently park virtually on the give way ignoring the yellow lines and H bar marked out by the LA. This causes vehicles to reverse on to the main road when there is a car coming from the opposite direction creating avoidable hazard and causes unnecessary confrontation between drivers. The cars park over the drop kerbs narrowing the pavement for wheelchair, pram users. On occasions it has been witnessed customers have blocked the entire pavement forcing pedestrians on to the road putting them at risk. Examples of these can be seen in the attached videos or on the neighbourhood group's twitter account (@eastparknw\_BB)

## **3. Blocking Driveways and parking on the Zebra Crossing**

When the limited spaces directly outside the shops are taken the customers are forced to park down the side street (The Croft) resulting in blocking access to private driveways including ours and other's off street parking. The visitors to the businesses take up limited spaces available for residents, resulting in them having to find parking in neighbouring streets which then has a ripple effect on the wider neighbourhood.

There are some inconsiderate customers who will deliberately park on the white zig zag lines outside the front of our house to reduce their walking distance at the expense of jeopardising the road safety for others. We alone have reported 13 incidents in the last 12 months which can be verified with Lancashire Police on various counts (see attached email from Lancashire Police). Despite our driveway being marked with yellow lines and H bar our driveway has been blocked on many occasions resulting in us having to then go in search of the drivers which as you can imagine is not only inconvenient but challenging too. There have been occasions when we have had to leave in an emergency and have been delayed due to being blocked in. In addition to this we have found on a number of occasions that our drive has been blocked when we have arrived home especially in the evenings. The whole experience of having to repeatedly keep an eye out or going looking for the driver to move their vehicle is highly frustrating and limits our freedom of movement.

## **4. Public/Environment Protection**

Both businesses although offering different services, their customers generate a lot of noise pollution including loud music blaring on to the public highway, heavy footfall whilst walking to their cars, others like to eat their desserts in their cars whilst leaving engines running causes not only noise but air and light (car lights) pollution too.

The basement café hires its facility for functions attracting groups of visitors from outside the area who have travelled in cars leaving late at night. The evening parties generally arrive after 6pm and have been seen to be leaving in the dead of the night. The noise levels of groups merrily walking to their cars disturb the residents and its amenities. Their loitering around becomes a nuisance, the clanging of doors and general noise whilst loading cars with goods and on occasion annoying sound of revving cars as they drive away. All these issues are hard enough to tolerate during the day but even incomprehensible at night when the sound levels are amplified many fold.

### **What has changed?**

In the recent years, the neighbourhood has seen a rapid growth of new food/events/dessert businesses opening along with self-contained flats above them, which once upon a time used to be ancillary accommodation of shops. We have seen investors coming into the area and splitting single dwellings into multiple units and letting them separately. That of course increases their rental income but adds pressure on the highway in terms of traffic, street parking and increase levels of anti-social behaviour harming both the environment and local amenities. There are approximately 11 businesses, 5 flats in this small stretch with only one business that has off street parking! The amount of littering in the area has risen dramatically forcing residents to volunteer 6-10 man hours every Sunday morning to clear up the area as the Council not being able to cope due to budget cuts. There have been reports logged with the Council by residents on various matters including mice/rat infestation, littering, fly tipping and over spilling bins which are targeted by crows and seagulls spreading the litter even further.

The majority of the issues mentioned manifest in the evenings and weekends when the Local Authority is closed forcing the residents to ring the Police but on most occasions are unable to assist either because the problem is out of their jurisdiction or they haven't got the resources to dispatch.

### **Community Consultation**

A neighbourhood meeting which was called at short notice was attended by over 70 people representing a wide cross section of our community including, Local councillors, Church members, residents, Chair of Lammack Association and local businesses unanimously agreed on the issues mentioned above and the motion to approve extended hours would be inconceivable.

### **Conclusion**

Our fear is that unless there are engineered solutions built in by the businesses and Local Authority as part of this process to resolve the issues faced by the residents, the adverse impact of granting planning permission to extend their hours would significantly and demonstrably outweigh the benefits. It is for this reason we object against this aspect of the applications of both parties.

We are pleading to the Council to stand by the condition attached to their previously approved applications restricting the hours of operation in the spirit of creating a harmonious environment for both residents and local businesses to co-exist just like they have been doing for many decades in this area.

Thank you for taking the time for listening to our thoughts and concerns.

**PLEASE NOTE THE DOCUMENT PROVIDED BY THE LANCASHIRE CONSTABULARY IS NOT INCLUDED IN THIS SECTION FOR DATA PROTECTION ISSUES – MEMBERS ARE ADVISED THAT THE DOCUMENT HAS BEEN CONSIDERED DURING THE ASSESSMENT OF THE APPLICATION.**

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### **Objection – Duaa Aslam, 48 The Croft. Received – 10/09/2021**

My name is Duaa Aslam, I am a resident of The Croft, Shear brow. I am emailing regarding the applications made to the council concerning the extension of opening hours, and removal of Condition no.4 to allow for use within Class E from the Basement. Similarly, I am emailing to give my comments on the extension of opening hours requested by Frurt.

I have several issues with the proposals which have been put forward. Firstly, as you may understand The Croft is a street adjoining onto a main road. This road is subject to extensive amounts of traffic as St. Mary's college is located on this road. This

means there is an influx of students during term times arriving and being dropped off by parents/ guardians, in many cases in the opposite streets to the college, including The Croft. This aspect already creates a lot of traffic pollution alongside noise pollution. The extension of opening hours and the creation of an internet café will merely be an addition to the existing traffic around the surrounding area, leading to further issues such as unlawful parking and limiting means of access.

Currently, the Croft residents struggle to find parking close to their respective homes, due to the large number of customers arriving at Frurt, especially during afternoon times. As many consumers buy goods and eat/drink in their cars due to limited seating at Frurt, there are a large number of vehicles parked in front of private property, such as garages and passageways, making it extremely difficult for residents to move around. Through extending opening hours, this issue will only be heightened as individuals will be attending later at night. This will not only allow for anti-social behaviour (such as cars with loud music) but will also be a cause of increasing noise pollution, additional traffic, and unlawful parking.

Such changes will also increase the current issue of littering. Neighbours around the surrounding area have time and time again complained regarding the issue of littering caused by those who buy goods at Frurt and litter on the pavement and road of The Croft. This has led to increased rats/mice infestations around the area. This is not only a huge hygiene issue, but something which is problematic for the health of residents, especially young children who wish to play outside and get fresh air.

With traffic and lack of parking spaces for residents being a large issue, the creation of an internet café in an already busy and packed area will only heighten the previous stated problems. Lack of parking on the main road in front of the Basements location will mean consumers will park in nearby streets, including The Croft. The influx of vehicles will also pose a risk to the safety of pedestrians. Increased number of individuals attending these establishments, especially at night times gives leeway to increased anti-social behaviour.

Personally, I feel as though there is already an issue with lack of privacy (as Frurt is located directly opposite my house), with individuals being parked opposite my home for long periods of time, with loud music etc. Such noise pollution is a nuisance, especially for individuals like me who are working from home.

I hope you can understand where the residents of The Croft are coming from, and take into consideration the ongoing issues which will be heightened by the changes proposed.

Thank you for taking the time to read my comments.

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**Objection – Lukman Mohamed, 51 East Park Road, Blackburn. Received – 10/09/2021**

I live on East park road and want to express my concern with the planning applications being considered by Council to extend the opening hours of frurt and basement cafe.

We already have many problems with traffic, littering, noise, traffic congestion and blocking our shutters.

The long hours of these shops will force us out of the community as it already is unbearable. Customers visiting come cars and park down the croft which is the back entrance to our drive ways. Many youngsters eat, drink, smoke etc and cause public nuisance.

Please think of the residents and local community.

---

**Objection Muhammad Bilal, 2 The Croft. Received - 10/09/2021**

To whom it may concern

I am not supporting the following planning applications because of additional traffic, Illegal parking causing inconvenience to residents, pedestrians & road users etc

Reference:10/21/0879 Basement 75B East Park Road Blackburn BB1 8DW.

To increase opening hours to 12pm to 11pm Monday to Sunday, and removal of Condition no.4 to allow for use within Class E.

Reference: 10/21/0880 Frurt 213 Shear Brow Blackburn BB1 8DU

To increase opening hours to 11am to 11pm Monday to Sunday.

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**Objection Shamira Valli. Received – 10/09/2021**

Hi Martin

I would like to address the following issues in our area since the basement and frurt have opened.

unlawful parking  
additional traffic  
safety of pedestrians  
noise pollution  
anti social behaviour  
littering  
rats, mice etc

It's annoying as it has caused really bad behaviour in our area and every week we are picking up too much litter. I oppose to these businesses opening till late as it is a residential area.

---

**Objection – Suhel Patel. Received – 10/09/2021**

Hi Martin,

I'm writing with regards to the above reference.

I oppose to both of these businesses to increase their opening hours for the following reasons:

1. Increase into unlawful parking



2. Increase in additional traffic;
  3. Increase in noise pollution;
  4. Increasing in littering
- 

**Objection – East Park Neighbourhood Watch. Received – 13/09/2021**

To: Mr Kenny,

Please can you register on behalf of the community residents that a neighbourhood meeting was held on the 2nd Sept 2021 which was attended by over 70 including residents, local businesses and stakeholders such as the church and the chair of Lammack Association despite the short notice.

This meeting was attended by the ward councillor akhtar and khonat who will confirm that unanimously all attendees objected against the applications as it would have detrimental impact on the traffic, parking and public protection in the local area.

As a community we urge the Council take on board the concerns being raised by the stakeholders in the area and help protect the local amenities.

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**Objection – Yasir Patel, 38 Colenso Road, Blackburn. Received – 13/09/2021**

10/21/0880 213 Shear Brow Blackburn BB1 8DU

10/21/0879 Basement 75B East Park Road Blackburn BB1 8DW

Dear Martin Kenny,

I write to you in relation to the above applications for extended hours.

I object to the planning application.

There are clear issues already in the area and the following are reasons which will be further negatively impacted if this permission is granted;

1. Traffic impact
2. Unlawful parking on zebra crossing, zig zags, double yellow lines, driveways being blocked etc...
3. Littering
4. Anti social behaviour
5. Noise

The extended hours will cause an increase in all of the issues listed above, as mentioned these are already having a major negative impact in the area and granting permission for extended hours will only increase tensions in the community, and severely impact the safety, littering and pests within the area.

---

**Objection – Yunus Waka, Colenso Road, Blackburn. Received – 13/09/2021**

Martin Kenny,

I object to the above applications wanting to open late. The problems in the area are already clearly evident:

Traffic impact

Unlawful parking on zebra crossing, zig zags, double yellow lines, driveways being blocked etc

Littering

Anti social behaviour

Noise

The extended hours will cause an increase in the issues listed above which is already severely impacting amenities and safety in the area.

---

**Objection – Mr Mahmood, 239 Shear Brow, Blackburn. Received – 13/09/2021**

Martin Kenny,

I object to the above applications wanting to open late. The problems in the area are already clearly evident:

Traffic impact

Unlawful parking on zebra crossing, zig zags, double yellow lines, driveways being blocked etc

Littering

Anti social behaviour

Noise

The extended hours will cause an increase in the issues listed above which is already severely impacting amenities and safety in the area.

---

**Objection – Murad. Received – 13/09/2021**

Hi Martin,

I am resident of the community for over a year who made the decision to live in this neighbourhood on the basis of it being quiet and friendly in a residential area. I am a family man who has one little boy who is 14months. .

Since i have moved in I have experienced the evenings and nights to be far more noisier and high turn over of traffic which is attracted by the businesses above. It is upsetting to know

that they are opening outside the approved opening hours and being inconsiderate to the residents.

Parking has become a very big issue lately due to the traffic from the above mentioned businesses.

Recently it has caused me to get a parking ticket too.

I am happy for the businesses to operate during the day between 9-6pm but object to the hours being extended which would be at the detriment of the residents quality of life and loss of amenities.

---

**Objection – Afzal Patel, Colenso Road, Blackburn. Received – 13/09/2021**

10/21/0880 Frurt 213 Shear Brow Blackburn BB1 8DU

To increase opening hours to 11am to 11pm Monday to Sunday

Hi Martin,

I am opposed to the above applications for extended hours. As a local resident I have the following causes of concerns :

unlawful parking  
additional traffic  
safety of pedestrians  
noise pollution after hours  
anti social behaviour  
littering leading to rats, mice and other vermin.

I hope mine and all the other residents opposing points of view are taken into consideration during the decision making process.

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**Objection Misbah Vali, Colenso Road, Blackburn. Received 17/09/2021**

10/21/0880 Frurt 213 Shear Brow Blackburn BB1 8DU

To increase opening hours to 11am to 11pm Monday to Sunday

Dear Sir,

I am writing in regards to the late night opening of takeaways on Shear Brow, near Four Lane Ends.

As a resident of Colenso Rd for the past 15years I have seen witnessed the growth of traffic with some very fast drivers with loud engines and horns beeping late at night. This is the case many areas but I fear that if these takeaways are open until this will increase. Many of our neighbours are elderly and have chosen Colenso Rd as a placement of retirement and this is very unfair.

There are no car parks or parking on Shear Brow near the takeaways so we are forever witnessing cars parked on the yellow lines in front of the takeaways, on the Colenso Rd and shear Brow corner and on the bus stops. This makes it difficult for car users to turn on to our

street and also pedestrians to safely cross. Parking is already an issue with many residents of Shear Brow and Langham Rd parking on Colenso Rd, sometimes obstructing driveways and on corners which makes it difficult for delivery drivers and emergency vehicles to manoeuvre.

There has been increase of litter in the area, spreading from near St Mary's College to all the way to Corporation Park.

One only needs to visit on Friday and Saturday evenings to see the impact of these fast food places already and if they are to increase operating hours it will only add to the noise pollution and traffic inconvenience on such a busy stretch of road.

I hope permission will not be granted for the increase in operating hours.

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**Objection – Mark Jennings. Received – 17/09/2021**

Hi Martin,

I am new member of the community, who made the decision to live in this neighbourhood on the basis of it being quiet and friendly in a residential area. I am close to 60 years old and am looking for a quiet life without having to experience noise, traffic, parking and anti social behaviour which I was faced with previously.

Since i have moved in I have experienced the evenings and nights to be far more noisier and high turn over of traffic which is attracted by the businesses above. It is upsetting to know that they are opening outside the approved opening hours and being inconsiderate to the residents.

Due to my health I need to go to sleep early at night but because I am light sleeper the noise levels mentioned along with visitors in area opening and closing of car doors and group chatting disturbs my sleep pattern which affects me the next day .

I am happy for the businesses to operate during the day between 9-6pm but object to the hours being extended which would be at the detriment of the residents quality of life and loss of amenities.

Please see below picture showing what we are faced with.

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## Objection Petition. Received – 10/09/2021

### Community led Petition opposing the applications submitted by 213 Shear Brow and 75b East Park Rd to extend their Opening hours

**213 Shear Brow** – planning application number 10/12/0487 was permitted in Sept 2012 to change the use of the Beauticians into Hairdressers. The reason provided justifying the consent was:

*'The proposal would not be detrimental to the residential amenity of neighbouring dwellings or compromise highway safety in accordance with saved Policy R17 of the Blackburn with Darwen Local Plan (April 2002)'*

Amongst the conditions attached to the permission granted was the opening hours:

1. Opening hours

*The use hereby permitted shall only take place between the hours of 09:00 and 19:00 - Monday to Friday; 09:00 and 17:00 - Saturday; and No opening on Sundays or Bank Holidays.*

*REASON: To safeguard the amenities of adjacent residential uses and the area generally in accordance with saved Policy R17 of the Blackburn with Darwen Borough Local Plan*

**75b East Park Rd** – planning application 10/10/0488 was refused in Sept 2012 on the following grounds:

*The proposed development would increase the concentration of parked and waiting cars in the vicinity of the site, thereby increasing danger and inconvenience to users of the highway; contrary to Policies T9 and R17 of the Blackburn with Darwen Borough Local Plan*

The applicant exercised their right to appeal which resulted in the Inspectorate assessing the application and reached the following conclusion:

*Notwithstanding my finding that the effect of the proposal on the safety and convenience of highway users and local residents would be acceptable, this does not outweigh the harm that it would cause to the amenities of the occupiers of No. 73. I conclude on balance, for the reasons given above, that the appeal should be dismissed.*

Our neighbourhood does not fall in a district centre and applications is not going to contribute positively to the overall physical, social, environmental and economic character of the area by these businesses extending their opening hours, in fact it would have quite the opposite effect.

The businesses have demonstrated in the last 12 months during the covid period whilst operating outside the permitted hours the detrimental impact their operations have had on the local amenities. It has resulted in an increase in unsatisfactory levels of amenity and safety for surrounding uses and for residents and other visitors in the area alike, with reference to traffic, noise vibration, light, littering, anti-social behaviour, nuisance, privacy/overlooking, and relationship between buildings.

