

Public Document Pack

Planning and Highways Committee

Thursday, 18th August, 2022

6.30 pm

Meeting Room A, Blackburn Town Hall

AGENDA

- | | | |
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Date Published: Wednesday, 10 August 2022

Denise Park, Chief Executive

PLANNING AND HIGHWAYS COMMITTEE
Thursday, 21 July 2022

PRESENT – Councillors, David Smith (Chair), Akhtar, Casey, Slater, Browne, Marrow, Desai, Imtiaz, Mahmood, McCaughran, Hardman (substitute for Baldwin) and Hussain (substitute for Liddle).

OFFICERS – Gavin Prescott, Rabia Sagir, Saf Alam & Shannon Gardiner

RESOLUTIONS

16 Welcome and Apologies

The Chair welcome everyone to the meeting.

Apologies were received from Cllr Sylvia Liddle who was substituted by Cllr Mahfooz Hussain, Cllr Jon Baldwin who was substituted by Cllr Derek Hardman and Cllr Zamir Khan.

17 Minutes of the Previous Meeting

RESOLVED – That the minutes of the previous meeting held on 16th June 2022 be confirmed and signed as a correct record.

18 Declaration of Interest

RESOLVED – There were no Declaration of Interest received

19 Planning Applications for Determination

The Committee considered reports of the Strategic Director of Place detailing the planning applications.

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

19.1 Planning Application 10/21/0953

Applicant – Amanda Hodgson

Location and Proposed Development – Land at Lower Barn Street, Darwen, BB3 2HQ

Full Planning Application for: Proposed residential development of 5 detached houses with associated highway infrastructure and landscaping.

Decision under Town and Country Planning Acts and Regulations –

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

19.2 Planning Application 10/21/1425

Applicant – Committee Secretary

Location and Proposed Development – Madina Mosque, Oak Street, Blackburn, BB1 6NT

Retrospective application for new ground floor level, ladies hall and basement level storage area.

Decision under Town and Country Planning Acts and Regulations –

RESOLVED –Approved subject to the conditions highlighted in the Director’s Report

19.3 Planning Application 10/22/0034

Applicant – Mr Roker

Location and Proposed Development – Burnley Road Bowling Pavilion, Burnley Road, Blackburn, BB1 3HN

Full Planning Application (Regulation 4): Demolition of existing bowling green hut and dilapidated children’s playground; and erection of 2no industrial buildings (Use Class B8 or Eg) with associated landscaping and access from Didsbury Street.

Decision under Town and Country Planning Acts and Regulations –

RESOLVED – Approved subject to the conditions highlighted in the Directors Report

19.4 Planning Application 10/22/0371

Applicant – Barnfield Blackburn Ltd

Location and Proposed Development – Land at Greenbank Terrace, Lower Darwen, Blackburn

Variation/Removal of Condition/Minor Material Amendment for Variation of Condition No.1 pursuant to planning application 10/21/0597 -"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" - revisions to the scale and design relating to Plot 3

Decision under Town and Country Planning Acts and Regulations –

RESOLVED – Approved subject to the conditions highlighted in the Director’s Report

19.5 Planning Application 10/22/0381

Applicant – Fit4home Ltd

Location and Proposed Development – 104 Livingstone Road, Blackburn, BB2 6NE

Full Planning Application (Retrospective) for Double storey rear extension, single storey side extension and rear dormer - retrospective - Amendment to planning application 10/21/0519

Decision under Town and Country Planning Acts and Regulations –

RESOLVED – Approved subject to the conditions highlighted in the Directors Report and the additional condition in the Update Report:

Additional Condition - The existing unauthorised works to property, including the timber frame rear dormer / extension to the first floor roof space, and the encroachment of the ground floor extension to the front / side of 102 Livingstone Road, shall be removed within a period of no more than 2 months from the date of this permission.

REASON: To ensure the unauthorised works are rectified within a reasonable timescale, in the interests of visual and residential amenity, and in accordance with Policies 8 and 11 of the Blackburn with Darwen Borough Local Plan Part 2 and the adopted Blackburn with Darwen Design Guide Supplementary Planning Document.

19.6 Planning Application 10/22/0430

This application was deferred

Applicant – Mr Majid Anwar

Location and Proposed Development – 5 Chestnut Gardens, Blackburn, BB1 6PS.

Full Planning Application for Extension to rear single storey and erection of a front porch. Alteration to rear garden levels and replacement party and side/rear boundary wall (retrospective).

Decision under Town and Country Planning Acts and Regulations –

RESOLVED – Since the publication of the committee report, it has been brought to the local planning authorities' attention that the area edged in red on the location plan does not correspond with the title plan for the property obtained from the Land Registry. As such, the applicant has amended the red edge boundary, and served the correct notice on the freeholder (Gleeson Homes), submitting the Certificate B as part of the administrative process. Due to the revisions, the application is subject to a reconsultation exercise up to the 10th August.

Members are therefore advised that the application is **DEFERRED**, and will be presented to the next Committee meeting on the 18th August.

20 Enforcement

A report was submitted seeking authorisation to take enforcement action against all persons having an interest in land at 29 Princess Gardens, Blackburn.

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

RESOLVED – Authorisation was given to the proposed enforcement action for land at 29 Princess Gardens, Blackburn.

21 Enforcement

A report was submitted seeking authorisation to take enforcement action against all persons having an interest in land at 74 Queens Park Road, Blackburn.

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

RESOLVED – Authorisation was given to the proposed enforcement action for land at 74 Queens Park Road, Blackburn.

22 Enforcement

A report was submitted seeking authorisation to take enforcement action against all persons having an interest in land at 84 Queens Road, Blackburn.

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

RESOLVED – Authorisation was given to the proposed enforcement action for land at 84 Queens Road, Blackburn.

Signed:

Date:

Chair of the meeting
at which the minutes were confirmed

DECLARATIONS OF INTEREST IN ITEMS ON THIS AGENDA

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

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

MEETING: **PLANNING AND HIGHWAYS COMMITTEE**

DATE:

AGENDA ITEM NO.:

DESCRIPTION (BRIEF):

NATURE OF INTEREST:

DISCLOSABLE PECUNIARY/OTHER (delete as appropriate)

SIGNED :

PRINT NAME:

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

Material Consideration

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

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

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

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

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

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

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

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

Protocol 1 of Article 1, and Article 8 confer(s) a right of respect for a person's private and family life, their possessions, home, other land; and business assets. Article 6, the applicants (and those third parties, including local residents, who have made representations) have the right to a fair hearing and to this end the Committee must give full consideration to their representation, and comments,

In taking account of all material considerations, including Council policy as set out in the Core Strategy and saved policies of the Unitary Development Plan, the Head of 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 GROWTH & DEVELOPMENT

LOCAL GOVERNMENT (ACCESS TO INFORMATION) ACT 1985 BACKGROUND PAPERS

There is a file for each planning application containing application forms, consultations, representations, Case Officer notes and other supporting information.
Gavin Prescott, 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: 18/08/2022

| Application No | Applicant | Site Address | Ward |
|--------------------------------|---|---|-----------------------|
| 10/22/0038 | | | |
| | Darwen Bars and Leisure Warehouse at Hacking Street Darwen BB3 1AL | Warehouse at Hacking Street Darwen BB3 1AL | Darwen West |
| | Full Planning Application for Change of use from warehouse/distribution (use class B8) to Children's play centre (use class E[d]) with external alterations | | |
| RECOMMENDATION: Permits | | | |
| 10/22/0419 | | | |
| | Mr Cleveland Forty Knowsley Farm Knowsley Lane Edgworth Bolton BL7 0JH | Knowsley Farm Knowsley Lane Edgworth Bolton BL7 0JH | West Pennine |
| | Full Planning Application for Construction and operation of a combined ground mounted solar PV array (7kW) and wind turbine (5.5kW) with a maximum tip height of 17.5m | | |
| RECOMMENDATION: Permits | | | |
| 10/22/0430 | | | |
| | Mr Majid Anwar 5 Chestnut Gardens Blackburn BB1 6PS | 5 Chestnut Gardens Blackburn BB1 6PS | Bastwell & Daisyfield |
| | Full Planning Application for Extension to rear single storey and erection of a front porch. Alteration to rear garden levels and replacement party and side/rear boundary wall (retrospective) | | |
| RECOMMENDATION: Permits | | | |

| Application No | Applicant | Site Address | Ward |
|----------------|-----------|--------------|------|
|----------------|-----------|--------------|------|