7

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Rudge Fold Church  
 Rudge Fold Church  
 Rudge Fold Church  
 12 Carham Road  
 12 Carham Road  
 15 Pletgate Rd  
 Rudge Fold Church  
 Rudge Fold URC



15<sup>th</sup> September 2021

Ref: Basement  
75b East Park Road  
Blackburn  
BB1 8DW

To: WHOM IT MAY CONCERN

My name is Abdul Rehman Adam currently the Head of Noorani Education Centre ,  
and I am writing this letter to provide reference for the business Basement.

The business owner has an understanding with us which allows us to carry out  
small community related projects.

The opening hours to 23:00 will be in line with businesses in the local area

We support and encourage you to make the correct decision for this business and  
take into account its reputation for assisting community groups and Charities which  
operate in Blackburn.

Yours Sincerely

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12<sup>th</sup> September 2021  
Re: The Basement Café

To whom it may concern,

I understand that the above mentioned business has applied to adjust their official opening hours to 11pm and address their planning.

Community Spirit help people who are in crisis and or homeless. Mr Sadiq, the manager of the business heard about us and the work that we do and on numerous occasions has offered us substantial discounts to use the premises for several functions.

The Basement café is in perfect location, and has great amenities for which our requirements have always needed.

We would like to show our support for this community orientated business.

Your Faithfully,  
For and on behalf of Community Spirit BWD CIC

**Support – Azim Hussain, Audiology Services, 169 Higher Antley St, Accrington, Received 14.09.21**

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RE: 75b East Park Road  
Blackburn  
BB1 8DW

We are writing in support of the planning application for the above premises

The owners have allowed us to use their building cost free on several occasions in the evenings to carry out free hearing tests within the local community.

This is particularly beneficial as we have managed to reach the certain people who are busy at work or unable to get to our own premises.

We support this application and the benefits it provides the community free of charge.

Yours Sincerely

Azim Hussain  
Senior Audiologist

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**Support – Ilm City Admin, Received 13.09.21**

Hi

We are a local organsiation who host a variety of events for the local community.

We have used the Basement Cafe over the years for our pop up community projects and I would like to add we have never been billed.

This has impacted the local community and our non profit organisation in a positive way.

We hope you make the right decision for extension of hours for this business.

Regards

Ilm City Admin

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## Support – Petition Received 15.09.21

### Petition in Support

Petition summary and background	The business at 213 Shear Brow Blackburn & Basement 75b East Park Road have applied to increase their opening hours to 11pm in line with other local business in the immediate vicinity
Action petitioned for	We, the undersigned, are in support of the application and urge Blackburn with Darwen Council to grant the removal of conditions & opening hours.

Printed Name	Signature	Address	Comment
Alishah Khan		LAMBERTH STREET	
HUMAIRA PATEL		60 WINSTON ROAD	
Iqra Hussain		425 Audley range	
Sabaa Mahmood		320 Audley range	
S Bashir		459 Rensdale Rd.	
K. Riley		Montrose, Darwen.	
S. Saneja		Lowood place.	let them stay open later
U. Uraze		Warrington Street	Warrington Street is WARRINGTON ST!
M. Bhayat		# Maple crescent	Let them stay!
Saima J		Hawthorn Road.	~
Amira M		PARK AVE	

Printed Name	Signature	Address	Comment
Sumayya Patel		Penguin St	Enjoy fruit always. Do NOT want it to close early
L. Patel		Penguin St	" ?
SHAMEEZA BHAYAT		Deanshore Rd	
SHOYAB MUSA		DEANSHORE RD	
NASIM BHAYAT		Deanshore Rd	
RAMES MUSA		Winnadur Leig St	LOVE FRUIT DO NOT WANT IT CLOSE
Husna Ali			
Ruhee Khan		Accrington RD	
Hanna Ali		Gorse St	Please dont shut it
JONATHAN HASEN		3, M156 DX	Communities need open businesses
Gina Radmokeva		3 M156 DX	Council should fine dodgy parking not close businesses
Simran Huss		, audley range.	let them BE ...
Bilal Patel		89 Preston New Road	
Hasan Patel		Preston New Road	
NICOLAS PATEL		CONISTON RD	Please dont shut it!
Omar Khan		"	





## Support – Residents, Received 14.09.21

### The Basement Venue Café

The business Basement Venue & Café located at 75b East Park Road has been established for approximately 10 years, during this time period the business has on many occasions supported a variety of nonprofit organizations and members of the local community by offering the use of its business premises for free or at a discounted rate.

This has benefitted local Charities and organizations which have been able to promote and tackle education, community cohesion, raise awareness of charity campaigns, homelessness etc

The local community have also benefitted by having been able to make use of the premises at discounted rates.

Ultimately the premises are a business and needs to make a profit to survive in these trying times but nonprofit organizations and community is the forefront of our business model.

We would urge you to consider the below signatures of organizations and local community who have benefitted from the use of the premises when making your decision.

The signatures are not extensive in list or in letter format but as a snapshot as we did not feel the need to waste your time to get our point across.

Printed Name	Signature	Address	Comment
Dave Wilson		CAMPUS RESTAURANT CANAM WHARF	BUSINESS VENUE HELPED WITH 'HERE FOR HUMANITY' PROJECT
Rizwan Hussain		107 Lomrock RD BBURN 381 85X	Small gathering in Remembrance of family member.
Stephen Hirst		6: Red Rose Court Blackburn.	Fundraiser
Maqbul Hussain MY BRITAIN.ORG		32 Shearbow, BBurn BB1 7EX.	Community use
Ifthikar Ali		SUITE 7 CANAM BUSINESS CENTRE,	Community cohesion projects
		36 Langham Road	bereavement use

## Mr and Mrs Valli Residents at 215 Shear Brow Blackburn received 8<sup>th</sup> October 2021

Hi Martin,

We have received a letter this post from the Council informing us of the amendments made to the above applications. Our thoughts are, that the amended hours of operations don't mitigate the concerns lodged as part of the original consultation hence still stand.

Please can you accept this email as a record confirming that our concerns remain the same as the original submission.

Kind regards



## **REPORT OF THE STRATEGIC DIRECTOR**

**Plan No: 10/21/0880**

**Proposed development: Variation/Removal of Condition/Minor Material Amendment for Variation of Condition No 2 pursuant to planning application 10/12/0487 "*Change of use from beauticians to hairdressers*" - to increase opening hours to 11am to 11pm Monday to Sunday – PLEASE NOTE CURRENT USE OF THE PROPERTY IS A DESSERT PARLOUR (USE CLASS E)**

**Site address:  
213 Shear Brow  
Blackburn  
BB1 8DU**

**Applicant: NA-AM Enterprises Ltd**

**Ward: Shear Brow & Corporation Park**



## **1.0 SUMMARY OF RECOMMENDATION**

- 1.1 **APPROVE** subject to the revision of condition 2 of 10/12/0487, to enable the premises to operate from 11am to 10pm daily

## **2.0 KEY ISSUES/SUMMARY OF PLANNING BALANCE**

- 2.1 This application is before the Committee due to the public interest in the case, including the receipt of 28 letters and 1 petition of objection and 2 petitions of support.
- 2.2 The proposal relates to an extension of the business operating hours that will provide for the growth of the existing business and support job retention and creation. The proposal is consistent with the Borough's overarching growth strategy. It is also satisfactory from a technical point of view, with all issues being appropriately controlled or mitigated through planning conditions.

## **3.0 RATIONALE**

### **3.1 Site and Surroundings**

- 3.1.1 The application site is an existing commercial unit positioned at the corner of Shear Brow and The Croft. The premises sit within a group of commercial units serving as a local centre, though without any formal designation within the adopted development plan – refer to site photograph below.
- 3.1.2 The application property occupies the ground floor of the building, with the upper floor previously in use as offices. **The unit is currently occupied by a dessert parlour under the allowances of Use Class E, having previously been occupied by a hair salon following planning approval 10/12/0487 – that change being permitted development without the need for a planning application.**
- 3.1.3 The immediate setting is predominantly commercial in nature, with a mix of retail functions, restaurants, hot food takeaways and a further education college. The wider locality is characterised by residential uses.





Case officer site photograph taken 19<sup>th</sup> August 2021.

## **3.2 Proposed Development**

- 3.2.1 Planning approval 10/12/0487 permitted a change of use of the premises from beauticians to a hair salon. In line with that permission the current authorised operating hours of the unit are 9am to 7pm, Monday to Friday, 9am to 5pm on Saturday and no opening on Sunday or Bank Holidays.
- 3.2.2 On receipt the current application sought to vary condition 2 of the 10/12/0487 approval to allow for extended operating hours from 11am to 11pm, daily. Through negotiation, the applicant has agreed to amend the application to now extend the operating hours to 11am to 10pm daily.

## **3.3 Development Plan**

- 3.3.1 Section 38(6) of the Planning and Compulsory Purchase Act 2004 requires that applications be determined in accordance with the development plan unless material considerations indicate otherwise.
- 3.3.2 The Development Plan comprises the Core Strategy and adopted Local Plan Part 2 – Site Allocations and Development Management Policies. 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

### 3.3.4 Local Plan Part 2:

- Policy 8 – Development and People

## 3.4 **Other Material Planning Considerations**

### 3.4.1 National Planning Policy Framework (The Framework)

- Section 2: Achieving sustainable development
- Section 6: Building a strong, competitive economy

## 3.5 **Assessment**

3.5.1 The application seeks to extend the hours of operation controlled via condition 2 of 10/12/0487, which limits use of the premises to 9am to 7pm Monday to Friday and 9am to 5pm on Saturday. The amended proposal seeks to allow for operation 11am to 10pm daily.

3.5.2 The proposal has generated significant levels of objection, as set out within section 9.0 of this report. The objections can be broadly categorised as falling in to 3 areas; parking related issues; noise and disturbance related to patrons coming and going; and littering.

3.5.3 Highways: Core Strategy Policy 22: Accessibility Strategy and Local Plan Policy 10: Accessibility and Transport, aim to ensure that new developments provide appropriate provision for access, car parking and servicing so as to ensure the safe, efficient and convenient movement of all highway users is not prejudiced.

3.5.4 Given the use is established, the main highway consideration is whether the proposed extension of hours will lead to a highway safety conflict, sufficient to warrant refusal.

3.5.5 The lack of dedicated parking for the unit, allied to the high demand for the limited on-street spaces in the locality has been a repeated theme. However, this matter has previously been tested on appeal in this location. In the Council's refusal of application 10/08/0140 [*decision date 4<sup>th</sup> August 2008, Planning Inspectorate appeal decision date, 13<sup>th</sup> August 2008*] – which was based upon highway concerns and subsequently overturned on appeal – the Inspector found that the site lies within a sustainable location given the accessibility of public transport and the large population within walking distance. Irrespective of the availability of on-street parking the proposal was consistent with national policy to promote sustainable transport. Given that appeal decisions are material considerations in the assessment of subsequent applications, it is considered this position is still valid, particularly so given the emphasis within the revised 2021 NPPF. Paragraph 111 states:

*“Development should only be prevented or refused on highways grounds if there would be an unacceptable impact on highway safety, or the residual cumulative impacts on the road network would be severe.”*

- 3.5.5 The above position is supported by the assessment of the highway officer on this current application; *“It is noted that the use is approved and the changes to hours offers no change to the parking offer available. We do however acknowledge that the hours change proposed could be suitably supported by the on street provision in the immediate locality. The current on street parking, is situated around the triangle at the top of Shear Brow/East Park Road, together with parking bays along East Park Road. This is fully occupied during the day; however, there is availability in the evening as the shops around the centre shut at 18.00 pm. Therefore, on balance the change in hours is supported by highways”.*
- 3.5.6 Finally, the presence of illegally or inconsiderately parked vehicles would appear to be matters for parking enforcement, rather than for control via the planning process.
- 3.5.7 Residential Amenity: Policy 8 of the LPP2 relates to the impact of development upon people. Importantly, at section (ii) of the policy there is a requirement for all new development to secure satisfactory levels of amenity for surrounding uses and future occupiers of the development itself. Reference is made to matters including; noise, vibration, odour, light, dust, privacy/overlooking and the relationship between buildings.
- 3.5.8 The public objections consistently raise concerns with the impact of the development later in the evening. The issues centre on the associated comings and goings of patrons rather than noise generated from within the building. Examples include but are not limited to; raised voices, music playing within parked vehicles, revving of engines and slamming of car doors.
- 3.5.9 The immediate setting of the property is within a local parade of shops and looser group of commercial units that are located around the ‘triangle’ that forms the junction of East Park Rd and Shear Brow. Residential uses characterise the wider locality. The retail units adjoining the application site are long-standing uses that do not have restricted opening hours. Furthermore, a number of local businesses including ‘The Clove’ restaurant and hot food takeaways operate until 11pm or later.
- 3.5.10 The Council’s Head of Public Protection has offered the following position; *“Whilst I accept that extending the opening hours may be appropriate, I’m concerned that allowing the premises to open until 11pm will result in noise that will have an unacceptable impact on residents living nearby. Parking will be on-street, and in some instances outside neighbouring homes, so noise from customers and vehicles will be evident. This noise is more likely to be intrusive later in the evening when other background noise is less prominent. It is therefore recommend that Condition No.2 pursuant to planning application 10/12/0487 is varied as follows: The use hereby permitted shall only take place between the hours of 11:00 and 22:00”.*

- 3.5.10 The applicant has agreed to amend the proposed opening hours in line with the Head of Public Protection's request. Accordingly, the proposal now requests a 10pm close, rather than the 11pm set out in the original application.
- 3.5.11 It is submitted that the negotiated change to the proposed hours amounts to a reasonable and proportionate change that balances the business needs of the applicant against the amenity of neighbouring residents, according with the requirements of Policy 8 of the LPP2.
- 3.5.12 Other Matters: Members should note that many of the other anti-social impacts raised by objectors, such as littering or the presence of rats, appear to be wider community issues without any tangible link to the application property. Furthermore, when considering the application, which relates solely to an increase in hours of operation it is unclear how this can be directly related to increased littering or higher pest numbers. Accordingly, resisting the application on these issues cannot be justified.

#### **4.0 RECOMMENDATION**

**APPROVE subject to the amendment of condition 2 of 10/12/0487 to read as follows;**

The use hereby permitted shall only take place between the hours of

11:00am and 10:00pm - Daily

REASON: To safeguard the amenities of adjacent residential uses and the area generally in accordance with Policy 8 of the Blackburn with Darwen Borough Local Plan.

#### **5.0 PLANNING HISTORY**

10/12/0487 – Change of use from beauticians to hairdressers (retrospective); Approved 4<sup>th</sup> September 2012

10/08/0140 - Change of use to beauty salon; refused permission on the 4th August 2008, Planning Inspectorate appeal decision date, 13th August 2008, appeal allowed.

#### **6.0 CONSULTATIONS**

##### **6.1 Highways:**

It is noted that the use is approved and the changes to hours offers no change to the parking offer available. We do however acknowledge that the hours change proposed could be suitably supported by the on street provision in the immediate locality.

The current on street parking, is situated around the triangle at the top of Shear Brow/East Park Road, together with parking bays along East Park Road. This is fully occupied during the day; however, there is availability in the evening as the shops around the centre shut at 18.00 pm. Therefore, on balance the change in hours is supported by highways.

#### 6.2 Public Protection:

Whilst I accept that extending the opening hours may be appropriate, I'm concerned that allowing the premises to open until 11pm will result in noise that will have an unacceptable impact on nearby residents living nearby. Parking will be on-street, and in some instances outside neighbouring homes, so noise from customers and vehicles will be evident. This noise is more likely to be intrusive later in the evening when other background noise is less prominent.

I therefore recommend that Condition No.2 pursuant to planning application 10/12/0487 is varied as follows: The use hereby permitted shall only take place between the hours of 11:00 and 22:00.

#### 6.3 Public Consultation:

36 neighbouring premises have been individually consulted by letter and a site notice displayed. The consultation process has been repeated following amendment to the application. Any further representations received since the writing of this report, will be reported in the Update Report.

28 letters and 1 petition of objection and 2 petitions of support have been received. See section 9.0 of this report for the summary.

**7.0 CONTACT OFFICER: Martin Kenny, Principal Planner**

**8.0 DATE PREPARED: 8<sup>th</sup> October 2021**

## 9.0 SUMMARY OF REPRESENTATIONS

### Support – Cllr Zainab Rawat. Received – 03/08/2021

**RE: The Basement Venue & Cafe, 75b East Park Road, Blackburn, BB1 8DW  
Frurt Frozen Yogurt, 213 Shear Brow, Blackburn, BB1 8DU**

Dear Planning Department

The two businesses are located within the Shear Brow and Corporation Park Ward.

Throughout the last 18 months, businesses have been faced with a number of challenges and it has been an extraordinarily difficult time, particularly for small independent businesses.

I am writing to support the two named establishments and believe that as a Council we should be supporting local businesses as they provide employment and the success of businesses is vital for our local economy and for our COVID recovery plans.

Blackburn with Darwen Council have successfully distributed a range of financial support and assistance through Government schemes and going forward the commitment to supporting local business is imperative.

An extension of trading hours for the two businesses would be in line with other businesses that are based within the area.

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### Objection – Soofyan Valli. Received – 25/08/2021

I am writing this email regarding the two businesses one which is the basement cafe and the other which is the frurt. It has come to my attention and some of the residents these two shop/businesses have requested extending there hours, I also understand there is not much the planning department can do to stop this request but I would still like to remind the people who maybe in the decision making process of my opposition to this request by these businesses.

As the councillors in the ward are already aware of the situation the shear brow ward has and is facing regarding traffic increase, illegal parking, residents have recently received parking tickets as they are unable to park there cars outside there own houses as the increase of traffic has made it impossible at certain times to find any parking at all and have no other choice but to park there vehicles on single yellow lines which is not allowed.

Staying focused on the area where these two businesses are situated there is very limited parking and I have witnessed many of times where near miss accidents have occurred because of cars parked in places where drivers vision is impaired. There are residents driveways blocked off so you the occupier is either unable to leave the premises or park the vehicle in the drive way.

On occasions it has got to a stage where the police have had to get in touch with owners of these vehicles to move them. Obviously this is a highway issue. If these businesses are allowed to extend there hours it just means there is no one to police the illegal parking after the parking enforcement officers finish there shift. The police will not attend for this.

Also on the issue of littering customers do sit in there cars (illegally parked) and throw there rubbish on the streets for residents to clean. Councillor akhtar is well aware of the hard work the community are doing for a safer cleaner area.

If the the council is going to approve this may I suggest there is some form of railings on either side of the Croft where the frurt business is situated to prevent cars from parking on the corner of the junction. Also visible signs where customers to these businesses are made aware they should and must not park there vehicles on single yellows or anywhere near the junction.

Also I would just like to add if these does go onto the panel if 6 or more people have voiced there opposition then the deciding councillors who do get voted in by the residents take careful consideration of there voices. If it wasn't for the residents they would possibly not be in a position to make any decisions. We vote them in for them to voice our concerns not the businesses and the councils. There are guidelines to follow by government which I totally understand but ultimately it's the residents who have the final say for any individual councillor when it comes to who represents them.

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**Objection – Sahih Ali. Received – 26/08/2021**

I recently received letters in the post regarding the above references which have applied for planning to open with extended hours.

Let me firstly say I have no problems with these shops opening but as a resident on East Park road the problems I have recently encountered has really frustrated me and some residents, though they will not take time out to write in regarding this (A shame really).

My concerns are that my property which is pretty much at the top of the street where these shops are has two garages on the croft, The Property has a bus stop in-front of it and I'm restricted to parking there.

Since the opening of the Clove I have noticed that parking has now become a massive issue the limited space available after 6pm and the litter has become a nightmare. Bins over flowing on the streets and a once a reputable area is turning into a junkies back yard. Also traffic in the area is a big problem now too.

I currently get no parking on the rear of my house where my garages are either if it's not taken up by residents on the street it's a customer at one of the venues on the corner, The Garages has lines to show not to block and yet people are still inconsiderate.

There is also issues with rats in the area and this is becoming more of a problem with the rubbish thrown out by customers. The noise of cars late at night and the drug abuse in the area has become like a harvesting ground due to a more open feel in the area with shops open late.

I am happy to have the shops open with its current working hours but when its off peak id rather have my parking and late food consumers restricted in the area.

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**Objection – Zamir Dor, Resident of The Croft. Received – 27/08/2021**

I am resident on The Croft, and my family and I have been residents on the Croft for over 26 years.

I emailing you today to voice my objection to recent planning application to extend the operating hours of 2 business located at 213 Shear Brow and 75B East Park Road, both businesses being less than 50 metres from my home.

I would like to clearly state that I by no means object to business's operating in the local community, I fully appreciate the role small, independent businesses play in the community by offering employment and contributing to the local economy. However these business should not adversely impact or affect the residents in the community they operate. This particular fact is clearly outlined

when planning permission was first granted to the businesses in question. The previous application clearly restrict opening times to 09:00 and 19:00 Monday to Friday and 09:00 and 17:00 Saturday and no opening Sunday or Bank Holidays. Reasoning include "safeguard the amenities of adjacent residential uses and the area generally in accordance with saved policy R17 of the Blackburn with Darwen Borough local plan". My question is why is this no longer being considered, by extending the opening hours, we would exacerbate the current problem we are currently experiencing further, and set precedent for other commercial units to apply for extended hours turning a residential area into a commercial hub.

Over the last year these businesses have already attracted a high volume of traffic, impacting the residents of the croft, due to the fact customers are often parking on The Croft as no other parking is available. As a result local residents find it difficult to find parking especially during the evenings, where it is not uncommon for customers to be eating in their cars whilst parked on the street. Extending opening hours would aggravate the parking issue further into the evening. The residents have often found customers parking on the corner of the croft creating a bottle neck forcing cars to reverse back on to Shear Brow.

Furthermore due to fact customers are often found to be eating in their cars, litter is now common place on the streets and pavements with half eaten items, containers and bottles, which also has seen to worsen the rodent issues in the area.

Finally I was hoping you could clarify, the planning application referenced 10/21/0880 states "Variation of Condition No 2 pursuant to planning application 10/12/0487 "Change of use from beauticians to hairdressers" - to increase opening hours to 11am to 11pm Monday to Sunday" . Why does it state beautician to hairdressers when the business in question is a Café / Dessert Parlour.

I would implore you to take these points into consideration when reviewing these application.

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**Objection - Mrs Ali, 65 East Park Road, Blackburn. Received – 27/08/2021**

Good Morning,

My name is Mrs Ali I live at 65 East Park Road, I am writing with regards to planning applications 10/21/0879 & 10/21/0880.

Both these buildings are situated near my house, I would like to reject both applications as East Park Road is already a busy area and we struggle with parking as it is, this will make things 10x worse. I have young children who go to school these extended opening hours with disrupt there sleeping. There is already an issue with litter and people not using the street bins properly this again will make things worse. People that come to the basement for parties or get together come out of the venue and loiter around the streets making noises and smoking, I do not want my kids being exposed to that.

Please do take into consideration my points when making your decision.

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**Objection – M Master. Received – 31/08/2021**

I have received two letters of planning application near my area for a two different properties, 213 Shear Brow and Basement 75B East Park Road which are going to be worked on at the



same time. This does not look great in my eyes as we have a small number of parking spaces which can barely keep the residents of the area at bay but with more workers coming in will make it more difficult to handle. Also the noise disturbance will increase as people like me with family will be going sleep before 11pm where the workers would still be working which is also another problem as we cannot let this be a continuous problem. Also i have a son with Autism which will affect him a lot as he has a sensitive hearing problem which will get affect his sleeping schedule with all the work that may occur during the day and evening which is not great for him and the family.

Hope you can understand the situation and find a sensible solution to this problem.

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**Objection – Riyaz Adam, Resident of The Croft. Received – 01/09/2021**

Hi,

I am a resident of The Croft, Bb1 8dy and it has come to my attention that the following businesses that already operate beyond their permitted hours have requested a permanent extension of hours.

I would be very opposed to this as there are numerous issues the later opening times cause for residents in this area.

Since the opening of Frurt and The Basement there have been numerous parking violations outside the businesses in question that seem to go unpunished as the council does not have the means to have enforcement officers always around this area.

In my personal experience there are people parked around these premises on yellow lines or even on resident driveway lines late at night either waiting in the cars including uber/just eat drivers or actually eating in the cars causing unnecessary traffic and causing issues for residents that cannot park around their houses.

The noise pollution caused by late night parties at the Basement is unacceptable, including the disregard by the party goers blocking resident driveways and parking on yellow lines.

There is clearly a rodent problem in the area being further exasperated by businesses such as these, whereby people eating in their cars have been emptying their meals onto the pavement and roads on many occasions.

Speaking to the residents around the area they are very angry with the problems faced on a daily basis and would be further angered by approving these extended hours.

---

**Objection – Feeroz, East Park Road, Blackburn. Received – 03/09/2021**

Hi,

I am a resident of The Croft, Bb1 8dy and it has come to my attention that the following businesses that already operate beyond their permitted hours have requested a permanent extension of hours.

I would be very opposed to this as there are numerous issues the later opening times cause for residents in this area.

Since the opening of Frurt and The Basement there have been numerous parking violations outside the businesses in question that seem to go unpunished as the council does not have the means to have enforcement officers always around this area.

In my personal experience there are people parked around these premises on yellow lines or even on resident driveway lines late at night either waiting in the cars including uber/just eat drivers or actually eating in the cars causing unnecessary traffic and causing issues for residents that cannot park around their houses.

The noise pollution caused by late night parties at the Basement is unacceptable, including the disregard by the party goers blocking resident driveways and parking on yellow lines.

There is clearly a rodent problem in the area being further exasperated by businesses such as these, whereby people eating in their cars have been emptying their meals onto the pavement and roads on many occasions.

Speaking to the residents around the area they are very angry with the problems faced on a daily basis and would be further angered by approving these extended hours.

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**Objection – Tom Farran. Received – 03/09/2021**

Dear sir, I wish to raise my objection to the above application on the grounds of it being contrary the well-being of the residential community

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**Objection – Mr & Mrs Yakub Mall, 219 Shear Brow, Blackburn. Received – 07/09/2021**

Dear Mr Martin Kenny

I hope this email finds you well.

We are the residence of 219 Shear Brow  
Blackburn BB1 8DU, Mr & Mrs Yakub Mall. We are part of the Shear Brow & East Park Road Community Group.

We have resided at the above property for just over 14 years. I would describe ourselves as working class people & at the same time we support the local community to keep it clean, tidy & safe where we can.

The main purpose for this email is to highlight some disappointing issues that have risen recently in the Shear Brow & East Park area.

- Number of businesses opening, mainly food related yet NO communication to the residence before hand for permissions. Open long hours too.
- Increased levels of littering with overfilling bins & using the area as tipping point
- Social Behaviour - Alcohol & Drug related - gangs in the back alley ways as it easy access and hideaways
- Parking for the residents who live in the area taken by customers who are coming to the restaurants, takeaways, dessert bars & local buisnesses

When we moved in the area there was not many businesses in the area. We used to be informed by letter by the council that a new business is due to open in the area and we were given an option to respond if this was to cause any issues to contact.

Recently say last 2 years number of local buisnesses have opened in the area Shear Brow & East Park without residence being informed. These business owners also think they have priority for there deliveries & on street parking because they own buisnesses.

Due to this not being properly followed through the council with communication with residence, buisnesses have been allowed to be open hilly nilly, most of the concerns raised in the bullet points above are because of this matte. Due to the increased businesses they are taking over our streets, parking, more littering & social behaviour has increased. Just to add the council have not followed a clear structure in first place and then failed to monitor this issue.

As residence we find it a struggle to find parking after a long hard working day or even when we come from a daily shop. Previously been fined as we had parked in non parking area on the street.

This really cannot continue & this matter needs to be taken seriously.

Please feel free to contact us to help make the area efficient for resident parking, clean/tidy, safe & for the residents mainly.

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**Objection – Ibrahim Issa, 59 East Park Road, Blackburn. Received – 08/09/2021**

I'm living at this address from last 25 years There was one business under one roof Now all changed two or three business under one roof All business owners not living round here Be honest Lot of problems for parking .litters . Anti social behaviour problem Speeding car on Eastpark road During the night some times noises rounds here

So pls

I'm against these planning of hours 11am to 11pm You grants them planing as present Keep it Pls keep in your mind residents problems Thanks

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**Objection – Ibrahim Issa, 59 East Park Road, Blackburn. Received – 13/09/2021**

I'm sorry to say

I'm against it

Reason is there are lot of problem of parking Litters.

Traffics

Anti social behaviour

There used to be peaceful in area

Now we r prisoners in our own home

If we go out for few hours parking gone Difficult to crossing road No policing for wrong parking

There r one business in one roof now two to three businesses in same roof Owners of businesses not living in this wards They don't know what difficulties we residents got to face We request you not to extend pls

We r human living in this wards

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**Objection – Idris Ali. Received – 08/09/2021**

Dear Mr Kenny,

I would like to take my rights to object to any new food business opening on shear brow in the college area or any businesses Getting extended hours as it will cause much more increase in the area. We are already facing massive problems with the planning loophole being use by an outlet operating as a burger takeaway. There is a big Increase in traffic, unlawful parking on zebra crossing, zig zags, double yellow lines, driveways being blocked etc, big littering, anti social behaviour, extremely high noise all which is severely impacting amenities and safety in the area.

We desperately need the council to take appropriate actions in the area and clampdown on any business which have and are causing these issues.

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**Objection – Latif Kothia, 16 Colenson Road, Blackburn. Received – 10/09/2021**

Ref: 10/21/0880 213 Shear Brow Blackburn BB1 8DU

Dear Mr Kenny,

I am writing to you to **object** to the above planning application for the increase in opening hours on the following grounds:

1. Highway safety
2. Public protection – it will have a negative impact on preserving the environment from:
  - safety of pedestrians

- noise pollution
- anti social behaviour
- littering
- rats, mice etc

3. traffic, parking – it will drastically increase traffic and impact on local residents. There is already inadequate parking, especially after 6pm when nearby residents require on-street parking.

As you may already be aware, there has been a sharp rise in cafes & takeaways on Shear Brow which is severely affecting the residents. Our community environment, and the relation between the outlets and the surrounding residents will be damaged, the right balance will not be struck.

With the large numbers of people already visiting the premises, a further increase of numbers will exacerbate the situation. The negative impact on permitting the extended hours will significantly outweigh the benefits. The applicant is already breaking the rules by operating beyond their permitted operating hours. The reason why the hours were restricted to 9.00-18.00 M-F, 9-4 Saturday & closed on Sunday was to protect local residential amenities, it would secure a satisfactory level of amenity and safety for surrounding uses and noise.

A residents meeting took place on Thursday 2<sup>nd</sup> September at the Revidge Fold Church. Although the meeting was arranged at short notice, over 70 residents attended the meeting. Councillors Khonat & Akhtar attended the meeting, and I'm sure they will confirm that there was not a single attendee in favour of the application, there was a unanimous objection for the reasons I have listed above.

Please do not hesitate to contact me if you wish to discuss further.

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**Further Objection – Latif Kothia, 16 Colenso Road, Blackburn. Received – 30/09/2021**

Dear Mr Kenny,

Further to my correspondence dated 9 Sept 2021 regarding concerns over planning applications 10/21/0879 & 10/21/0880, I have attached a pdf, kindly provided by Lancashire Constabulary recently, detailing the complaints from local residents relating to illegal parking, blocked driveways, anti-social behaviour & car accidents.

I hope this provides yet further evidence to corroborate our serious concerns around Highway safety, Public protection & traffic issues should, God forbid, the applications be recommended for approval.

I trust this information will be shared with the public protection and highways team who are being consulted on this application to help them complete their assessment.

Kind regards

**PLEASE NOTE THE DOCUMENT PROVIDED BY THE LANCASHIRE CONSTABULARY IS NOT INCLUDED IN THIS SECTION FOR DATA PROTECTION ISSUES – MEMBERS ARE ADVISED THAT THE DOCUMENT HAS BEEN CONSIDERED DURING THE ASSESSMENT OF THE APPLICATION.**

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**Objection – Farida Kothia, 16 Colenso Road, Blackburn. Received – 10/09/2021**

Martin Kenny,

I object to the above applications wanting to open late. The problems in the area are already clearly evident:

Traffic impact

Unlawful parking on zebra crossing, zig zags, double yellow lines, driveways being blocked etc

Littering

Anti social behaviour

Noise

The extended hours will cause an increase in the issues listed above which is already severely impacting amenities and safety in the area.

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**Objection – Talha Mataria, 32 The Croft. Received – 10/09/2021**

I would like to object against both planning applications below. I am a resident at 32 the croft and have already a lot of issues regarding parking, additional traffic, anti social behaviour, littering and rats in the area. The extension of hours for these businesses will only add the above issues and not reduce. We already have a lot issues finding parking in the evenings and these will only get worse if the businesses are allowed to open later.

Both of these premises are already staying open for longer hours than allowed to do so. Please refuse these applications in the interest of nearby residents.

10/21/0880 Frurt 213 Shear Brow Blackburn BB1 8DU

To increase opening hours to 11am to 11pm Monday to Sunday.

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## **Objection – Mr & Mrs Valli, 215 Shear Brow. Received – 10/09/2021**

Thank you for engaging us in the consultation process by inviting us as residents to comment on the planning application numbers **10/21/0879** and **10/21/0880** relating to **75 East Park Road and 213 Shear Brow**. The applications comprise of the below key elements:

1. Request for change of use
2. formation of self-contained flat and
3. extension of opening hours till 11pm Mon to Sunday including Bank Holidays.