10/22/0509

| | | |
|---------------------|---|----------------------|
| S Issa C/O Agent | Land and Properties North of Billinge End Road Blackburn BB2 6PY | Billinge & Beardwood |
|---------------------|---|----------------------|

Variation/Removal of Condition/Minor Material Amendment for Variation of Condition Nos 4 "Construction Method Statement", 10 "revised tree protection measures and working practices", 11 "revised landscaping scheme" and 23 "revised scheme relating to design of proposed housing (increase to ridge height; increase to depth of dwellings; increase to glazing on the ground and lower ground floors; relocation of access points and driveways to Plots 3-5" pursuant to planning application 10/18/0396 "Residential development of 5 no. dwelling following demolition of existing buildings"

RECOMMENDATION: Permits

10/22/0682

| | | |
|--|---|--------------|
| Ms Isma Mahmood 38 Gorse Road Blackburn BL2 6LZ | 27 Livingstone Road Blackburn BB2 6NF | Wensley Fold |
|--|---|--------------|

Full Planning Application for Erection of porch and double and single storey rear extension and works to rear garden to raise garden level

RECOMMENDATION: Permits

REPORT OF THE STRATEGIC DIRECTOR

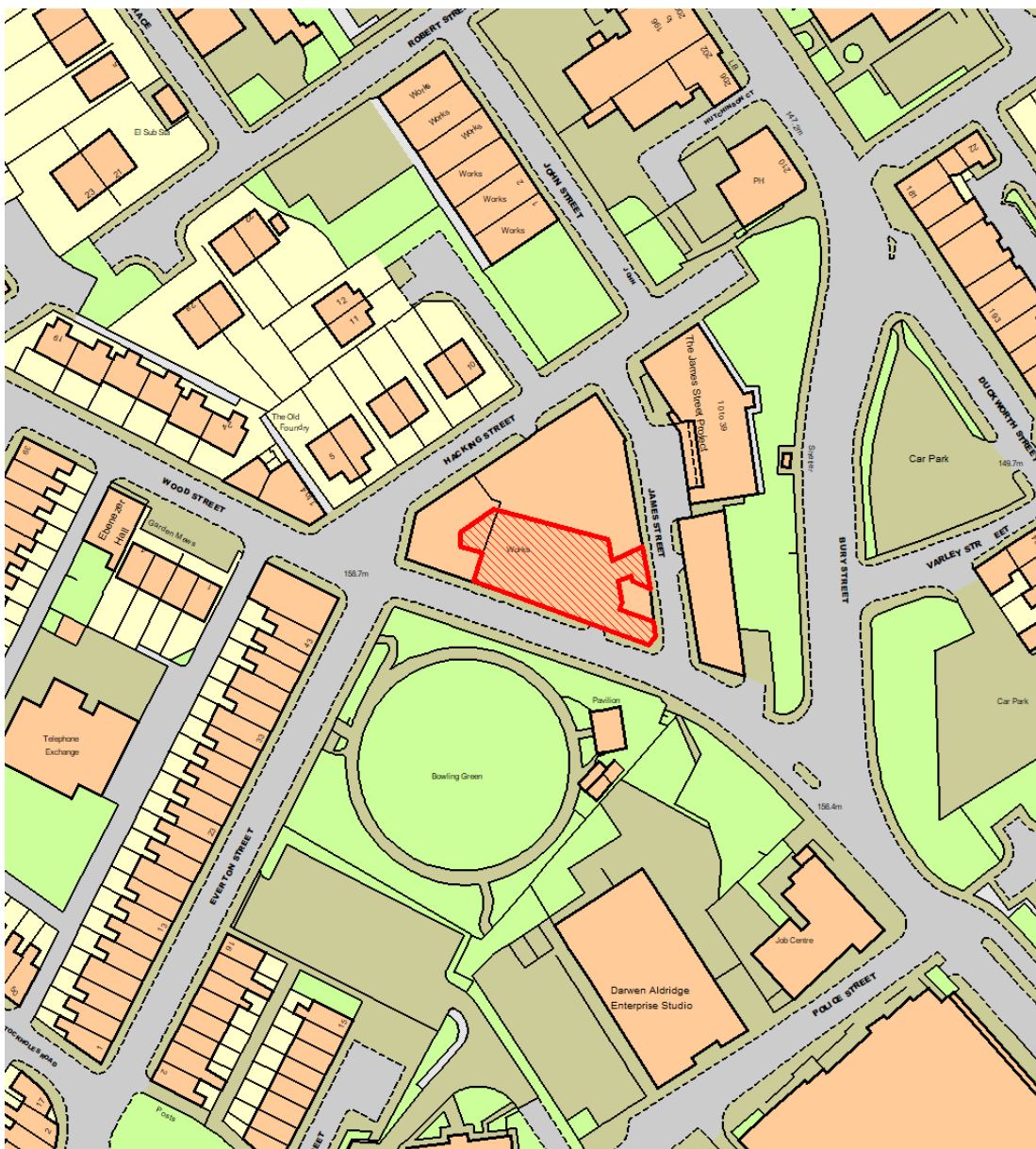
Plan No: 10/22/0038

Proposed development: Full Planning Application for Change of use from warehouse/distribution (use class B8) to Children's play centre (use class E[d]) with external alterations.

Site address: Warehouse at Hacking Street, Darwen, BB3 1AL

Applicant: Darwen Bars and Leisure

**Ward: Darwen West Councillors: Dave Smith,
Stephanie Brookfield
Brian Taylor**



1.0 SUMMARY OF RECOMMENDATION

1.1 APPROVE – subject to the conditions set out within section 4 of this report

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, following a Chair referral due to the high public interest in the case, comments from the local ward councillor, and receipt of objections. The public objections are set out at section 9 of this report.

2.2 The proposal is considered to secure a viable use for a redundant building in accordance with the National Planning policy Framework's stated aims of achieving sustainable development and meeting service needs of local communities. The proposal is also satisfactory from a technical point of view, with all issues relative to the assessment having been addressed through the application, or capable of being controlled or mitigated through suitably worded planning conditions.

3.0 RATIONALE

3.1 Site and Surroundings

3.1.1 The proposal relates to a vacant commercial premises positioned on the periphery of Darwen Town Centre. The premises form part of a larger single building that contains other businesses and occupies the block surrounded by Wood Street, Hacking Street and James Street. The application unit physically fronts Wood Street, with a pedestrian and vehicular access at ground floor, the first floor incorporates a series of window openings.

3.1.2 The immediate area around the site is mixed in character. Commercial premises occupy the remainder of the building, as well as on the opposite side of James Street. Residential uses dominate the wider locality to the west. To the east lies Darwen Town Centre, with associated retail and commercial uses along with public car parks and civic spaces.