### **Context**

To put things into context we have lived in the neighbourhood for over a decade. This area appealed to us for varying reasons in particular the excellent local amenities in the area provided by the local businesses.

We recognise local businesses to be an integral part of our community and appreciate all the hard work they put in to serve the local neighbourhood and surrounding communities. We acknowledge that local businesses are constantly challenged by competition and changing demands of the consumer requiring them to adapt their business model to suit.

The last 12 months have been difficult for all, including our local businesses in the area we are happy to support them where possible. In the same breath we would equally expect the local businesses to take into consideration the impact of their business models on the local residents and local amenities. In addition to this, we also expect the Local Authority to work with both residents and businesses alike to address key issues in the area making it a pleasant place for us all to co-exist in harmony.

### **Our Concern:**

We have no objection against the proposed change of uses for both the applications and the formation of the self-contained flat and their current operating hours as stipulated in previously approved planning application numbers 10/12/0158 condition 3 & 10/12/0487 condition 2. The current hours of operation are in keeping with the adjacent businesses on East Park Road. Our concern is the negative impact the proposed hours will have on the adjoining neighbours and the amenities in the area in general. These concerns are based on witnessing the negative impact of the businesses opening till late hours over the last 12 months.

Both of the above-mentioned approved applications were subjected to restricted hours of operation to safeguard the adjoining residential uses and the area generally in accordance with saved policy R17 of BwD Local Plan.

The LPA was correct in its assessment anticipating the detrimental impact the businesses would have had they not controlled the opening hours. We can testify to this based on what we have witnessed on the ground during the last 12 months.

Some of the detrimental impact of the businesses operating till late at night are described below;

#### **1. Recurring Traffic Congestion:**

As you will be aware that Shear Brow is a feeder road and is highly traffic sensitive with multiple peak times during the week including:

- 07:45 – 09:15 (school drops offs and commuters)
- 15:45 – 17:45 (school pick ups, commuters and madrasah drop offs)
- 19:00 - :19:45 (evening madrasah return)

During the recurring peak hours the residents experience high volume of traffic, noise and air pollution and look forward to the quiet and peaceful evenings. On most days the traffic comes to a standstill affecting multiple junctions such as East Park Rd, St James Rd causing bottle necks and chaos. There are varying reasons for this but mainly because the urban area has out-populated its roadway and increasing demands of parking which in turn narrows the main road and pavements affecting both drivers and pedestrians alike. We strongly believe that the proposal to permit the extended opening hours application will further exacerbate the problem and harm the already under pressure amenities causing irreversible damage to both us as adjoining neighbours and the area generally.

## **2. Parking**

Having the benefit of observing these businesses operate over the last 12 months outside the permitted hours up to 11pm, we have at first hand witnessed the recurring pattern of behaviour of customers visiting. Neither of the businesses have any off-street parking provision for their customers hence rely on the public highway for parking. The majority of the customers attracted by the businesses are from outside the area who travel by cars and have the tendency to wanting to park as close to the shops as possible. Due to the location of their entrances the closest parking available on the highway is at the junction of Shear Brow and The Croft. There are single yellow lines restricting parking between 9-6pm which is in line with their approved opening hours, but does not take into account the hours they are actually operating which restricts our ability to turn in and out of our driveway. The double parking on The Croft forms a bottle neck at the junction of Shear Brow compromising the line of sight for drivers and access/egress. The cars frequently park virtually on the give way ignoring the yellow lines and H bar marked out by the LA. This causes vehicles to reverse on to the main road when there is a car coming from the opposite direction creating avoidable hazard and causes unnecessary confrontation between drivers. The cars park over the drop kerbs narrowing the pavement for wheelchair, pram users. On occasions it has been witnessed customers have blocked the entire pavement forcing pedestrians on to the road putting them at risk. Examples of these can be seen in the attached videos or on the neighbourhood group's twitter account (@eastparknw\_BB)

## **3. Blocking Driveways and parking on the Zebra Crossing**

When the limited spaces directly outside the shops are taken the customers are forced to park down the side street (The Croft) resulting in blocking access to private driveways including ours and other's off street parking. The visitors to the businesses take up limited spaces available for residents, resulting in them having to find parking in neighbouring streets which then has a ripple effect on the wider neighbourhood.

There are some inconsiderate customers who will deliberately park on the white zig zag lines outside the front of our house to reduce their walking distance at the expense of jeopardising the road safety for others. We alone have reported 13 incidents in the last 12 months which can be verified with Lancashire Police on various counts (see attached email from Lancashire Police). Despite our driveway being marked with yellow lines and H bar our driveway has been blocked on many occasions resulting in us having to then go in search of the drivers which as you can imagine is not only inconvenient but challenging too. There have been occasions when we have had to leave in an emergency and have been delayed due to being blocked in. In addition to this we have found on a number of occasions that our drive has been blocked when we have arrived home especially in the evenings. The whole experience of having to repeatedly keep an eye out or going looking for the driver to move their vehicle is highly frustrating and limits our freedom of movement.

## **4. Public/Environment Protection**

Both businesses although offering different services, their customers generate a lot of noise pollution including loud music blaring on to the public highway, heavy footfall whilst walking to their cars, others like to eat their desserts in their cars whilst leaving engines running causes not only noise but air and light (car lights) pollution too.

The basement café hires its facility for functions attracting groups of visitors from outside the area who have travelled in cars leaving late at night. The evening parties generally arrive after 6pm and have been seen to be leaving in the dead of the night. The noise levels of groups merrily walking to their cars disturb the residents and its amenities. Their loitering around becomes a nuisance, the clanging of doors and general noise whilst loading cars with goods and on occasion annoying sound of revving cars as they drive away. All these issues are hard enough to tolerate during the day but even incomprehensible at night when the sound levels are amplified many fold.



### **What has changed?**

In the recent years, the neighbourhood has seen a rapid growth of new food/events/dessert businesses opening along with self-contained flats above them, which once upon a time used to be ancillary accommodation of shops. We have seen investors coming into the area and splitting single dwellings into multiple units and letting them separately. That of course increases their rental income but adds pressure on the highway in terms of traffic, street parking and increase levels of anti-social behaviour harming both the environment and local amenities. There are approximately 11 businesses, 5 flats in this small stretch with only one business that has off street parking! The amount of littering in the area has risen dramatically forcing residents to volunteer 6-10 man hours every Sunday morning to clear up the area as the Council not being able to cope due to budget cuts. There have been reports logged with the Council by residents on various matters including mice/rat infestation, littering, fly tipping and over spilling bins which are targeted by crows and seagulls spreading the litter even further.

The majority of the issues mentioned manifest in the evenings and weekends when the Local Authority is closed forcing the residents to ring the Police but on most occasions are unable to assist either because the problem is out of their jurisdiction or they haven't got the resources to dispatch.

### **Community Consultation**

A neighbourhood meeting which was called at short notice was attended by over 70 people representing a wide cross section of our community including, Local councillors, Church members, residents, Chair of Lammack Association and local businesses unanimously agreed on the issues mentioned above and the motion to approve extended hours would be inconceivable.

### **Conclusion**

Our fear is that unless there are engineered solutions built in by the businesses and Local Authority as part of this process to resolve the issues faced by the residents, the adverse impact of granting planning permission to extend their hours would significantly and demonstrably outweigh the benefits. It is for this reason we object against this aspect of the applications of both parties.

We are pleading to the Council to stand by the condition attached to their previously approved applications restricting the hours of operation in the spirit of creating a harmonious environment for both residents and local businesses to co-exist just like they have been doing for many decades in this area.

Thank you for taking the time for listening to our thoughts and concerns.

**PLEASE NOTE THE DOCUMENT PROVIDED BY THE LANCASHIRE CONSTABULARY IS NOT INCLUDED IN THIS SECTION FOR DATA PROTECTION ISSUES – MEMBERS ARE ADVISED THAT THE DOCUMENT HAS BEEN CONSIDERED DURING THE ASSESSMENT OF THE APPLICATION.**

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### **Objection – Duaa Aslam, 48 The Croft. Received – 10/09/2021**

My name is Duaa Aslam, I am a resident of The Croft, Shear brow. I am emailing regarding the applications made to the council concerning the extension of opening hours, and removal of Condition no.4 to allow for use within Class E from the Basement. Similarly, I am emailing to give my comments on the extension of opening hours requested by Frurt.

I have several issues with the proposals which have been put forward. Firstly, as you may understand The Croft is a street adjoining onto a main road. This road is subject to extensive amounts of traffic as St. Mary's college is located on this road. This

means there is an influx of students during term times arriving and being dropped off by parents/ guardians, in many cases in the opposite streets to the college, including The Croft. This aspect already creates a lot of traffic pollution alongside noise pollution. The extension of opening hours and the creation of an internet café will merely be an addition to the existing traffic around the surrounding area, leading to further issues such as unlawful parking and limiting means of access.

Currently, the Croft residents struggle to find parking close to their respective homes, due to the large number of customers arriving at Frurt, especially during afternoon times. As many consumers buy goods and eat/drink in their cars due to limited seating at Frurt, there are a large number of vehicles parked in front of private property, such as garages and passageways, making it extremely difficult for residents to move around. Through extending opening hours, this issue will only be heightened as individuals will be attending later at night. This will not only allow for anti-social behaviour (such as cars with loud music) but will also be a cause of increasing noise pollution, additional traffic, and unlawful parking.

Such changes will also increase the current issue of littering. Neighbours around the surrounding area have time and time again complained regarding the issue of littering caused by those who buy goods at Frurt and litter on the pavement and road of The Croft. This has led to increased rats/mice infestations around the area. This is not only a huge hygiene issue, but something which is problematic for the health of residents, especially young children who wish to play outside and get fresh air.

With traffic and lack of parking spaces for residents being a large issue, the creation of an internet café in an already busy and packed area will only heighten the previous stated problems. Lack of parking on the main road in front of the Basements location will mean consumers will park in nearby streets, including The Croft. The influx of vehicles will also pose a risk to the safety of pedestrians. Increased number of individuals attending these establishments, especially at night times gives leeway to increased anti-social behaviour.

Personally, I feel as though there is already an issue with lack of privacy (as Frurt is located directly opposite my house), with individuals being parked opposite my home for long periods of time, with loud music etc. Such noise pollution is a nuisance, especially for individuals like me who are working from home.

I hope you can understand where the residents of The Croft are coming from, and take into consideration the ongoing issues which will be heightened by the changes proposed.

Thank you for taking the time to read my comments.

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**Objection – Lukman Mohamed, 51 East Park Road, Blackburn. Received – 10/09/2021**

I live on East park road and want to express my concern with the planning applications being considered by Council to extend the opening hours of frurt and basement cafe.

We already have many problems with traffic, littering, noise, traffic congestion and blocking our shutters.

The long hours of these shops will force us out of the community as it already is unbearable. Customers visiting come cars and park down the croft which is the back entrance to our drive ways. Many youngsters eat, drink, smoke etc and cause public nuisance.

Please think of the residents and local community.

---

**Objection Muhammad Bilal, 2 The Croft. Received - 10/09/2021**

To whom it may concern

I am not supporting the following planning applications because of additional traffic, Illegal parking causing inconvenience to residents, pedestrians & road users etc

Reference:10/21/0879 Basement 75B East Park Road Blackburn BB1 8DW.

To increase opening hours to 12pm to 11pm Monday to Sunday, and removal of Condition no.4 to allow for use within Class E.

Reference: 10/21/0880 Frurt 213 Shear Brow Blackburn BB1 8DU

To increase opening hours to 11am to 11pm Monday to Sunday.

---

**Objection Shamira Valli. Received – 10/09/2021**

Hi Martin

I would like to address the following issues in our area since the basement and frurt have opened.

unlawful parking  
additional traffic  
safety of pedestrians  
noise pollution  
anti social behaviour  
littering  
rats, mice etc

It's annoying as it has caused really bad behaviour in our area and every week we are picking up too much litter. I oppose to these businesses opening till late as it is a residential area.

---

**Objection – Suhel Patel. Received – 10/09/2021**

Hi Martin,

I'm writing with regards to the above reference.

I oppose to both of these businesses to increase their opening hours for the following reasons:

1. Increase into unlawful parking
  2. Increase in additional traffic;
  3. Increase in noise pollution;
  4. Increasing in littering
- 

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**Objection – East Park Neighbourhood Watch. Received – 13/09/2021**

To: Mr Kenny,

Please can you register on behalf of the community residents that a neighbourhood meeting was held on the 2nd Sept 2021 which was attended by over 70 including residents, local businesses and stakeholders such as the church and the chair of Lammack Association despite the short notice.

This meeting was attended by the ward councillor akhtar and khonat who will confirm that unanimously all attendees objected against the applications as it would have detrimental impact on the traffic, parking and public protection in the local area.

As a community we urge the Council take on board the concerns being raised by the stakeholders in the area and help protect the local amenities.

---

**Objection – Yasir Patel, 38 Colenso Road, Blackburn. Received – 13/09/2021**

10/21/0880 213 Shear Brow Blackburn BB1 8DU

10/21/0879 Basement 75B East Park Road Blackburn BB1 8DW

Dear Martin Kenny,

I write to you in relation to the above applications for extended hours.

I object to the planning application.

There are clear issues already in the area and the following are reasons which will be further negatively impacted if this permission is granted;

1. Traffic impact
2. Unlawful parking on zebra crossing, zig zags, double yellow lines, driveways being blocked etc...
3. Littering
4. Anti social behaviour
5. Noise

The extended hours will cause an increase in all of the issues listed above, as mentioned these are already having a major negative impact in the area and granting permission for extended hours will only increase tensions in the community, and severely impact the safety,

littering and pests within the area.

---

**Objection – Yunus Waka, Colenso Road, Blackburn. Received – 13/09/2021**

Martin Kenny,

I object to the above applications wanting to open late. The problems in the area are already clearly evident:

Traffic impact

Unlawful parking on zebra crossing, zig zags, double yellow lines, driveways being blocked etc

Littering

Anti social behaviour

Noise

The extended hours will cause an increase in the issues listed above which is already severely impacting amenities and safety in the area.

---

**Objection – Mr Mahmood, 239 Shear Brow, Blackburn. Received – 13/09/2021**

Martin Kenny,

I object to the above applications wanting to open late. The problems in the area are already clearly evident:

Traffic impact

Unlawful parking on zebra crossing, zig zags, double yellow lines, driveways being blocked etc

Littering

Anti social behaviour

Noise

The extended hours will cause an increase in the issues listed above which is already severely impacting amenities and safety in the area.

---

**Objection – Murad. Received – 13/09/2021**

Hi Martin,

I am resident of the community for over a year who made the decision to live in this neighbourhood on the basis of it being quiet and friendly in a residential area. I am a family man who has one little boy who is 14months. .

Since i have moved in I have experienced the evenings and nights to be far more noisier and high turn over of traffic which is attracted by the businesses above. It is upsetting to know

that they are opening outside the approved opening hours and being inconsiderate to the residents.

Parking has become a very big issue lately due to the traffic from the above mentioned businesses.

Recently it has caused me to get a parking ticket too.

I am happy for the businesses to operate during the day between 9-6pm but object to the hours being extended which would be at the detriment of the residents quality of life and loss of amenities.

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**Objection – Afzal Patel, Colenso Road, Blackburn. Received – 13/09/2021**

10/21/0880 Frurt 213 Shear Brow Blackburn BB1 8DU

To increase opening hours to 11am to 11pm Monday to Sunday

Hi Martin,

I am opposed to the above applications for extended hours. As a local resident I have the following causes of concerns :

unlawful parking  
additional traffic  
safety of pedestrians  
noise pollution after hours  
anti social behaviour  
littering leading to rats, mice and other vermin.

I hope mine and all the other residents opposing points of view are taken into consideration during the decision making process.

---

**Objection Misbah Vali, Colenso Road, Blackburn. Received 17/09/2021**

10/21/0880 Frurt 213 Shear Brow Blackburn BB1 8DU

To increase opening hours to 11am to 11pm Monday to Sunday

Dear Sir,

I am writing in regards to the late night opening of takeaways on Shear Brow, near Four Lane Ends.

As a resident of Colenso Rd for the past 15years I have seen witnessed the growth of traffic with some very fast drivers with loud engines and horns beeping late at night. This is the case many areas but I fear that if these takeaways are open until this will increase. Many of our neighbours are elderly and have chosen Colenso Rd as a placement of retirement and this is very unfair.

There are no car parks or parking on Shear Brow near the takeaways so we are forever witnessing cars parked on the yellow lines in front of the takeaways, on the Colenso Rd and

shear Brow corner and on the bus stops. This makes it difficult for car users to turn on to our street and also pedestrians to safely cross. Parking is already an issue with many residents of Shear Brow and Langham Rd parking on Colenso Rd, sometimes obstructing driveways and on corners which makes it difficult for delivery drivers and emergency vehicles to manoeuvre.

There has been increase of litter in the area, spreading from near St Mary's College to all the way to Corporation Park.

One only needs to visit on Friday and Saturday evenings to see the impact of these fast food places already and if they are to increase operating hours it will only add to the noise pollution and traffic inconvenience on such a busy stretch of road.

I hope permission will not be granted for the increase in operating hours.

---

**Objection – Mark Jennings. Received – 17/09/2021**

Hi Martin,

I am new member of the community, who made the decision to live in this neighbourhood on the basis of it being quiet and friendly in a residential area. I am close to 60 years old and am looking for a quiet life without having to experience noise, traffic, parking and anti social behaviour which I was faced with previously.

Since i have moved in I have experienced the evenings and nights to be far more noisier and high turn over of traffic which is attracted by the businesses above. It is upsetting to know that they are opening outside the approved opening hours and being inconsiderate to the residents.

Due to my health I need to go to sleep early at night but because I am light sleeper the noise levels mentioned along with visitors in area opening and closing of car doors and group chatting disturbs my sleep pattern which affects me the next day .

I am happy for the businesses to operate during the day between 9-6pm but object to the hours being extended which would be at the detriment of the residents quality of life and loss of amenities.

Please see below picture showing what we are faced with.

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## Objection Petition. Received – 10/09/2021

### Community led Petition opposing the applications submitted by 213 Shear Brow and 75b East Park Rd to extend their Opening hours

**213 Shear Brow** – planning application number 10/12/0487 was permitted in Sept 2012 to change the use of the Beauticians into Hairdressers. The reason provided justifying the consent was:

*'The proposal would not be detrimental to the residential amenity of neighbouring dwellings or compromise highway safety in accordance with saved Policy R17 of the Blackburn with Darwen Local Plan (April 2002)'*

Amongst the conditions attached to the permission granted was the opening hours:

#### **1. Opening hours**

*The use hereby permitted shall only take place between the hours of 09:00 and 19:00 - Monday to Friday; 09:00 and 17:00 - Saturday; and No opening on Sundays or Bank Holidays.*

**REASON:** *To safeguard the amenities of adjacent residential uses and the area generally in accordance with saved Policy R17 of the Blackburn with Darwen Borough Local Plan.*

**75b East Park Rd** – planning application 10/10/0488 was refused in Sept 2012 on the following grounds:

*The proposed development would increase the concentration of parked and waiting cars in the vicinity of the site, thereby increasing danger and inconvenience to users of the highway; contrary to Policies T9 and R17 of the Blackburn with Darwen Borough Local Plan*

The applicant exercised their right to appeal which resulted in the Inspectorate assessing the application and reached the following conclusion:

**Notwithstanding my finding that the effect of the proposal on the safety and convenience of highway users and local residents would be acceptable, this does not outweigh the harm that it would cause to the amenities of the occupiers of No. 73. I conclude on balance, for the reasons given above, that the appeal should be dismissed.**

Our neighbourhood does not fall in a district centre and applications is not going to contribute positively to the overall physical, social, environmental and economic character of the area by these businesses extending their opening hours, in fact it would have quite the opposite effect.

The businesses have demonstrated in the last 12 months during the covid period whilst operating outside the permitted hours the detrimental impact their operations have had on the local amenities. It has resulted in an increase in unsatisfactory levels of amenity and safety for surrounding uses and for residents and other visitors in the area alike, with reference to traffic, noise vibration, light, littering, anti-social behaviour, nuisance, privacy/overlooking, and relationship between buildings.



7

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Rudge Fold Church  
 Rudge Fold Church  
 Rudge Fold Church  
 12 Carham Road  
 12 Carham Road  
 15 Pletgate Rd  
 Rudge Fold Church  
 Rudge Fold URC

## Support – Petition Received 15.09.21

### Petition in Support

Petition summary and background	The business at 213 Shear Brow Blackburn & Basement 75b East Park Road have applied to increase their opening hours to 11pm in line with other local business in the immediate vicinity
Action petitioned for	We, the undersigned, are in support of the application and urge Blackburn with Darwen Council to grant the removal of conditions & opening hours.

Printed Name	Signature	Address	Comment
Alishah Khan		LAMBERTH STREET	
HUMAIRA PATEL		60 WINSTON ROAD	
Iqra Hussain		425 Audley range	
Sabaa Mahmood		320 Audley range	
S. Bashir		459 Rensdale Rd.	
K. Riley		Montrose, Darwen.	
S. Saneja		Lowood place.	let them stay open later
U. Uroge		Warrington Street	Warrington Street is WARRINGTON ST!
M. Bhayat		# Maple crescent	Let them stay!
Saima J		Hawthorn Road.	~
Amira M		PARK AVE	

Printed Name	Signature	Address	Comment
Sumayya Patel		Penguin St	Enjoy fruit always. Do NOT want it to close early
L. Patel		Penguin St	" ?
SHAMEEZA BHAYAT		Deansboro Rd	
SHOYAB MUSA		Devonshire RD	
NASIM BHAYAT		Deansboro Rd	
RAEES MUSA		Winnadur Leig St	LOVE FRUIT DO NOT WANT IT CLOSE
Husna Ali			
Ruhee Khan		Accrington RD	
Hanna Ali		Gorse St	Please dont shut it
JONATHAN HASEN		3, M156 DX	Communities need open businesses
Gina Radmokeva		3 M156 DX	Council should fine dodgy parking not close businesses
Simran Huss		, audley range.	let them BE ...
Bilal Patel		89 Preston New Road	
Hasan Patel		Preston New Road	
NICOLAS PATEL		CONISTON RD	Please dont shut it!
Omar Khan		"	





**Mr and Mrs Valli Residents at 215 Shear Brow Blackburn received 8<sup>th</sup> October 2021**

Hi Martin,

We have received a letter this post from the Council informing us of the amendments made to the above applications. Our thoughts are, that the amended hours of operations don't mitigate the concerns lodged as part of the original consultation hence still stand.

Please can you accept this email as a record confirming that our concerns remain the same as the original submission.

Kind regards

## **REPORT OF THE STRATEGIC DIRECTOR**

**Plan No: 10/21/1005**

**Proposed development: Variation/Removal of Condition/Minor Material Amendment for Variation of Condition No.2 pursuant to planning application 10/20/1036: "The erection of 19 no. dwellings, with associated infrastructure and landscaping works" - to introduce natural stone to side and rear elevations previously showing render**

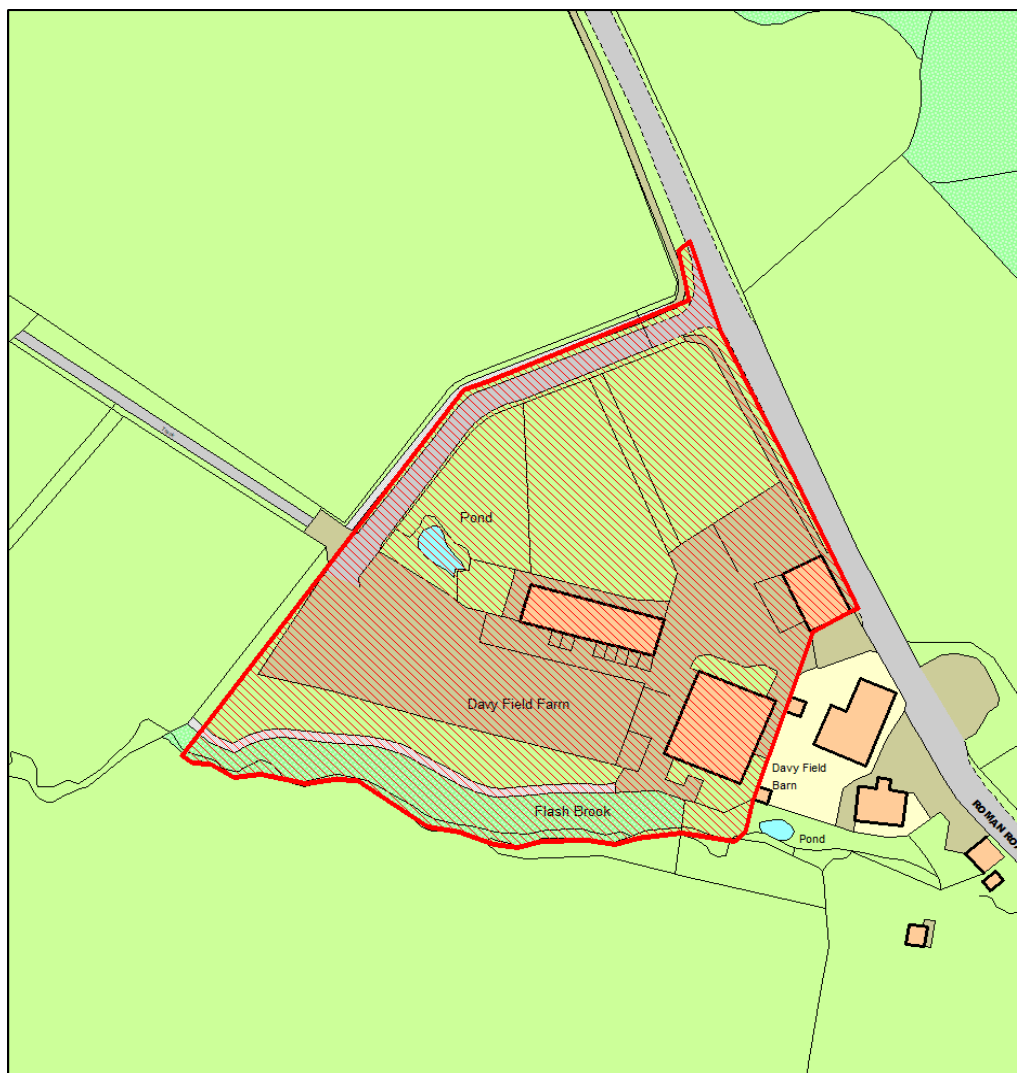
**Site address:**

**Davyfield Farm (former Wellybobs Limited)  
Roman Road  
Eccleshill  
Darwen  
BB3 3PJ**

**Applicant: Applethwaite Limited**

**Ward: West Pennine**

**Councillors: Jean Rigby, Julie Slater, Neil Slater**



## **1.0 SUMMARY OF RECOMMENDATION**

- 1.1 **Approve, subject to conditions**, as outlined in Section 4 of this report.

## **2.0 KEY ISSUES/SUMMARY OF PLANNING BALANCE**

- 2.0.1 This planning application is submitted under the provision of section 73 of the Town and Country Planning Act 1990 pursuant to the approval of application reference 10/20/1036 for 19 dwellings on the former Wellybobs Farm Park site, which was granted planning permission by this Committee at the meeting in July 2021, subject to a S106 agreement being secured. This s106 agreement has been signed by the developers, landowner and the local authority and was completed on the 29<sup>th</sup> July 2021.
- 2.0.2 This application presented to the Committee represents a Minor Material Amendment seeking to vary previously approved drawings (set out in condition no. 2), to amend the walling materials. The application is reported to Planning & Highways Committee in the interests of continuity as Members determined the application to which the condition is pursuant to.
- 2.0.3 The application proposes to vary condition no. 2 through amending the approved drawings by introducing natural stone to the side and rear elevations of some of the dwellings which were previously showing as being rendered.
- 2.0.3 The assessment finds the proposed amendment of replacing render with natural coursed stone will be a visual improvement when viewing the site from the public right of way network surrounding the site and also in partial views from Roman Road. In the interests of visual amenity and landscape character, it is therefore recommended that Members fully support this amendment.
- 2.0.4 Members are advised that the principle of the development is established under the original permission. Assessment of this application is strictly limited to the proposed variation of the condition relating to the approved drawings illustrating the proposed materials. In addition, Members are advised that this amendment does not affect any other planning conditions which were imposed.

## **3.0 RATIONALE**

### **3.1 Site and Surroundings**

- 3.1.1 The application site is within the boroughs designated countryside area, designated as Green Belt, situated off Roman Road, which runs adjacent to the site's eastern boundary, adjacent to Davy Field Farm, a Grade II listed building, and Davy Field Barn. Flash Brook forms the southern boundary of the site.

- 3.1.2 The site was formerly occupied by 'Wellybobs Farm', which was an adventure farm open to the public, with both indoor and outdoor facilities. The site received planning consent for this use under planning reference 10/09/0858. The consent for the adventure farm comprised of the following: indoor petting area; outdoor petting area; outdoor play area; zip wire; 9 hole mini golf; indoor play barn (which had a timber play frame, bouncy castle slide, bouncy castle and toddler soft play zone); reptile area; go-kart track; café; ice cream parlour; gift area; and party area. Additionally, the site has a large area of hardstanding that was utilised for visitor parking in connection with the tourist attraction. This farm park ceased business in 2017.
- 3.1.3 The site is visible in the wider area; from the road network travelling to the north and south of the site, the M65 motorway travelling in east to west and vice versa, and from an extensive Public Right of Way (PROW) network exists in the locality which enables mid-long range views of the site. PROW no.37 (Eccleshill) crosses the site and is proposed to be diverted as part of the proposals.

### 3.2 Proposed Development

- 3.0.1 The application was approved by Planning and Highways Committee in July subject to a number of planning conditions and completion of a s106 agreement to secure developer contributions. One of the conditions related to the list of approved amended plans. It stated:

2. Unless explicitly required by condition within this consent, the development hereby permitted shall be carried out in complete accordance with the proposals as detailed on drawings:

LP01 Rev. A: Location Plan;  
0001 Rev. I: Proposed Site Layout;  
BT01: Boundary Treatments;  
VP01: Volume Plan;  
WM01: Waste Management Plan;  
1826-01 Rev C: Detailed landscape proposals;  
2930-01 Rev. A: Visibility Plan;  
19-145-HT-E: House Type E;  
19-145-HT-G: House Type G  
19-145-HT-H: House Type H  
19-145-HT-J: House Type J  
19-145-GA01-A: Garage

REASON: For the avoidance of doubt and to clarify which plans are relevant to the consent.

- 3.0.2 The proposals relate to the House Type Drawings and propose that where render was previously shown within some side and rear elevations; **these elevations will now be faced in natural stone.**



### **3.3 Development Plan**

3.3.1 The Development Plan comprises the Core Strategy and adopted Local Plan Part 2 – Site Allocations and Development Management Policies. In determining the current proposal the following are considered to be the most relevant policies:

3.3.2 Core Strategy:

Policy CS16: Form and Design of New Development

Policy CS17: Built and Cultural Heritage

Policy CS18: The Borough's Landscapes

3.3.3 Local Plan Part 2:

Policy 11: Design

Policy 39: Heritage

Policy 41: Landscape

3.3.4 National Planning Policy Framework (2021)

#### **Assessment**

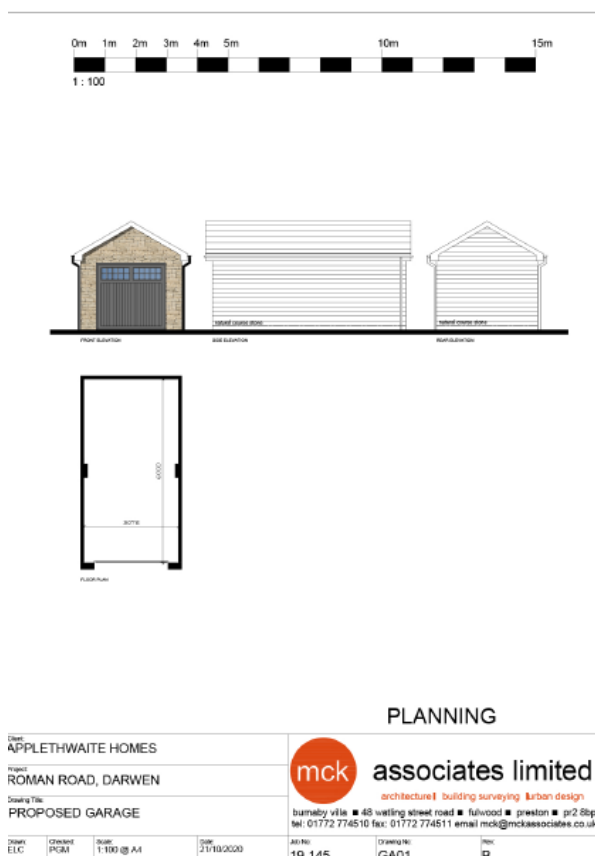
3.1.4 Members will be aware that the 2021 National Planning Policy Framework seeks to improve the standard of design. The application site is in a relatively rural location and the site is highly visible in views from Roman Road and the Public Right of Way network in this locality which enables elevated views of the site.

Below are extracts from the submitted revised house type and street scene drawings, received on the 1<sup>st</sup> September 2021.