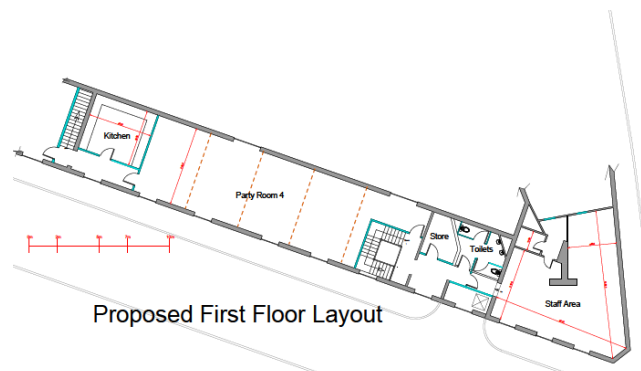
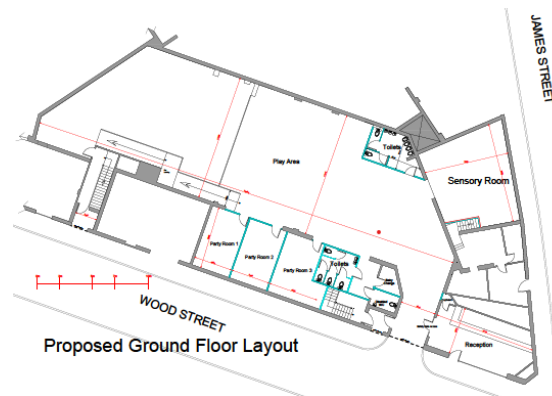
Location Plan

3.2 Proposed Development

3.2.1 Following clarification from the initial submission, planning approval is sought for a change of use of the premises from a warehouse/distribution use (use class B8) to a children's play centre (use class E[d]). The proposal also details alterations to the Wood Street façade to provide for a new pedestrian entrance and emergency exit.

3.2.2 The applicant has provided a 'business plan' that provides the following detail regarding the intended children's play centre use;

- Use to operate 7 days a week, from 10am to 6pm
- Target audience children aged from 4 to 12 years (children under 10 to be accompanied by an adult)
- 3 types of admission; general admission, party bookings and classes
- 3no. individual party rooms and a sensory room accessed from main open play area.
- Kitchen facility to serve hot drinks and snacks to parents and children using the centre. Buffet food served to party bookings.
- Maximum capacity of 60 children.



Proposed Floor Plans

3.3 Development Plan

3.3.1 Section 38 (6) of the Planning and Compulsory 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 adopted Core Strategy DPD (2011) and adopted Local Plan Part 2 – Site Allocations and the Development Management Policies (2015). The following policies are considered relevant in assessment of the proposed development;

3.3.3 Core Strategy

- Policy CS1 – A Targeted Growth Strategy
- Policy CS11 – Facilities and Services
- Policy CS22 – Accessibility Strategy

3.3.4 Local Plan Part 2

- Policy 1 – The Urban Boundary
- Policy 7 – Sustainable and Viable Development
- Policy 8 – Development and People
- Policy 10 – Accessibility and Transport
- Policy 11 - Design

3.4 Other Material Planning Considerations

3.4.1 National Planning Policy Framework (NPPF) (July 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 9: Promoting Sustainable Transport

3.5 Assessment

3.5.1 Principle of Development:

Policy 1 of the Local Plan and CS1 of the Core Strategy identifies the preferred location for all new development to be within the defined Urban Boundary, which the site is situated within.

3.5.2 Policy CS11: Facilities and Services advises that the range and quality of public services and facilities will be expanded and enhanced, in particular, in the following locations; (i) The town centres of Blackburn and Darwen; (ii) Neighbourhood shopping centres; (iii) Existing key public buildings/facilities;

and (iv) Other accessible locations. The proposal is identified as being consistent with point (iv) given the proximity to Darwen Town Centre.

3.5.3 Section 8 of the NPPF also supports the principle of the development. At paragraph 93 a requirement to “provide the social, recreational and cultural facilities and services the community needs” through planning policies and decision making is set out. The proposed children’s play use, whilst not an essential facility, is considered to be an important facility for the local community.

3.5.4 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. That position is supplemented by the Framework, which at 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 public objections received, which can be viewed at section 9 of this report, are primarily based on highway related concerns. Specifically, the lack of dedicated parking for the development, the existing pressures upon on-street provision in the locality and the associated impact upon highway safety that would result. All objections were received prior to the reconsultation following receipt of further/amended details on the 21st June 2022.

3.5.6 The initial submission identified the existing use of the building as operating within class B2, whilst the proposed use was sui generis. Following review of the site’s planning history and discussion with the Council’s business rates team and applicant’s agent it was agreed that the description should be modified to identify the outgoing use as B8 warehouse and distribution and the incoming use as class E[d] development. Assessment proceeds on that basis.

3.5.7 The applicant’s submission identifies that there is no dedicated off-street provision to be provided, instead there is a reliance upon on-street provision and public car parking in the locality. The application building has a gross floor space of 866m². When applying the Council’s adopted parking standards the outgoing B8 use generates a parking need of 8 spaces, based on a requirement of 1 space per 100m². The incoming use would generate a need for 35 spaces, based on a requirement of 1 space per 25m² (NB: D2 parking standard used, as new class E[d] not yet added to adopted parking standards). The overall effect is a shortfall of 27 spaces against the guideline figure.

3.5.8 The public objections assert that the shortfall of parking cannot be met on-street without potentially severe highway impacts resulting. The applicant considers there is adequate capacity on-street and through the use of nearby

public car parks to meet the needs of the business, without adversely affecting highway safety.

3.5.9 The site lies on the periphery of Darwen Town Centre. The road network surrounding the site is characterised by a mix of unrestricted on-street provision and double yellow line restrictions. Other businesses operating from Hacking Street and James Street and users of the Everton Street Bowling Club are reliant upon the available on-street provision, as are residents living on Hacking Street and Everton Street. Two public car parks at Varley Street and Duckworth Street are within 70m of the application site and allow unlimited stay.



Google maps showing application site and public car parks on Varley Street.

3.5.10 The Council's highways team have advised that the site's sustainable location on the periphery of Darwen Town Centre offers advantages given the short walk to public transport linkages and good access for walking and cycling. The location also provides opportunity for linked trips to be made.

3.5.11 The objectors have sought to identify the lack of available parking through the submission of Google Street images. Asserting these are representative of the on-street situation on a typical day, rather than photographs supplied by the applicant. That position must be tempered, however, as an inspection of the Google images provided by the objector shows they are images captured between May 2009 and June 2018. Thus they too may not accurately represent the current on-street situation.

3.5.12 The case officer has visited the site and surrounding area 6 times between February and July 2022, at differing times of the working day. The observations are that James Street can be heavily parked given the active businesses adjoining the road. The on-street spaces along Wood Street, which face the site, have never been fully occupied when visits have occurred. Similarly, the on-street spaces on the southern side of Hacking Street are commonly available.

- 3.5.13 In addition to the areas discussed by the objectors, Members should also note that the eastern side of Everton Street contains no parking restrictions for much of its length and would be available for users of the play centre. Observations during site visits is that this area is rarely parked upon during the working week. It is acknowledged this position could differ at the weekend or evenings when the Everton Street Bowling Club is in use.
- 3.5.14 Notwithstanding the on-street availability, the application site is identified as being within 70m of two free public car parks at Duckworth Street and Varley Street. Again these areas have been observed on multiple occasions during the assessment of the application. Commonly neither has more than 50% occupation.
- 3.5.15 On balance, the Highways team have agreed that the identified parking shortfall could be accommodated through a combination of on-street capacity and use of the public car parking facilities. In forming that position weight has been attached to the applicant's submission that the maximum number of children would be restricted to 60 – this element could be conditioned. Weight has also been attached to the proposed hours, which could also be conditioned, which serve to ensure that the on-street parking will not be in use into the evening when the residents of Hacking Street and Everton Street are likely to be at home. Finally, weight has also been attached to the removal of conflicts associated with the potential operation of a B8 warehouse/distribution use that would be likely to increase the movement of larger delivery vehicles and given the restricted access to the building be likely to involve some degree of loading and unloading from the highway.
- 3.5.16 In summary, the highways team offer no objection subject to the suggested conditions set out above. Advising; *“To conclude, we take into account the lack of parking, however we acknowledging the accessibility of the site, and public car parks nearby. This together with the management and control of the facility, with the number of children not exceeding 60 at any one time. We would on balance offer no objections to the application...”*.
- 3.5.17 Design/Appearance: Policies CS16 and Policy 11 requires all new development to present a good standard of design, demonstrating an understanding of the wider context and making a positive contribution to the local area.
- 3.5.18 The proposal includes alterations to the Wood Street façade to provide for a new entrance/reception area and emergency exit, as per the image below.



3.5.19 It is noted that the location of the new 'shop front' is consistent with the position of a previous opening, which is illustrated by the use of different walling material (see following image). Further, the alteration is considered to harmonise effectively with the host building and be consistent with the character and appearance of the locality. Accordingly compliance with Policies CS16 and 11 is achieved.



Image showing position of new frontage.

3.5.20 Residential Amenity: Policy 8, amongst other considerations, requires that a satisfactory level of amenity and safety is secured for surrounding uses and for occupants or users of the development itself; with reference to noise, vibration, odour, light, dust, other pollution or nuisance, privacy / overlooking, and the relationship between buildings.

3.5.21 Given the relationship with surrounding uses and the nature of the proposed use, the internal operations of the building would be unlikely to adversely affect residential amenity due to the relative distances to the nearest dwellings. Similarly, given the proposed hours of operation of 10am to 6pm (7 days a week) it is also unlikely that the associated comings and goings of users will erode residential amenity standards as the use will not operate in the evening.

3.5.22 The Council's Head of Public Protection has suggested an hours restriction of 9 am to 8pm, Monday to Saturday and 10am to 5pm on Sundays and Bank

Holidays. This extends beyond the applicant's suggested hours, save for 1hr less on Sundays. On balance, it is considered appropriate to allow the applicant's suggested hours as the 6pm closing time will help prevent potential for conflict with local residents during the evening, as well avoid parking conflict when the on-street spaces are likely to be in greatest demand from residents.

3.5.23 The proposal includes a kitchen facility for serving refreshments to parents, as well as offering a buffet facility for the proposed party rooms. In order to mitigate any potential for loss of amenity, the Head of Public protection has recommended that a condition requiring a scheme for the control of cooking odours and fan noise be agreed prior to the use commencing.

3.5.24 Subject to the suggested conditions detailed at section 4 of this report, compliance with the requirements of Policy 8 is achieved.

3.5.25 Other Matters: Members should note that the unit that is the subject of this application has been vacant for approximately 14 years. As such, the proposal represents an opportunity to bring it back in to meaningful use.

3.5.26 The submission indicates that should the proposal be supported it would generate 5 full time and 8 part time jobs.

3.5.27 Summary: This report assesses the full planning application for change of use of the planning unit from use class B8 to class E(d). In considering the proposal, a wide range of material considerations have been taken into account.

3.5.28 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

APPROVE 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:

PCE-Perkins-October-21-Elevations, received 11th Jan 2022
PCE-Perkins-October-21- Proposed First Floor, received 25th Jan 2022
PCE-Perkins-October-21- Proposed Ground Floor, received 20th Jan 2022

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

3. Prior to the use hereby approved commencing, a scheme for the control of cooking odours and fan noise from the premises shall be submitted to and approved in writing by the Local Planning Authority. The development shall be in accordance with the agreed details.

REASON: To prevent loss of amenity to occupiers of neighbouring premises due to cooking odours and extraction system noise, in accordance with the requirements of Policy 8 of the Blackburn with Darwen Borough Local Plan

4. The use hereby permitted shall only take place between the following hours;

Monday to Sunday - 10am to 6pm

REASON: To safeguard the amenities of the adjoining premises and the area generally in accordance with Policy 8 of the Blackburn with Darwen Borough Local Plan Part 2

5. The use of the development hereby approved shall be restricted to a maximum of 60 children at any time.

REASON: Given the restricted parking arrangements and to safeguard highway safety interests, in accordance with the requirements of Policy 10 of the Blackburn with Darwen Borough Local Plan Part 2

6. The premises shall be used as a children's play centre and for no other purpose, including any other purpose in class E[d] of the Town and Country Planning Use Classes Order 1987 (as amended)

REASON: To safeguard the amenities of the adjoining premises and the area generally in accordance with Policies 8 and 10 of the Blackburn with Darwen Borough Local Plan Part 2

5.0 PLANNING HISTORY

10/98/0802 – Change of use of part of factory (B2) to retail/wholesale of carpets (Refused)

10/86/0497 – Rebuilding wall to Wood Street and general improvements (Approved)

6.0 CONSULTATIONS

- 6.1 Public Consultation: 12 neighbouring properties have been individually consulted by letter and a site notice displayed. The consultation process was repeated following the receipt of amended details 13th April 2022 and 21st June 2022. 4 letters of objection have been received, and one comment from local ward councillor.
- 6.2 Public Protection: No objection subject to conditions relating to hours restriction (9am to 8pm Monday to Saturday, 10am to 5pm Sundays and Bank Holidays). Details of kitchen extraction system to be agreed.
- 6.3 Highways:

We have reviewed the additional details received in support of the application. When reviewing the adopted parking standards against the floorarea of 866sqm which is offered, this when measured against the allowance of 1 car space per 25 sqm would generate a parking need of 35 spaces. The outgoing warehousing use would have required an allowance of 8 spaces. The site does not have the capacity to accommodate the required numbers within the curtilage.

The site is surrounded by on street parking bays and is also located on the edge of the town centre. There are two unlimited public car parks in very close proximity to the site. I note from the objectors that there is resistance against the proposal, as it felt the customers of this facility would monopolise the parking bays around the vicinity. I have duly considered, this together with the sustainable location of the site. The facility will be a short walk from very good public and rail transport linkages, and good access for walking and cycling.

Access & Layout

The access to the facility will be taken from Wood Street, utilising existing access points.

Transport Statement

The accompanying document highlights that no more than 60 children will be allowed access into the building at any one time. The will be managed through a booking in system, and adequate time would be allowed between the 2 hour play session to ensure there is no limited overlap between those arriving and leaving the site.

The accompanying statement also provide clarity on the hours of operation and the use of the party and sensory rooms. It is reported that the rooms if in use will be include the requirement for no more than 60 children in the facility. Please condition.

To conclude, we take into account the lack of parking, however we acknowledging the accessibility of the site, and public car parks nearby. This together with the management and control of the facility, with the number of

children not exceeding 60 at any one time. We would on balance offer no objections to the application. We would however to stem the woes of the objectors, suggest a temporary use of 2 years is applied to monitor the situation.

7.0 CONTACT OFFICER: Martin Kenny, Principal Planner

8.0 DATE PREPARED: 4th August 2022

9.0 SUMMARY OF REPRESENTATIONS

Objection – Mr T May. Received: 21/02/2022.

About the above application form submitted for a new play Centre in Hacking Street Darwen , i noticed on Part 5 where the question is asked was work started on this project before this application was marked no - However living in Darwen its not hard to work out when work is going on inside a building and the image attached proves they were working on this back in October 2021 -

I also notice they have no parking on the application . The congestion in Darwen around that area is already horrendous - so where is all the extra Traffic going to go with no Parking .