# ROMAN ROAD, DARWEN HOUSE TYPE PACK









3.1.5 Officers consider that the proposed change to the materials to remove the render proposed to the rear and side elevations of properties and replace with natural course stone, a material which is more reflective of its countryside location. The proposed change will result in a visual improvement to the approved scheme and will improve the developments relationship with the Grasde II listed farmhouse and barn. For these reasons: Officers recommend that Members support these proposals.

#### 4.0 RECOMMENDATION

##### 4.1 Approve subject to:

(i) Delegated authority is given to the Strategic Director of Place to approve planning permission, subject to an agreement under Section 106 of the Town & Country Planning Act 1990, relating to the payment of £125,315; Payments are to be made prior to commencement of development:

- £40,000 for education;
- £84,074 for affordable housing; and,
- £1,241 for monitoring costs

Should the Section 106 agreement not be completed within 6 months of the date of the planning application being received, the Strategic Director of Place will have delegated powers to refuse the application.



1. The development must be begun not later than the expiration of three years from the date of the original planning permission 10/20/1036 i.e. 30<sup>th</sup> July 2021.

REASON: To comply with the requirements of section 91 of the Town and Country Planning Act 1990 as amended by Section 51 of the Planning and Compulsory Purchase Act 2004.

2. Unless explicitly required by condition within this consent, the development hereby permitted shall be carried out in complete accordance with the proposals as detailed on drawings:

LP01 Rev. A: Location Plan;  
0001 Rev. I: Proposed Site Layout;  
BT01: Boundary Treatments;  
VP01: Volume Plan;  
WM01: Waste Management Plan;  
1826-01 Rev C: Detailed landscape proposals;  
2930-01 Rev. A: Visibility Plan;  
19-145-HT-E Rev. A: House Type E; received 1<sup>st</sup> September 2021;  
19-145-HT-G Rev.A: House Type G received 1st September 2021;  
19-145-HT-H Rev. A: House Type H received 1st September 2021;  
19-145-HT-J Rev. A: House Type J received 1st September 2021;  
19-145-GA01-B: Garage received 1st September 2021;

REASON: For the avoidance of doubt and to clarify which plans are relevant to the consent.

3. No development shall take place until an Environmental Management Plan (EMP) has been submitted to and approved in writing by the Local Planning Authority. The EMP shall demonstrate compliance with:  
(i) the mitigation measures and reasonable avoidance measures set out in Section 7 of the 'Preliminary Ecological Appraisal' by Envirotech Ecological Consultants dated 03 February 2020;  
The EMP shall include a timetable for the implementation/duration of any measures identified in (i). Development shall thereafter be carried out in strict accordance with the measures and timetable contained within the duly approved EMP.

REASON: To ensure that appropriate measures are implemented as part of the development to mitigate the impact of operations during the construction, operational and decommissioning phases of development, to provide adequate compensation for any habitat loss arising as a result of the development, to ensure that the development does not adversely affect the favourable conservation status of protected species and to secure appropriate biodiversity enhancements as part of the development in accordance with the requirements of Policy 9 of the Blackburn with Darwen Local Plan and the National Planning Policy Framework.

4. No development shall take place until a scheme for tree protection measures (both above and below ground) to be implemented during the construction period has been submitted to and approved in writing by the Local Planning Authority. The scheme shall include:  
(i) Details of a construction exclusion zone (including protective fencing of a height and design which accords with the requirements BS 5837: 2012) to be formed around the root protection areas of those trees to be retained along Flash Brook;

- (ii) Details of any excavation to take place within the root protection areas of those trees to be retained;
- (iii) Details of the foundations of any building, hardstandings and/or boundary treatments to be constructed within the root protection areas of those trees to be retained.

The development shall thereafter be carried out in strict accordance with the protection measures contained within the duly approved scheme throughout the entirety of the construction period.

REASON: To ensure that adequate measures are put in place to protect existing trees which are to be retained as part of the development before any construction works commence and in the interests of safeguarding biodiversity, in accordance with the requirements of Policy 9 of the Blackburn with Darwen Local Plan and the National Planning Policy Framework.

5. No development shall commence until a Construction Method Statement shall be submitted to, and approved in writing by the Local Planning Authority. The approved Statement shall be adhered to throughout the construction period. The Statement with associated plan shall provide for:
- I) the parking of vehicles of site operatives and visitors;
  - II) Loading and unloading of plant and materials;
  - III) Storage of plant and materials used in constructing the development;
  - IV) The erection and maintenance of security hoarding including decorative displays and facilities for public viewing, where appropriate;
  - V) Wheel washing facilities;
  - VI) Measures to control the emission of dust and dirt during construction;
  - VII) A scheme for recycling/disposing of waste resulting from demolition and construction works; and,
  - VIII) Measures to safeguard the construction site from crime and disorder.

REASON: In order to avoid the possibility of the public highway being affected by the deposit of mud or loose materials which could create a potential hazard to road users, in order to protect the amenity of the occupiers of the adjacent properties, in order to protect the visual amenities of the locality, and in order to safeguard the site from crime and disorder in accordance with Policies 8, 10 and 11 of the Blackburn with Darwen Borough Local Plan Part 2 (2015) and the National Planning Policy Framework.

6. No part of the development hereby approved shall commence until a scheme for the construction of the site egress and the off-site works of highway improvements to the new footway to link up to the existing footway along Roman Road has been submitted to, and approved in writing by, the Local Planning Authority in consultation with the Highway Authority and implemented to the satisfaction of the Local Planning Authority. The works shall be completed, prior to the first use of the new egress.

REASON: In order to satisfy the Local Planning Authority and Highway Authority that the final details of the necessary highway scheme/works are acceptable before work commences on site in accordance with Policy 10 of the Blackburn with Darwen Local Plan Part 2.

7. No clearance of any vegetation in preparation for or during the course of development shall take place during the bird nesting season (March to August inclusive) unless an ecological survey has first been submitted to and approved in writing by the Local Planning Authority which demonstrates that the vegetation to be

cleared is not utilised for bird nesting. Should the survey reveal the presence of any nesting species, then no clearance of any vegetation shall take place during the bird nesting season until a methodology for protecting nest sites during the course of the development has been submitted to and approved in writing by the Local Planning Authority. Nest site protection shall thereafter be provided in accordance with the duly approved methodology.

REASON: In order to prevent any habitat disturbance to nesting birds in accordance with the requirements of Policy 9 of the Blackburn with Darwen Local Plan Part 2 (2015), the provisions of the Wildlife and Countryside Act 1981 (as amended) and the National Planning Policy Framework.

8. No works shall take place until a Habitat and Landscape Management Plan (HLMP) for all landscaped areas of the site (excluding privately owned domestic gardens) has been submitted to and approved in writing by the Local Planning Authority. The HLMP shall include details of the following:
- (i) protection measures for Flash Brook and the surrounding trees during the course of construction;
  - (ii) management and maintenance measures for the landscaping of the site, including the Public Open Space
  - (iii) long term design objectives;
  - (iv) management responsibilities;
  - (v) maintenance schedules; and
  - (vi) a timetable for implementation.

The HLMP shall thereafter be implemented in full accordance with the duly approved details and timetable contained therein.

REASON: In order to ensure adequate protection of existing landscape features of ecological value and to achieve appropriate landscape and biodiversity enhancements as part of the development in accordance with the requirements of Policies 8, 9 and 41 of the Blackburn with Darwen Local Plan and the National Planning Policy Framework.

9. Prior to commencement of development, a scheme employing the best practicable means for the suppression of dust during the period of demolition/construction shall be submitted and approved in writing by the Local Planning Authority. The approved measures in the scheme shall be employed throughout this period of development unless any variation has been approved in writing by the Planning Authority.

REASON: To ensure that satisfactory measures are in place to alleviate any dust & dirt impact at adjacent residential premises.

10. No development shall take place until a method statement for the removal/control of any invasive plant species (as defined within the Wildlife and Countryside Act 1981, as amended) which fall within the site has been submitted to and approved in writing by the Local Planning Authority. The method statement shall include:
- (i) measures to prevent the spread of invasive species during any operations (e.g. strimming, soil movement or land remodelling works) and to ensure that any soils brought to the site are free of the seeds, root or stem of any invasive plant (as defined by the Wildlife and Countryside Act 1981, as amended).



- (ii) a timetable for implementation (including any phasing for removal/control on different parts of the site);

The development shall thereafter be carried out in accordance with the details, timetable and phasing contained within the duly approved method statement.

REASON: To ensure the satisfactory treatment and disposal of invasive plant species and site preparation works before any development commences on affected areas of the site in accordance with the requirements of the National Planning Policy Framework and the Wildlife & Countryside Act 1981 (as amended).

11. Prior to the commencement of development hereby approved, the developer must submit to the Local Planning Authority for written approval:

- (i) Two copies of a comprehensive desk study report, including a preliminary conceptual site model (CSM) in text, plan and cross-section form. Where necessary, detailed proposals for subsequent site investigation should also be included, clearly based on the CSM.

- (ii) Two copies of the findings of the approved site investigation work (where necessary), including an appropriate assessment of risks to both human health and the wider environment, from contaminants in, on or under the land (including ground gas). If unacceptable risks are identified, a remedial options appraisal and detailed remediation scheme should be presented, along with an updated CSM. No deviation shall be made from this scheme without the written agreement from the Local Planning Authority.

REASON: To ensure that all reasonable steps have been taken to identify contamination at the site in accordance with Policy 8 of the adopted Blackburn with Darwen Borough Local Plan Part 2.

12. No above-ground works shall take place until a scheme to protect future occupiers from passing road noise from Roman Road and the M65 motorway has been submitted to and approved in writing by the Local Planning Authority. The scheme shall include a written glazing and ventilation scheme that demonstrates adequate provision to prevent traffic noise within the dwellings hereby approved.

The approved scheme must be implemented and retained for the duration of the approved use. The scheme shall thereafter be implemented in accordance with the duly approved details prior to occupation of any of the dwellings hereby approved.

REASON: To ensure the implementation of appropriate noise attenuation measures for the proposed dwellings in order to achieve satisfactory living conditions for future occupiers of the development in accordance with the requirements of Policy 8 of the Blackburn with Darwen Local Plan Part 2 and the National Planning Policy Framework.

13. Notwithstanding any description of materials in the application and the requirements of condition no. 2 [approved plans] of this permission, no above ground works shall take place until samples or full details of all materials to be used on the external surfaces of the buildings have been submitted to and approved in writing by the Local Planning Authority. Such details shall include the type, colour and texture of the materials. The development shall thereafter be implemented in accordance with the duly approved materials.

REASON: To ensure use of appropriate materials which are sympathetic to the character of surrounding buildings and the street scene in the interests of visual

amenity in accordance with the requirements of Policies 8 i.), 11 and 41 of the Blackburn with Darwen Local Plan Part 2 and the National Planning Policy Framework.

14. No above-ground works shall begin until, a comprehensive and detailed schedule or works, together with detailed drawings and a schedule of materials relating to the repair work to Davy Field Farmhouse, shall be submitted to and approved in writing by the local planning authority. The schedule and drawings shall be in accordance with the Condition Survey accompanying the application and include all proposed work to windows, doors, brickwork, stonework, including bonding and plaster jointing, timber work (including jointing), plasterwork, roof material and rainwater goods and shall include details of design and appearance.

REASON: To ensure the listed building is repaired and restored sympathetically to preserve the character and appearance of the Listed Building, in accordance with Policy 39 of the Blackburn with Darwen Local Plan Part 2 and the National Planning Policy Framework.

- A condition requiring the full repair of Davy Field Farmhouse within a timely manner will be imposed. The full wording of this will be provided in the Update Report.
15. Details of finished floor levels and external ground levels for each plot shall be submitted to and approved in writing by the Local Planning Authority before any development at that plot takes place. The development shall thereafter be implemented in accordance with the duly approved details.

REASON: To ensure a satisfactory relationship between the new dwellings and between the development and surrounding buildings before any ground works take place to establish site levels in the interests of residential and visual amenity in accordance with the requirements of Policies 8 and 11 of the Blackburn with Darwen Borough Local Plan Part 2 (2015), the Blackburn with Darwen Residential Design Guide Supplementary Planning Document and the National Planning Policy Framework.

16. No above ground works shall take place until a scheme for the provision and maintenance of an 8 metre buffer zone (measured from the bank top of the watercourse) alongside the watercourse of Flash Brook has been submitted to and approved in writing by the Local Planning Authority. The scheme shall include:

- (i) a plan showing the extent and layout of the buffer zone; and
- (ii) details to demonstrate how the buffer zone will be protected during construction; and
- (iii) details of how the buffer zone will be maintained and managed after the development is completed.

The scheme shall be implemented in accordance with the duly approved details, and the buffer zone maintained as such thereafter.

REASON: To protect the riparian habitat of the watercourse, to ensure satisfactory access to maintain the watercourse and to preserve and enhance its ecological interest in accordance with the requirements of Policy 9 of the Blackburn with Darwen Local Plan, and the National Planning Policy Framework.

17. Prior to the construction of any of the streets referred to in the previous condition full engineering, drainage, street lighting and constructional details of the streets shall be

submitted to and approved in writing by the Local Planning Authority. The development shall, thereafter, be constructed in accordance with the approved details.

REASON: In the interest of highway safety; to ensure a satisfactory appearance to the highways infrastructure serving the approved development; and to safeguard the visual amenities of the locality and users of the highway in accordance with Policy 10 of the Blackburn With Darwen Borough Local Plan Part 2.

18. The drainage for the development hereby approved, shall be carried out in accordance with principles set out in the submitted Flood Risk Assessment and Drainage Strategy (Ref No. 30807/LRD, Dated October 2020). No surface water will be permitted to drain directly or indirectly into the public sewer. Any variation to the discharge of foul shall be agreed in writing by the Local Planning Authority prior to the commencement of the development. The development shall be completed in accordance with the approved details.

REASON: To ensure a satisfactory form of development and to prevent an undue increase in surface water run-off and to reduce the risk of flooding and to accord with the requirements of Local Plan Part 2, Policy 9 and the National Planning Framework and Planning Practice Guidance.

19. Unless alternative details have first been submitted to and approved in writing by the Local Planning Authority, the landscaping scheme for the site shown on drawing no. 1924-01-C shall be carried out during the first planting after the development is substantially completed and the areas which are landscaped shall be maintained as landscaped areas thereafter in accordance with the details shown on the approved plan. Any trees, hedges or shrubs removed, dying, being severely damaged or becoming seriously diseased within five years of planting shall be replaced by trees, hedges or shrubs of similar size and species to those originally required to be planted.

REASON: To ensure appropriate landscaping of the site in the interests of visual amenity, to enhance the character of the street scene, the countryside, and to provide biodiversity enhancements in accordance with the requirements of Policy 9 of the Blackburn with Darwen Local Plan Part 2, and the National Planning Policy Framework.

20. Prior to the construction of any of the streets referred to in the previous condition full engineering, drainage, street lighting and constructional details of the streets shall be submitted to and approved in writing by the Local Planning Authority. The development shall, thereafter, be constructed in accordance with the approved details.

REASON: In the interest of highway safety; to ensure a satisfactory appearance to the highways infrastructure serving the approved development; and to safeguard the visual amenities of the locality and users of the highway in accordance with Policy 10 of the Blackburn With Darwen Borough Local Plan Part 2.

21. Prior to the occupation of the development hereby approved, two copies of a comprehensive Validation Report shall be submitted to and approved in writing by the Local Planning Authority. The Validation Report shall demonstrate effective remediation in accordance with the agreed remediation scheme and updated CSM. All the installed remediation must be retained for the duration of the approved use,

and where necessary, the Local Planning Authority should be periodically informed in writing of any ongoing monitoring and decisions based thereon.

REASON: To ensure that all reasonable steps have been taken to identify contamination at the site, that the risks it presents have been appropriately assessed, and that the site can be made 'suitable for use', as such, does not pose a risk to future users of the site or the wider environment in accordance with Policy 8 of the adopted Blackburn with Darwen Borough Local Plan Part 2.

22. Prior to occupation of any of the dwellings hereby approved, the following mitigation measures shall be implemented:
- a. There shall be one electric vehicle charging point at each house with a garage or driveway. An appropriate charging point for a single dwelling will have a Type 2 connector and a minimum rating of 3.7kW 16A. External points will be weatherproof and have an internal switch to disconnect electrical power; and,
  - b. Gas fired domestic heating boilers shall not emit more than 40mg NO<sub>x</sub>/kWh.

REASON: In accordance with Policy 36 of the Blackburn with Darwen Borough Local Plan Part 2 and Paragraph 110 of the National Planning Policy Framework 2019, which states that developments should be designed to enable charging plug-in and other ultra-low emission vehicles in safe, accessible and convenient locations.

23. Notwithstanding any details contained within the application, a scheme for the installation of any external lighting on the building(s) and the external areas of the site shall be submitted to and approved in writing by the Local Planning Authority before any lighting is installed. The scheme shall include details of the lighting's: (i) position and height on the building(s) and/or site; (ii) spillage, luminance and angle of installation; and (iii) any hoods to be fixed to the lights. Any external lighting shall only be installed in accordance with the duly approved scheme.

REASON: To ensure that any external lighting to be installed at the site does not cause a nuisance to surrounding occupiers, biodiversity (Flash Brook), or detract from visual amenity in the surrounding area as a result of light pollution in accordance with the requirements of Policies 8, 9, 11 and 41 of the Blackburn with Darwen Local Plan Part 2 and the National Planning Policy Framework.

24. Prior to occupation of the development a sustainable drainage management and maintenance plan for the lifetime of the development shall be submitted to the local planning authority and agreed in writing. The sustainable drainage management and maintenance plan shall include as a minimum:
- a. Arrangements for adoption by an appropriate public body or statutory undertaker, or, management and maintenance by a resident's management company; and
  - b. Arrangements for inspection and ongoing maintenance of all elements of the sustainable drainage system to secure the operation of the surface water drainage scheme throughout its lifetime.

The development shall subsequently be completed, maintained and managed in accordance with the approved plan.

REASON: To ensure that management arrangements are in place for the sustainable drainage system in order to manage the risk of flooding and pollution during the lifetime of the development.

25. Prior to the occupation of the development hereby approved, the car parking spaces identified on Drawing Number; 001 Rev. I shall be implemented and thereafter retained.

REASON: To ensure that off-street parking is maintained for the safe, efficient and convenient movement of all highway users and occupiers of the development in accordance with Policies 8, 10 and 11 of the Blackburn with Darwen Borough Local Plan Part 2.

26. Prior to the occupation of any of the dwellings hereby approved, details of the proposed arrangements for future management and maintenance of the proposed streets within the development shall be submitted to and approved by the Local Planning Authority. The streets shall thereafter be maintained in accordance with the approved management and maintenance details until such time as an agreement has been entered into under section 38 of the Highways Act 1980 or a private management and Maintenance Company has been established.

REASON: To ensure that the estate streets serving the development are maintained to an acceptable standard in the interest of residential / highway safety in accordance with Policy 10 of the Blackburn with Darwen Borough Local Plan Part 2.

27. Visibility splays shall not at any time be obstructed by any building, wall, fence, hedge, tree, shrub or other device exceeding a height not greater than 1 metre above the crown level of the adjacent highway.

REASON: To ensure the safe, efficient and convenient movement of all highway users, for the free flow of traffic, in accordance with Policy 10 of the Blackburn with Darwen Borough Local Plan Part 2.

28. Notwithstanding the provisions of Classes A to H of Part 1 of the Town and Country Planning (General Permitted Development) Order 2015, or any Order revoking and re-enacting that Order, the dwelling hereby permitted shall not be altered or extended, no new windows shall be inserted, and no buildings or structures shall be erected within the curtilage of the new dwelling unless planning permission has first been granted by the Local Planning Authority.

REASON: To enable the Local Planning Authority to exercise control over development which could materially harm the character and visual amenities of the development and the countryside in which it is set, and the amenities of nearby residents in accordance with Policies 8, 11 and 41 of the Blackburn with Darwen Local Plan Part 2.

29. Notwithstanding the provisions Schedule 2 Part 14 Classes A-I of the Town and Country Planning (General Permitted Development) (Amendment) (England) Order 2015, or any Order revoking and re-enacting that Order, no microgeneration equipment shall be attached to the new dwelling unless planning permission has first been granted by the Local Planning Authority.

REASON: To enable the Local Planning Authority to exercise control over development which could materially harm the character and visual amenities of the development and locality and the amenities of nearby residents in accordance with Policies 8, 11 and 41 of the Blackburn with Darwen Local Plan Part 2.

## 5.0 PLANNING HISTORY

5.1 The table below provides the planning history for the application site:

### *Site of proposed new dwellings*

<b>Planning App</b>	<b>Development Description</b>	<b>Decision</b>	<b>Approved Date</b>
10/21/1036	The erection of 19 dwellings, with associated infrastructure and landscaping works	Approved	30/07/2021
10/05/1036	Demolition of outbuildings and conversion of barn to one dwelling within curtilage of Listed Building	Approve	19/12/2006
10/05/1037	Demolition of outbuildings and conversion of barn to one dwelling within curtilage of Listed Building (Listed Building Consent app to 10/05/1036)	Consent	19/12/2006
10/09/0858	Change of use from farm/farm buildings to a commercial farm park with new carpark and access from Roman Road	Approve	25/01/2010
10/10/0440	Variation of condition No 10 on 10/09/0858 (Extension of footway frontage)	Approve	21/06/2010
10/11/0652	Regularisation of extant planning permission 10/09/0858 to ensure that operation on site is consistent with that set out in the approved permission	Approve	07/03/2015

### *Grade II Listed Building – Davy Field Farmhouse*

<b>Planning App Ref.</b>	<b>Development Description</b>	<b>Decision</b>	<b>Approved Date</b>
10/77/2118	Outline - Conversion of farmhouse to licensed restaurant with flat over	Refuse	10/02/1978

10/04/0413	Mono pitched roof conservatory replacing Annex/Foyer	Approve	05/07/2004
10/04/0273	Build conservatory in place of porch	Approve	05/07/2009
10/05/1036	Demolition of outbuildings and conversion of barn to one dwelling within curtilage of Listed Building	Approve	19/12/2006
10/05/1037	Demolition of outbuildings and conversion of barn to one dwelling within curtilage of Listed Building (Listed Building Consent app to 10/05/1036)	Consent	19/12/2006
10/07/1038	Conversion of existing barn to dwelling with retention of part of existing lean to	Approve	26/11/2007

## **6.0 CONSULTATIONS**

- 6.1 The S73 application was advertised by site notice on the 14<sup>th</sup> September 2021, and press notice on the 28<sup>th</sup> September 2021. In addition, the same individual neighbouring properties were consulted as with application 10/20/1036 on the 3<sup>rd</sup> September 2021, together with the Eccleshill and Waterside Parish Council. No representations have been received at the time of writing this report.

**7.0 CONTACT OFFICER: Claire Booth, Senior Planner MRTPI**

**8.0 DATE PREPARED: 07 October 2021**

## **REPORT OF THE STRATEGIC DIRECTOR**

**Plan No: 10/21/1078**

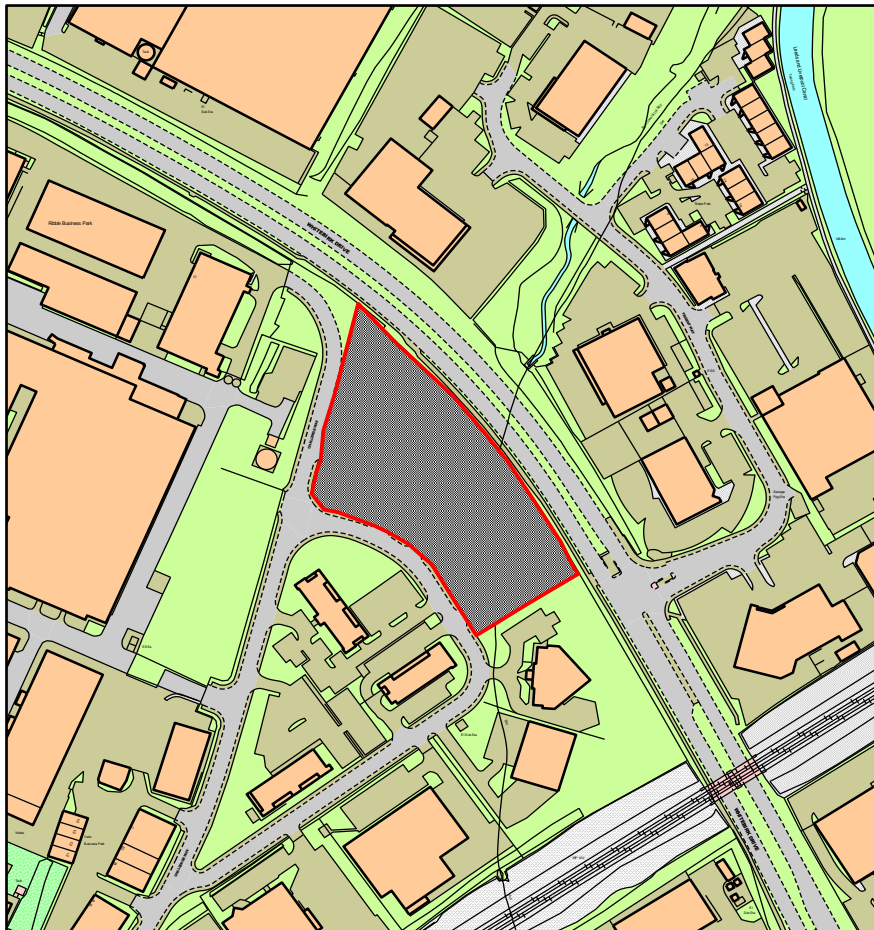
**Proposed development: Installation single Air Source Heat Pump (ASHP) to consist of one single ASPH within an enclosure, adjoining plant house and additional landscaping to north boundary**

**Site address: Blackburn Technology Management Centre, 2 Challenge Way, Blackburn, BB1 5QB**

**Applicant: Blackburn with Darwen Borough Council**

**Ward: Little Harwood and Whitebirk**

**Councillor Pat McFall  
Councillor Abdul Patel  
Councillor Mustafa Ali Desia**





## **1.0 SUMMARY OF RECOMMENDATION**

- 1.1 The proposed development is recommended to be granted planning permission, subject to the conditions detailed in Section 5.

## **2.0 KEY ISSUES/SUMMARY OF PLANNING BALANCE**

- 2.1 This application is presented to the Planning and Highways Committee, in accordance with the Scheme of Delegation, and given the fact that Blackburn with Darwen Borough Council is the Applicant. No objections have been raised insofar from consultees. The proposed development has been publicised through the posting of a Site Notice and no public comments have been received.
- 2.2 The Council's Development Plan supports new renewable energy developments and associated works, provided they constitute sustainable development, and accord with the Development Plan when taken as a whole. The proposal would deliver sustainable energy provision for the Technology Management Centre in the form of an Air Source Heat Pumps (ASHPs), which extract the heat from the atmosphere and utilise it to heat air or water.
- 2.3 On balance, the proposal would be satisfactory from a technical point of view, with all issues having been addressed through the application process, or capable of being controlled or mitigated through appropriately worded planning conditions.
- 2.4 The key issues to be addressed in determining this application are;
- Design and assessing visual amenity impacts;
  - Assessing the potential for residential amenity impacts;
  - Assessing the potential for highways and parking impacts;

## **3.0 RATIONALE**

### **3.1 Site and Surroundings**

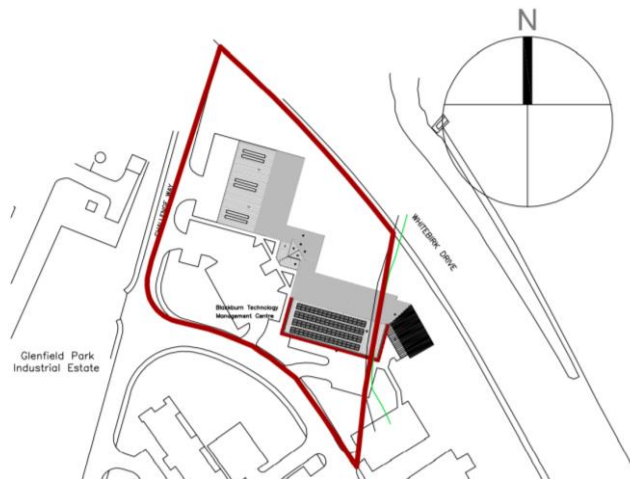
- 3.1.1 The application site is a Council owned building that is used for supporting small companies. The site is positioned within the Glenfield Business Park, an allocated Primary Employment Area, and the settlement of Blackburn. The site also staggers the boroughs of Blackburn with Darwen and Hyndburn. Commercial buildings surround the site to two sides with Whitebirk Drive binding the north and east site boundaries.

Figure One – Satellite image of the site



- 3.1.2 The site covers an area of circa 2.6 acres. It comprises of central building with car parking areas to the south and west and landscaped areas to all sides. Vehicle access is gained from the west off Challenge Way. The host building is distinctly commercial in its style with red brick and metal clad elevations, a metal clad roof, and white uPVC doors and windows.

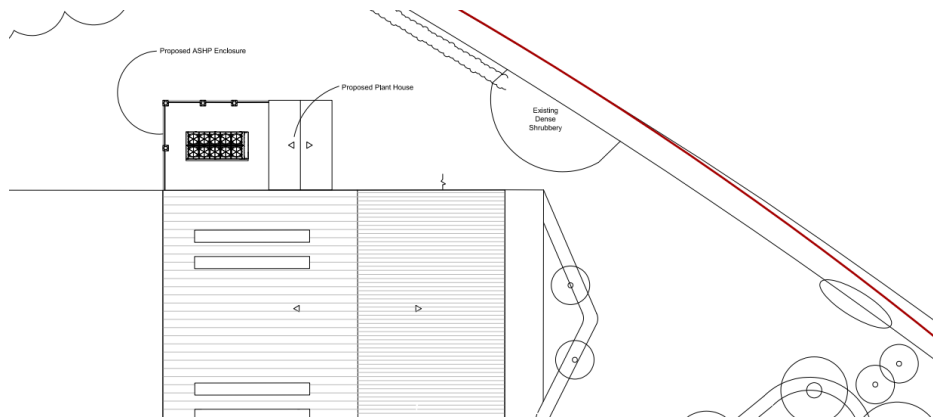
Figure Two – Location Plan showing the extent of the site and access points



### 3.2 Proposed Development

- 3.2.1 This planning application involves the siting of a single ASHPs unit with associated plant house adjoining the building. A timber-panelled enclosure supported by brick piers would enclose the unit. The proposed location is shown below in Figure Three. The unit is described as an Air Cooled Heat Pump with scroll compressors within the information submitted.

Figure Three – Site Plan showing the location and size of the proposal

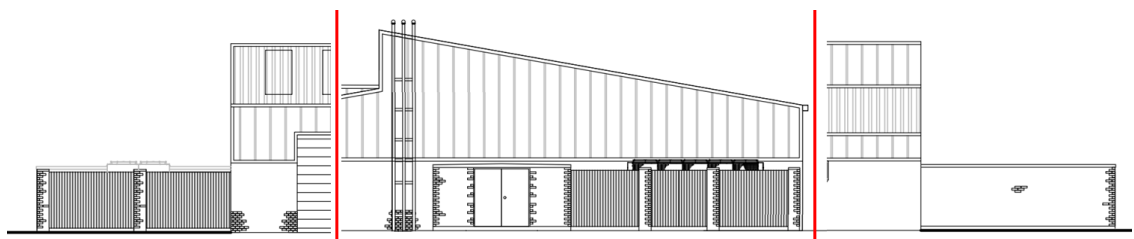


3.2.2 The proposed unit would have a length of 4.9m, a depth of 2.3m, and a height of 2.5m. It would have a power coated steel external construction. The plant house would have a footprint of circa 33 square meters. It would have brick elevations and a flat EPDM roofing system. Steel access doors would also be installed to the north elevation for maintenance reasons. An indicative image and proposed elevation plans for the ASHP unit and plant house are shown below in Figures Four and Five.

Figure Four – Indicative Image of the proposed ASHP unit



Figure Five – Proposed Elevation Plans



### 3.3 Case Officer Site Photos



### 3.4 Development Plan

#### 3.4.1 Local Plan Part 2 (adopted December 2015):

- Policy 7: Sustainable and Viable Development
- Policy 8: Development and People
- Policy 10: Accessibility and Transport
- Policy 11: Design
- Policy 36: Climate Change

## 4.0 **ASSESSMENT**

### 4.1 Principle of Development

- 4.1.1 Policy 36 allows for the development of small-scale renewable or sustainable energy schemes, including heating schemes. The proposal would allow the carbon footprint and energy bills of the premises to be reduced through the harbouring of atmospheric heat within the building. The proposed development is therefore acceptable in principle and in accordance with Policy 36.
- 4.1.2 In accordance with the presumption in favour of sustainable development detailed in the Framework, and Policy 7, development proposals should proceed without delay, unless impacts which significantly and demonstrably outweigh the benefits of the proposal are identified; subject to assessment of the following matters;

## 4.2 Design and Visual Amenity

- 4.2.1 In general terms, Policy 11 requires development proposals to represent a good standard of design through demonstrating an understanding of the sites wider context, and making a positive contribution to visual amenity.
- 4.2.2 As detailed above, the wider site is distinctly commercial in its nature and the host building is irregular in its form. The proposed ASHP unit and plant house would adjoin to the north elevation of the building and would appear prominent as an architectural addition. Materials are proposed for the plant house that would complement the appearance of the host building. That part of the proposal does not warrant any significant concerns from a design perspective.
- 4.3 Timber panels are proposed enclosing the ASHP unit that would appear at odds with the appearance of the host building. That said, given the nature of the proposal, it is essential that removable panels are installed for maintenance reasons and the size of the enclosure is dictated from manufacturers ventilation requirements. In addition, the use of brick piers to support the panels would ensure a certain level of visual consistency is maintained with the host building.
- 4.4 The submitted proposed site plan shows a native species hedgerow planted on the north boundary of the site, adjacent to Whitebirk Drive. Currently mature vegetation defines that boundary in areas yet there are gaps in the planting and the proposal would occupy a relatively prominent position from public vantage points to the north. On that basis, a condition is recommended to ensure the supplementary landscaping shown on the submitted plan is provided prior to the development being brought into use.
- 4.5 Subject to compliance with that condition, the proposed development would be acceptable in visual design terms, in accordance with Policy 11.