Also noticed in Planning application another play centre is opening soon in Darwen , Is there really the need for another one in such a small town-

Happy days has recently closed due to lack of Business , Covid 19 probably didn't help - wouldn't have been kinder to offer support to such an already existing business rather than this ? doesn't seem right.

Objection – Neil Watson. Received: 22/02/2022.

I think you will have surmised that I've been asked to look at the application for a third party. There is no objection to the principle of development but there are significant concerns about highway impacts. My instruction is that the site was last used by Tagg Wall Coverings. They were a Darwen registered company that were dissolved in 2013. The last pp may have been for a B2 use but the GDO allows a lawful change from B2 to B8 but not the reverse. The evidence is that it was last used for B8.

Please take this as a formal objection to the application. The issue is that the level of parking for the proposed use, using Blackburn's standards, increases from 8 spaces needed for the B8 use to 34 for the Class E use. The site has no off street parking. There is already high demand for on street parking and the nature of the business will be a high turnover of people visiting the facility which will lead to much higher on street parking. The area has a significant amount of areas covered by on street parking restrictions which demonstrates the vulnerability and inadequacies of the area for on street parking.

The impacts of this should in my view (I accept fully that there is an element of planning judgement in this and the validation requirements do not compel submission of one) be the subject of some form of assessment by the applicant. It will be for you to decide if that is required when you re-validate the application.

I will wait for the outcome of your deliberations on this before making further submissions on the issue of highway impacts.

Further Objection – Neil Watson. Received: 18/04/2022.

Planning Application 10/22/0038

**Change of Use of B8 Warehouse and
Distribution Depot to Class E Children's Play Centre**

Dear Mr Kenny

Thank you for the reconsultation on the above planning application. This is a formal objection to the application.

There are no objections to the physical alterations to the building and the actual activities internally are ones that will not be incompatible with the locality. The objection is to the impact that the development would have on car parking and public safety.

The starting point for considering any development is the development plan for the area as required in statute. The Part 2 Local Plan is still extant. Policy 10 states that development will be allowed where it has been demonstrated that *..”road safety and the safe, efficient and convenient use of all highway users.....is not prejudiced.”*

The National Planning Policy Framework (“the Framework”) sets out, at paragraph 111, that development should only be refused if there would be unacceptable impacts on highway safety or the residual impacts on the highway network would be severe. In terms of the latter point the applicant has provided no information on the impact on the highway network. The transport statement focusses solely on car parking so is in itself deficient.

Car parking standards are set out in the Council's 2014 adopted Parking Standards. The standards were set after the introduction of the first Framework (2012) so the standards will be in compliance with the policies of the Framework. This is important as the Framework requires that parking standards take into account (para 107):

- a the accessibility of the development
- b the type, mix and use of the development
- c the availability of and opportunities for public transport
- d local car ownership levels

In other words there should be no allowance outside of the parking standards for matters such as accessibility to public transport as these, in accordance with the Framework, should already have been taken into account in the parking standards.

The adopted parking standards are:

B8 1 car park space per 100sqm.

D2: Other Leisure Facilities 1 space per 25 sqm.

The parking standards also consider the need for mobility parking/parent/child spaces, operational parking and bicycles.

The Council is proceeding with a new Local Plan. The last consultation makes clear that the car parking standards are those adopted in 2014 but that there is a review of these to be carried out. The 2014 remain the adopted standards.

The site forms part of a larger single building that contains other businesses. It sits next to an iron mongers and a 4 storey residential development on James Street. The parking for these two development comprises of one space next to the iron mongers on Wood Street and 4 spaces for the 4 storey residential development.

Attached at Appendix 1 is a screenshot taken from Google. The reason for taking a Google screenshot is to show a random photo of the area. Photos taken by objectors or developers normally will show a situation advantageous to their case. The photographs taken by the applicant in their transport statement are examples of this. They are not representative of a typical day and show the streets bereft of cars. They do not represent a typical situation and show the area without the streets being affected by cars. Anyone visiting the area in a normal day will see that they represent a false picture of what typically occurs in the area.

The photo (App 1) shows that the highway network is not capable of catering for existing businesses with the highway width being restricted due to cars and vehicles parking. It must be noted that in order to allow room enough for vehicles to go down Wood Street vehicles need to mount the pavement and park on the pavement. This is inherently dangerous to users of the pavement and restricts pavement widths forcing anyone in a wheelchair or with a pram etc to walk on the carriageway.

Appendix 2 shows a typical situation on Wood Street. Again commercial vehicles have to park on the pavement to give sufficient width to allow other vehicles to use Wood Street.

Appendix 3 shows the junction of Hacking Street and Wood Street. A business is located directly opposite the junction which is a staggered cross roads. The photo shows the location where on street car parking is being encouraged to occur as per the applicant's submitted plan of available on street parking. Vehicles are being encouraged to park and manoeuvre, carrying children who will visit the proposed venue, on a junction with vehicles approaching from the east along Wood Street being forced to travel on the wrong side of the carriageway due to other parking on Wood Street. The combination of vehicles approaching on the wrong side of the carriageway and manoeuvring to park on the junction would be inimical to highway safety.

The parking requirement of the existing use on the site, using the adopted parking standards, is 6 spaces. There is no available off street parking at the site.

The requirement for parking spaces in the adopted standards for the new development is 25.

According to the adopted parking standards there is a net increase requirement of a further 19 parking spaces.

There is a crown green bowling facility directly opposite the site. It has no off street parking with it and parking is on Wood Street and the surrounding road network.

Comments on the Transport and Planning Statement ("the TPS")

The applicant has submitted the TPS. There are some fundamental issues with this which need to be considered in the planning balance.

The statement indicates that there is a requirement for 5 further spaces. It does not however use the adopted planning standards of the Council. The standards it refers to (1.5 spaces per 2 members of staff and then 1 space per 10 children) are not those of the Council and the source is not referenced. The law requires application to be determined in accordance with the development plan which is the 2014 standards. Any deviation from that must be fully justified. There is no indication in the statement as to why alternative standards to those in the adopted standards should be used. They should be ignored as they are not justified.

The road parking plan shows 32 on street spaces available. It is inaccurate and shows parking 33% higher than is actually available. Spaces 1 and 2 are on double yellow lines. Spaces 10 and 18-22 (Appendix 4) are similarly on double yellow lines. None of these can be used for parking.

The basis for the statement is undermined by its inaccuracies and by its unsupported application of policy. This results in an underestimate of parking need by 416%. This is compounded by a 33% over estimate of available parking.

Other Issues

The applicant indicates that the development is in an accessible location and that people will travel to it by bus and train. As indicated above the parking standards set by Blackburn must have had included in them an assessment of accessibility as otherwise they would not have been compliant with the Framework. The use of the site will be for younger children. Parents will not travel with them on a train or bus as it would be far more convenient to travel by car. Again the adopted parking standards would have taken the use of alternative methods of travel into account so there should not be any reduction in the requirement for parking spaces.

The applicant indicates that there is a good level of public off street parking available. The nearest site is shown on the location plan off Valley Street. That is not a public car park and cannot be considered as one. It is privately owned and can be closed at any point.

There will be some benefits from using a B8 site and not having deliveries and despatches of commercial vehicles. This would be offset to a degree though by the servicing of food and other goods to facilitate the development.

Planning Balance

Notwithstanding the view of the applicant that there will not be parking issues associated with this development it is abundantly clear that the development will lead to a significant level of further on street parking in an area that is already under parking pressure. Existing road users have to walk in the street to avoid parked vehicles, loading and unloading is all on street and this will become worse the more haphazard the parking is in the area.

The applicant indicates that they will limit the impact but the reality is that, as with any business, they will want to maximise the use of the premises and maximise profits. That is perfectly understandable but this does not sit well with limiting on street car parking. The applicant has provided no indication of how they will discourage on street car parking. As this is a fundamental matter to the principle of development it must be considered at this stage and cannot be left for further consideration such as by a condition requiring a future travel plan.

The development will lead to a danger to users of the facility and to other road users. This will be a significant danger.

There will be benefits from the re-use of an existing disused building and economic benefits to the area.

It will not be a new use that is not already available in the Borough so will not provide a facility that is otherwise unavailable so there will be no net benefits to the leisure offer of the Borough.

In effect the planning balance revolves around the economic benefits it will have set against the impacts on highway safety.

Our submission is that the highway impacts will be severe. They will exacerbate an existing problem and make it substantially greater. There will be modest economic benefits of creating up to 6 jobs. These modest benefits would not outweigh the significant and severe problems caused by a major increase in on street parking in an area that has no available off street parking for businesses and which already suffers for a danger to users.

Yours sincerely

Neil Watson BA (Hons), MA, MRTPI

Appendix 1



Appendix 2



Appendix 3



Appendix 4



Objection – Dave Benson. Received: 16/05/2022.

Having just looked at the planning application for a new play centre on Hacking street here in Darwen I would like to raise some concerns regarding parking and the request to remove the Yellow lines surrounding this building and create 25 more parking spaces around the building .

Myself and some local colleagues have discussed this issue , firstly they are saying there will be only 60 children at any one time . ? They have proposed quite a big play area and included 4 party rooms , how can this much space only accommodate 60 children , what about all the adults who also come with the children - 4 party rooms would accommodate at least 60 people , children and adults at one

time so if customers want to go into the play centre where would they park , where could they go if the centre is already full .

My family have attended play centres with our children and attended party's , there are always at least 2 parents per child at partys plus grand parents and family members , well over 10 per party .

The request to remove existing yellow lines is extremely alarming on those roads , there is a school nearby and a health centre at the bottom. The yellow lines were put there for a reason , for safety and our children's safety . Are the children going to come out of the play centre and run out between the cars parked directly outside the building if the yellow lines are removed , this is an accident waiting to happen .

Myself and local people are very worried about this application , there are plenty of other places if they want to open a new play centre in Darwen , having said this one very nice and good one closed down last year in Darwen so why would we need another in a very poor location .

Objection – Dave Benson. Received: 23/05/2022.

Further to my email sent on the 16th May I would still like to register our worries as local residents , regarding application number 10/22/0038 for a New Play Centre .

There has been activity in their building and building work is still going on .

We read from social media (photos Enclosed) his plans are all singing all dancing for the Play Centre , sensory Rooms , 4 party rooms , function Room , toilets and Kitchen ...all for 60 people ?? This makes NO SENSE what so ever and we are under no illusion that this will NOT be the case - A business of this size would not be able to survive on such low numbers so we suggest with all respect the Numbers will never stay at 60 ..

This brings me back to my original email regarding safety and parking in this location for the customers they will need to fill all this space .

We hope local opinion is taken seriously .

Comment – Cllr Brian Taylor. Received: 02/02/2022.

I welcome this application, my only concern is parking around there.

REPORT OF THE STRATEGIC DIRECTOR

Plan No: 10/22/0419

Proposed Development: Construction and operation of a combined ground mounted solar PV array (7kW) and wind turbine (5.5kW) with a maximum tip height of 17.5m

Site Address: Knowsley Farm, Knowsley Lane, Edgworth, Bolton, BL7 0JH

Applicant: Mr Cleveland Forty

Ward: West Pennine

**Councillor Jean V Rigby
Councillor Julie H Slater
Councillor Neil Slater**



1.0 SUMMARY OF RECOMMENDATION

- 1.1 The proposed development is recommended to be granted planning permission, subject to the conditions and informative note detailed in Section 5.

2.0 KEY ISSUES/SUMMARY OF PLANNING BALANCE

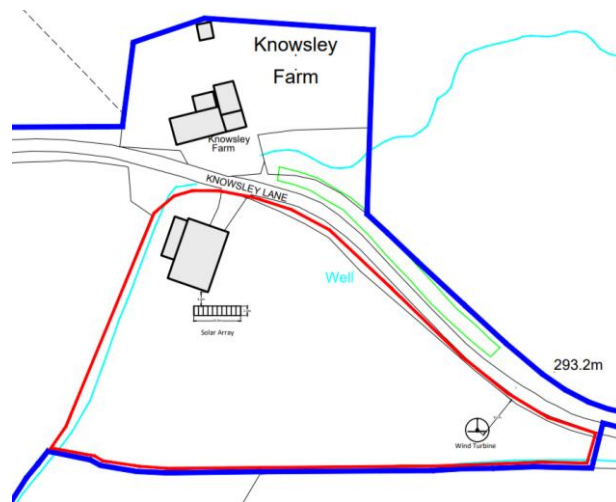
- 2.1 This application is presented to the Planning and Highways Committee, in accordance with the Council's scheme of delegation, and given that objections have been received from both North Turton Parish Council and a Ward Councillor. A number of public objections have also been received, which principally concern the potential for adverse landscape impacts to be caused. Impacts on private views, damage to the surface of Knowsley Lane, and the potential for ground disturbance have also been cited as concerns.
- 2.2 The proposed development has been publicised through letters to residents and occupants of the nearest 13 properties, initially on 17th May 2022. In addition, a site notice was displayed outside of the site, on 27th May 2022. A number of consultations have also taken place following the receipt of amended plans and information.
- 2.3 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 will deliver a combined ground mounted solar photovoltaic array and wind turbine energy generation system for domestic use.
- 2.4 On balance, the proposals 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.
- 2.5 The key issues to be addressed in determining this application are;
- Establishing the principle of development
 - Assessing impacts on landscape character
 - Safeguarding residential amenity
 - Safeguarding public safety
 - Assessing impacts on highway safety
 - Minimising potential impacts on ecological populations
 - Assessing any potential risks from former coal mining activity
 - Establishing potential impacts on hydrology and below ground conditions

3.0 RATIONALE

3.1 Site and Surroundings

3.1.1 The application site is an agricultural field located to the north of the village of Edgworth, within an allocated Countryside Area. The field comprises of circa 1 acre and slopes towards the west side down from Broadhead Road.

Figure One – Location Plan (amended)



3.1.2 Some trees intersperse the site with many lining the site boundaries. An agricultural building is positioned to the west edge with the dwelling of Knowsley Farm located on adjacent land to the north. Dwellings intersperse the adjacent countryside with the surrounding land uses being predominantly agricultural.