## 4.6 Residential Amenity

- 4.6.1 Policy 8 states that all development proposals should secure a satisfactory level of amenity for surrounding occupants with reference to noise, vibrations, nuisances, and the relationship between buildings. As detailed above, the site is positioned within an exclusively commercial area and there are no residential occupants to consider within a close proximity.
- 4.6.2 In addition, BwD Public Protection have raised no objections to the proposal on residential amenity grounds. As proposed, the development is therefore acceptable in relation to residential amenity, in accordance with Policy 8.

## 4.7 Highways and Parking

- 4.7.1 Policy 10 outlines a general requirement for development proposals to not prejudice road safety, or the safe and convenient movement of all highway users. The proposal would be installed within areas of the site that currently provide no parking or a vehicle service function. They would not compromise parking availability or the manouvering of vehicles within the site in any way.

As proposed, the development is therefore acceptable in relation to highways and parking, in accordance with Policy 10.

#### 4.8 Summary

- 4.8.1 This application involves the installation of an ASHP with an associated brick built plant house and wider works.
- 4.8.2 Subject to appropriate conditions, the proposed development would be acceptable on all the relevant planning grounds, and in accordance with the policies detailed in Section 3.4.
- 4.8.3 Section 38 of the Planning and Compulsory Purchase Act 2004 requires applications to be determined in accordance with the development plan, unless material considerations indicate otherwise. Subject to appropriate conditions, the proposal would be acceptable in principle, and in terms of design and visual amenity, residential amenity, and highways and parking. The development therefore complies with the development plan. There is a positive presumption in favour of approving the development and there are no material reasons to object to the application.

#### 5.0 **RECOMMENDATION:**

**That delegated authority is given to the Strategic Director of Place to approve planning permission, subject to the following conditions;**

- 1. The development hereby permitted shall be begun before the expiration of three years from the date of this planning permission.

REASON: Required to be imposed pursuant to Section 51 of the Planning and Compulsory Purchase Act 2004.

- 2. Unless explicitly required by condition within this consent, the development hereby permitted shall be carried out in complete accordance with the proposals as detailed on drawings: Location Plan (1:2500), BTMC CAP – 00 – ZZ – DR – BS – 2002 – Revision P2, and BTMC CAP – 00 – ZZ – DR – BS – 2001 – Revision P1.

REASON: For the avoidance of doubt and to clarify which plans are relevant to the consent.

- 3. The external materials to be used for the construction of the development hereby approved shall be as stated on the application form and approved drawings and those materials shall not be varied unless first being agreed in writing by the Local Planning Authority.

REASON: Those materials are appropriate for the development and site, in the interests of visual amenity, and to comply with the requirements of Policy 11 of the Blackburn with Darwen Borough Council Local Plan Part 2 Site Allocations and Development Management Policies (Adopted 2015).

4. The development hereby approved shall not be brought into use unless and until, the landscaping details shown on the approved plan 'BTMC CAP – 00 – ZZ – DR – BS – 2002 – Revision P2' have been implemented. Those details shall be implemented in their entirety within the first available planting season following the commencement of any works relating the development on site. Any tree/shrub or other planting that is lost, felled, removed, uprooted, dead, dying or diseased or is substantially damaged within a period of five years thereafter shall be replaced with a specimen of similar species and size, during the first available planting season following the date of loss or damage.

REASON: To ensure screening is provided for the development, in the interests of visual amenity, and to comply with the requirements of Policy 11 of the Blackburn with Darwen Borough Council Local Plan Part 2 Site Allocations and Development Management Policies (Adopted 2015).

## **6.0 RELEVANT PLANNING HISTORY**

- 6.1 10/93/1166 – Technology Management Centre – Approve with Conditions – September 1993.
- 6.2 10/21/0564 – Installation of Solar Photo Voltaic (SPV) arrays to South facing roof slope – Approved by the Planning and Highways Committee, with conditions – August 2021.
- 6.3 10/21/0194 – Installation single Air Source Heat Pump (ASHP) to consist of one single ASPH within an enclosure, adjoining plant house and additional landscaping to north boundary – Approved by the Planning and Highways Committee, with conditions – September 2021.

## **7.0 CONSULTATIONS**

- 7.1 BwD Public Protection – No objections. The main potential issue with these ASHP is noise and the use is commercial with only other commercial uses in the area. There is a significant road to front meaning the ambient noise in the area is already high. The impact in noise terms is likely to be very low.
- 7.2 BwD Property Services – No objections.
- 7.3 Hyndburn Borough Council
- 7.4 Ward Cllrs

**8.0 CONTACT OFFICER:** Christian Barton – Planning Officer

**9.0 DATE PREPARED:** 05<sup>th</sup> October 2021

**ORIGINATING DIVISION:** HIGHWAYS AND TRANSPORTATION

**REPORT TO:** BLACKBURN WITH DARWEN BOROUGH COUNCIL  
PLANNING AND HIGHWAYS COMMITTEE

**DATE:** 21 October 2021

**TITLE:** Diversion of Public Footpath 9 Eccleshill

**WARD:** West Pennine      **COUNCILLORS:** Jean Rigby  
Julie Slater  
Neil Slater

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## 1.0 PURPOSE OF THE REPORT

The purpose of the report is to seek committee approval for a public path order under the Town & Country Planning Act 1990, Section 257 to divert Public Footpath 9, Eccleshill

## 2.0 BACKGROUND AND DETAILS

On the 30<sup>th</sup> July 2021, the Council granted planning permission for the erection of 19 no. dwellings, with associated infrastructure and landscaping works on land at Davy Field Farm, Roman Road, Eccleshill, BB3 3PJ. (Application 10/20/1036)

Public Footpath 9 Eccleshill passes through the proposed development site crossing the line of several properties. In order that the development can be implemented as per the planning approval, it is necessary that this section of PF 9 Eccleshill is diverted. In this respect, the Council has received an application from the developer to divert the section of the footpath affected.

Under the Council's Constitution this Committee has '*The power to create, divert, stop up, extinguish and reclassify footpaths and bridleways and the power to make orders and enter agreements in relation to the same*'

The Committee therefore has to consider whether, or not, to promote the Order requested by the applicant. In order to assist members in making this decision, officers have prepared a detailed report with the necessary information to enable an informed decision to be made.

## 3.0 LEGAL

The relevant legislation is the Town & Country Planning Act 1990, Section 257.

## 4.0 IMPLICATIONS

<b>Customer</b>	None
<b>Financial</b>	the Applicants will meet the cost of the diversions.
<b>Anti-poverty</b>	None
<b>Crime and Disorder</b>	None



## **5.0 RECOMMENDATION**

It is the officer's recommendation that the legislative criteria have been met and that the committee should resolve to Promote the Order and authorise the Director of HR Legal & Governance to progress the necessary legal orders.

**6.0 BACKGROUND PAPERS:** Attached detailed report

**7.0 CONTACT OFFICERS:** George Bell

**8.0 DATE PREPARED:** 16<sup>th</sup> September 2021

## **Town and Country Planning Act 1990, Section 257**

## **Wildlife and Countryside Act 1981 Section 53A**

## **Application for Public Path Diversion Order**

## **Diversion of Public Footpath 9 Eccleshill**

### **1. Introduction**

- 1.1 This report seeks to assist the members of Planning and Highways Committee in their determination of an application to divert public footpath 9 Eccleshill under Section 257 of the Town and Country Planning Act 1990.

### **2. Background**

- 2.1 The Council is both the Planning Authority and the Highway & Surveying Authority for the area within which the public footpath proposed for diversion lies.
- 2.2 The Council received an application for planning permission for the erection of 19 no. dwellings, with associated infrastructure and landscaping works on land at Davy Field Farm, Roman Road, Eccleshill, BB3 3PJ. This is registered under application reference 10/20/1036 and planning permission was granted on the 30th July 2021.
- 2.3 Alongside the planning application the Council also received an application requesting the diversion of Public Footpath 9 Eccleshill from the developer's agent dated 10<sup>th</sup> October 2020.
- 2.4 This report seeks to address those matters being put before members of the Committee, namely the application for the public path order to divert the path as shown on the plan attached to this report.

It seeks to advise members of the Committee of the outcome of non-statutory consultations, and an assessment against the relevant legislative criteria, thus enabling them to consider whether, or not to promote the Order requested.

- 2.5 Public Footpath 9 Eccleshill currently leaves Roman Road at Point A (SD 370090 424209) on the attached plan heading in a south-westerly direction to Point C (SD 369963 424137) and then in a generally westerly direction to Lower Eccleshill Road.
- 2.6 The proposed diversion in essence seeks to move the point where the footpath leaves Roman Road some 25 metres north to Point B (SD 370072 424230). The proposed diversion then heads in a south-westerly direction to Point C and then in a generally westerly direction to Lower Eccleshill Road.

### **3. Legislative Criteria**

- 3.1 Paragraph 7.2 of 'Rights of Way Circular 01/09 - Guidance for Local Authorities', published by Defra (Department for Environment, Food and Rural Affairs), re-confirms that:

*'The effect of development on a public right of way is a material consideration in the determination of applications for planning permission and local planning authorities should ensure that the potential consequences are taken into account whenever such applications are considered.'*

- 3.2 The Town and Country Planning (General Development Procedure) Order 1995 (S.I. 1995/419) provides that development affecting a public right of way must be advertised in a local newspaper and by posting a notice on the site, as part of the planning application process. This is entirely separate from any notices and advertisements required when making and confirming a subsequent extinguishment or diversion order.
- 3.3 Section 257 of the Town and Country Planning Act 1990 Act gives local planning authorities the power to make orders to extinguish or divert footpaths, bridleways or restricted byways where it is necessary to enable development for which planning permission has been granted.
- 3.4 The Wildlife and Countryside Act 1981 Section 53A gives the local Surveying Authority the powers to add additional rights to the definitive map and statement.

#### **4. Assessment against the Legislative Criteria**

- 4.1 With regard to the residential development, the decision whether or not to promote a Public Path Diversion Order is discretionary and does not follow on automatically from the granting of planning permission. There may however be a reasonable expectation, on the part of applicants, that if the Planning Authority has granted planning permission, having considered the impact that the development will have on rights of way across the site as part of that process, they will subsequently be supportive of an application to divert the paths concerned.
- 4.2 The effect of the proposed development on the public right of way is a material consideration in the determination of the planning application, and therefore should have been considered as part of this process. It is however possible that such matters, so far as they relate to the proposed diversion, may be re-opened, should any Order be subject to duly lodged objections as part of the statutory process.
- 4.3 Under Section 257 of the 1990 Act, for the purposes of determining the applications for the Public Path Diversion Orders the Authority must be satisfied that:
  - a) there is a valid planning consent in place; and
  - b) in order to enable the approved development to take place, it is necessary to divert the public right of way.
- 4.4 With regard to the first of the criteria, as indicated above, planning consent has been granted by the Planning Authority.
- 4.5 An assessment of the plans for the proposed development reveals that the current Definitive Map alignment of the paths will be, in part built over.
- 4.6 As a result, it may be reasonable to conclude that the diversion of FP 9 Eccleshill is necessary in order to enable the approved development to take place.

#### **5. Consultations**

- 5.1 Non-statutory consultations have been undertaken with all user/interest groups and no objections have been received in respect of the proposals.

## **6. Decision Required**

6.1 If, having considered all of the relevant information, Committee is minded to approve the application to divert the public footpath shown on the plan, they should resolve that:

a) A Public Path Diversion Order be made pursuant to Section 257 of the Town and Country Planning Act 1990 to divert Public Footpath Number 9 Eccleshill as shown on the attached plan.

b) if no objections are duly lodged, the Authority confirm the Orders;

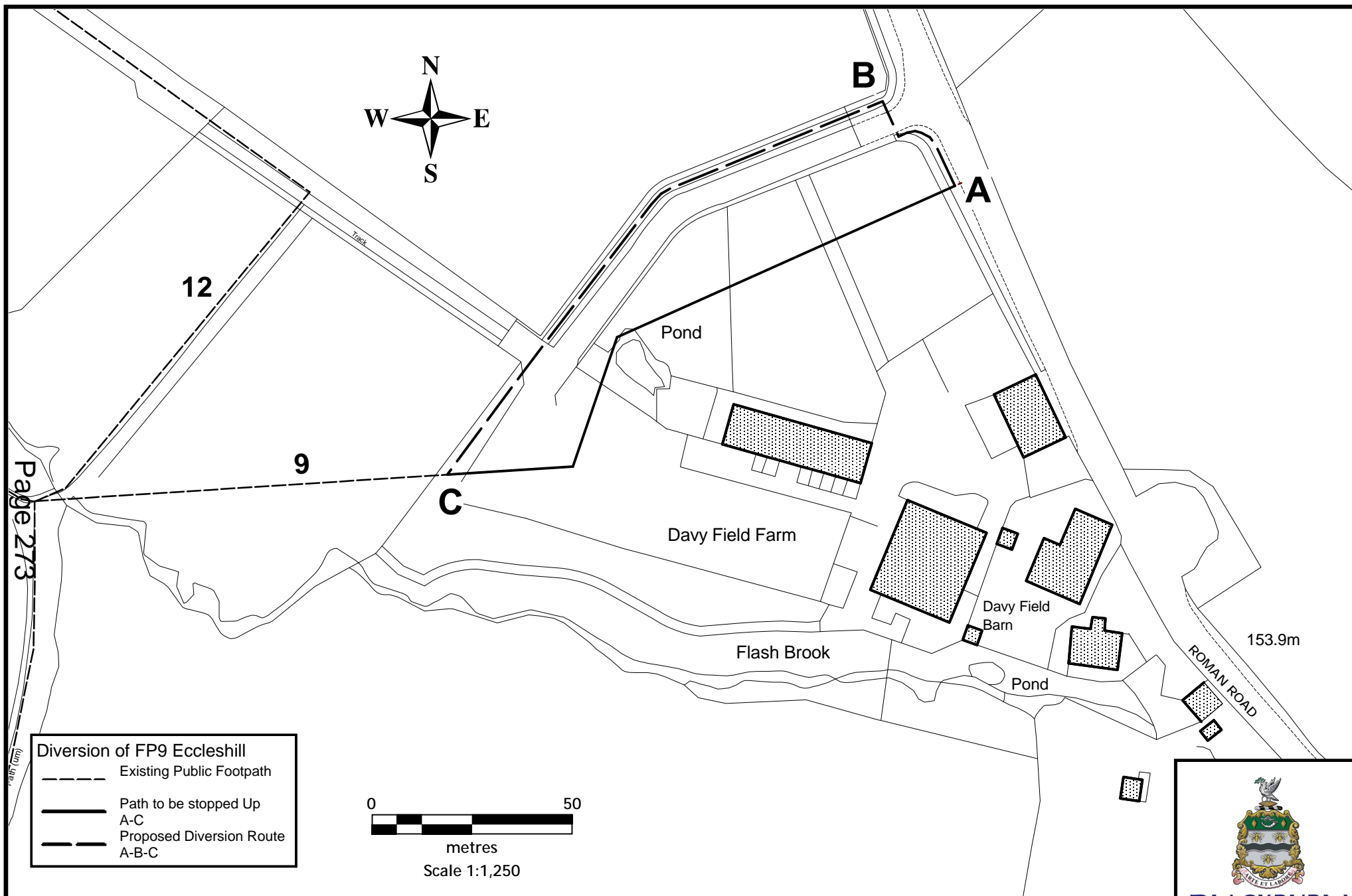
or

c) if objections are duly lodged, and not subsequently withdrawn, the Orders be passed to the Secretary of State for confirmation.

6.2 If, having considered all of the relevant information, the Committee is minded to refuse the application, the applicant should be advised of this decision, and that there are no rights of appeal.

## **7. Recommendation**

7.1 Whilst the Authority (Planning and Highways Committee) must make its own decision whether or not to promote the requested Order, it is the view of officers that the legislative tests appear to be satisfied, and therefore the Order may be promoted and 'made'.



By virtue of paragraph(s) 5 of Part 1 of Schedule 12A  
of the Local Government Act 1972.

Document is Restricted