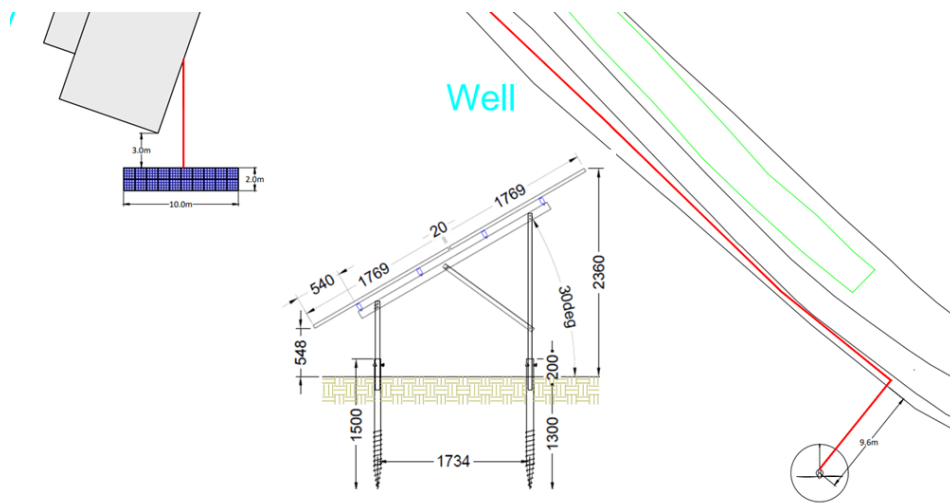
Figure Two – Satellite Image of the Site (taken 2022)



3.2 Proposed Development

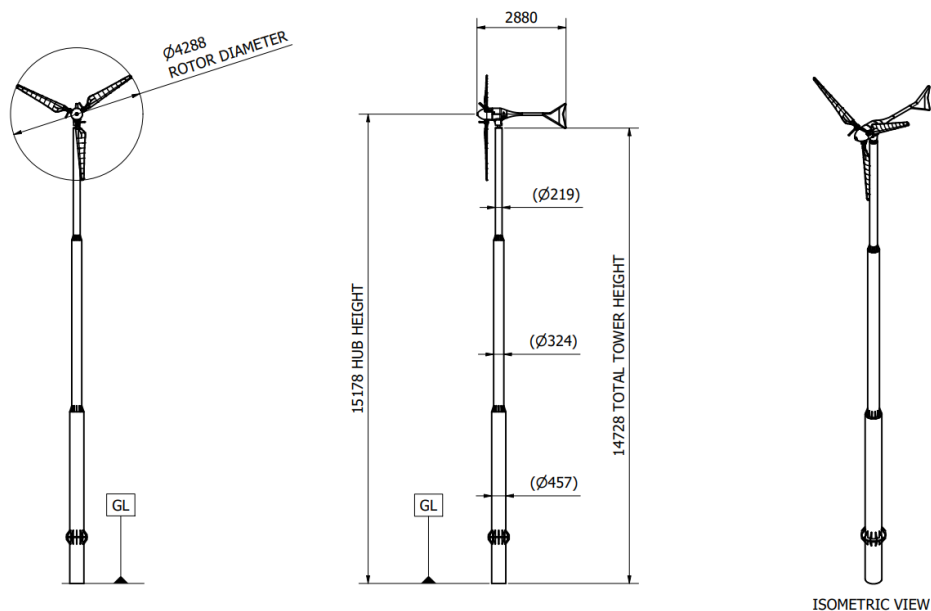
3.2.1 As detailed above, this planning application involves the installation of a combined ground mounted solar photovoltaic array (PV) and wind turbine system for the generation of electrical energy. The development description states that around 12.5 kilowatt-hours (kW) of power would be generated from the two installations, which would be utilised by the residents of Knowsley Farm.

Figure Three – Proposed Site Plan and Solar Panel Cross-Section



- 3.2.2 The proposed PV would have an area of 20 square metres with its highest point being around 2.4m from the ground. It would consist of sixteen ground mounted panels. The supporting frame would have a galvanised steel construction and would be fixed to the ground with galvanised ground anchors.
- 3.2.3 The proposed turbine would have a vertical axis construction. It would have a tip height of 17.5m with the turbine body being supported 15.2m above the ground by a galvanised steel monopole. Underground cabling would be used to link the PV and turbine with an electrical distribution board at Knowsley Farm.

Figure Four – Technical Plans of Proposed Windturbine



3.3 Case Officer Site Photos



3.4 Development Plan

3.4.1 Local Plan Part 2 (adopted December 2015):

- Policy 5: Countryside Areas
- 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 36: Climate Change
- Policy 37: Wind Turbines
- Policy 41: Landscape

4.0 **ASSESSMENT**

4.1 Principle of Development

4.1.1 As detailed above, the proposals would involve the installation of a micro energy generation system for the benefit of a private dwelling. Policy 5 does not specifically allow for the development of sustainable energy infrastructure within allocated Countryside Areas. That said, wider policy support is provided for such forms of development within the Local Plan.

4.1.2 Policy 36 allows for the development of small-scale renewable or sustainable energy schemes, including solar and wind energy. The proposals would allow the carbon footprint of the dwelling to be reduced, thereby contributing towards the aspirations of that policy.

4.1.3 Policy 37 specifically regards the development of wind turbines. The majority of the relevant requirements of that policy are covered in subsequent sections of this report. One of the relevant requirements states that following neighbour

consultations, it must be demonstrated that the planning impacts identified by affected local communities have been fully addressed, thereby securing their backing. As detailed above, a number of objections have been raised to the development and the proposals arguably do not entirely have the backing of the local community.

- 4.1.4 However, Policy 37 goes on to add that where a conflict exists with one or more of the criteria, and this cannot be eliminated through mitigation measures, the Council should consider whether the environmental benefits of the renewable energy generation potentially realisable through the development outweigh the harm caused. Such an outcome is applicable for these proposals for the aforementioned reasons.
- 4.1.5 There is a global drive to reduce the reliance on fossil fuels and cut carbon emissions more generally and proposals such as these should be supported provided no unacceptable wider impacts are applicable, which are covered in a greater level of detail below. The submitted Supporting Statement also contains a decommissioning schedule and it is expected that the installations would be in place for around 30 years, which is relatively standard for installations of the proposed type. The principle of development is therefore acceptable, in accordance with Policies 36 and 37.
- 4.1.6 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 Landscape Character

- 4.2.1 The site is positioned on sloping land within an open valley landscape. In general terms, Policy 11 requires all development proposals to represent a good standard of design through demonstrating an understanding of the site's wider context. Policy 41 states that development will be permitted provided there is no unacceptable impact on landscape character or the principal traits associated with it. Moreover, Policy 37 requires proposals for wind turbines to have no unacceptable adverse visual impact and not unacceptably undermine the character of the surrounding landscape. Concerns have been raised in consultee and public comments on design and landscape character grounds.
- 4.2.2 The proposed PV would not cause any harmful visual impacts owing to its low-profile nature. Large commercial turbines have the propensity to form extremely prominent features within the surrounding landscape. The design of this turbine is somewhat different however and it involves the installation of a modestly scaled turbine atop a tall pole. At up to 17.5m in height, it is acknowledged that the proposed turbine would be visible within the surrounding landscape. That said, tall structures such as telegraph poles are already found in abundance locally with much taller structures such as pylons and masts interspersing the wider landscape.

4.2.3 When those landscape traits are considered alongside the slim-line design of the turbine, the proposals would not cause any adverse visual impacts nor would they unacceptably undermine the character of the surrounding landscape or conflict with the principal traits associated with it. The proposed development is therefore acceptable with reference to design and landscape character, in compliance with Policies 11 and 41 together with the relevant requirements of Policy 37.

4.3 Residential Amenity

4.3.1 As detailed above, isolated dwellings intersperse the surrounding countryside and safeguarding the amenities of those neighbours is an important planning consideration. Policy 8 states that all development proposals must secure a satisfactory level of amenity and safety for surrounding uses, with reference to noise, light, pollution, nuisances, and the general relationship between buildings. Moreover, Policy 37 requires proposals for wind turbines to have no unacceptable adverse impact on the amenity of neighbouring occupiers and not give rise to unacceptable nuisance from noise, shadow flicker, reflected light or other associated effects.

4.3.2 It should be initially noted that specific concerns have been raised in public comments regarding the potential for private views to be adversely effected. Losses of private views are not material planning considerations and there would be no losses of public views to the extent that would lead to the conclusion that this application should be refused, as appraised above in Section 4.2.

4.3.3 The proposed PV would not cause any harmful residential amenity impacts owing to its low-profile nature. The closest neighbouring residential property is at the Toby Inn, which is circa 115m away from the proposed turbine. Potential residential amenity impacts have been appraised at length within the submitted Supporting Statement. BwD Public Protection have reviewed the merits of the submission and no objections have been raised.

4.3.4 Two conditions have been advised in order to mitigate any potential impacts for neighbours in the way of noise pollution and shadow flicker, which are recommended to be added. The relatively modest scale of the proposed turbine would also assist with those arrangements. Subject to compliance with the recommended conditions, the proposed development would be acceptable with reference to residential amenity, in accordance with the relevant requirements of Policies 8 and 37.

4.4 Public Safety

4.4.1 Any potential impacts on public safety must be appraised for all turbine developments given their height. Further requirements within Policy 8 state that all development proposals must secure a satisfactory level of safety for surrounding uses. Moreover, Policy 37 requires proposals for wind turbines to not interfere with telecommunications paths or air traffic services, including those associated with the military.

4.4.2 The amended position of the proposed turbine would not interfere with telecommunications paths. Moreover, the relevant public safety authorities have reviewed the merits of the application and no objections have been raised on those grounds. The proposed development is therefore acceptable with reference to public safety, in accordance with the relevant requirements of Policies 8 and 37.

4.5 Highway Safety

4.5.1 The site is accessed off Knowsley Lane, which is a privately maintained highway. Policy 10 requires all development proposals to not prejudice road safety, or the safe, efficient and convenient movement of all highways users. Moreover, Policy 37 requires proposals for wind turbines to not create a potential hazard to the public using highways, footpaths, bridleways or other public rights of way.

4.5.2 It should be initially noted that specific concerns have been raised in public comments regarding the potential for construction works to damage the surface of Knowsley Lane. The upkeep of private roads is controlled by non-planning legislation and any potential disputes in that respect would be civil matters that should be resolved outside of the planning process.

4.5.3 The proposed PV would not cause any harmful highway safety impacts owing to its low-profile nature. As detailed above, amended plans have been submitted during the course of the application and the proposed turbine would now be positioned further away from Knowsley Lane, at 9.6m. The distances involved would remove the potential for harmful safety impacts to be caused for motorists and pedestrians navigating that highway.

4.5.4 Moreover, no obstructions would be caused for Knowsley Lane, which is an allocated public footpath. As proposed, the development is thus acceptable with reference to highway safety, in accordance with Policy 10 together with the relevant requirements of Policy 37.

4.6 Ecological Considerations

4.6.1 The site is currently undeveloped agricultural land, which partly interspersed by trees of varying ages and species. In addition, areas of the West Pennine Moors Site of Special Scientific Interest (SSSI) are found to both the east and west. Policy 9 states that development will only be permitted where, following implementation of any required mitigation, there is no unacceptable impact on environmental assets or interests, including habitats and species. Moreover, Policy 37 requires proposals for wind turbines to not cause an unacceptable adverse impact on a protected habitat or other features of ecological importance.

4.6.2 A Preliminary Ecological Appraisal has been submitted in support of the application. Those matters have also been appraised as part of the submitted Supporting Statement. Both the BwD Ecological Advisor and Natural England has reviewed the merits of the submitted information and the proposals as a

whole. The proposed PV would not cause any harmful ecological impacts owing to its limited scale.

4.6.3 Some initial concerns were raised by the BwD Ecological Advisor given the proximity of the proposed turbine in relation to trees on the boundary with Knowsley Lane, which may have caused conflict with species of flight. As detailed above, amended plans have been submitted during the course of the application and the turbine would now be positioned further away from boundary trees, thereby adequately addressing those initial concerns. No objections have been raised by Natural England following a review of the submitted Preliminary Ecological Appraisal.

4.6.4 A number of conditions have been advised by those consultees in order to minimise potential risks to nesting birds and local ecology and to ensure ecological enhancement measures are provided in support of the development, which are recommended to be added. Subject to compliance with those conditions, the proposed development would be acceptable with reference to ecological considerations, in accordance with Policy 9 together with the relevant requirements of Policy 37.

4.7 Coal Mining

4.7.1 The site is positioned within a High Risk Area for former coal mining activity. Further requirements within 8 state that in the case of potentially unstable land, a land remediation scheme must be secured in order to provide a safe environment for site users. The Coal Authority have reviewed the merits of the application and no objections have been raised.

4.7.2 A specific Informative Note has been recommended that should be added to any approvals issued. Subject to those obligations being followed at the Building Regulations stage (where relevant), the proposed development would be acceptable with reference to coal mining, in accordance with the remaining requirements of Policy 8.

4.8 Hydrology and Below Ground Conditions

4.8.1 Owing to the height of the proposed turbine, any required foundations may potentially be significant in scale. Further requirements within Policy 37 state that proposals for wind turbines must ensure that no unacceptable impact on local hydrology or other below ground conditions are caused, including safeguarded mineral resources. Concerns have been raised in public comments given a lack of submitted details regarding the required foundations and the potential for ground instabilities to be caused.

4.8.2 It should be initially noted that the proposals would occupy a small area of land and the extraction of minerals from the site would be unviable. The close proximity of dwellings provides further significant constraints in that respect alongside the potential for former coal mining workings to run beneath the site. No further assessments are therefore required in that respect.

4.8.3 In relation to the required foundations, those matters have been partly appraised within the submitted Supporting Statement. Such matters can only realistically be finalised once the relevant geotechnical investigations have been undertaken. It is likely that those costly surveys would be commissioned by the Applicant once an approval has been secured. Given the limited scale of the proposed turbine, it would be unreasonable to expect such information to be submitted ahead of the determination given the costs involved.

4.8.4 That said, a review of those details is necessary with these proposals in order to ensure that their construction would not cause any unforeseen harmful environmental impacts. A condition is therefore recommended in order to control those details. Subject to compliance with that condition, the proposed development would be acceptable with reference to hydrology and below ground conditions, in accordance with the remaining requirements of Policy 37.

4.9 Summary

4.9.1 This application involves the construction and operation of a combined ground mounted solar PV array and wind turbine system. Subject to appropriate conditions, the proposed development would be acceptable on all the relevant planning grounds, in accordance with the policies detailed in Section 3.4.

4.9.2 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 with reference to design and landscape character, residential amenity, public safety, highway safety, ecological considerations, coal mining, and hydrology and below ground conditions.

4.9.3 The proposed 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:**

5.1 **Delegated authority is given to the Strategic Director of Place to approve planning permission, subject to the following conditions and informative notes;**

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 (EW/21/01 – Revision C),

Proposed Site Plan (EW/21/02 – Revision B), Proposed Wind Turbine Plans and Proposed Ground Mounted Solar Array.

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 submitted application form and approved drawings and those materials shall not be varied without the prior written consent of the Local Planning Authority.

REASON: Those materials are acceptable for this 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. No development shall commence on site unless and until, a detailed landscaping and ecological enhancements scheme has first been submitted to and approved in writing by the Local Planning Authority. The scheme shall include but not be exclusively limited to the following;
 - a) Details of proposals for supplementary landscaping around the development, and;
 - b) Details indicating the location, arrangement, species, sizes, specifications, numbers, and planting densities of all new planting;

The approved scheme shall be implemented in its entirety following the development hereby approved being substantially completed. 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: In order to provide supplementary landscaping and ecological enhancement measures in support of the development, in the interests of visual amenity, landscape character and local ecology, and to comply with the requirements of Policies 9, 11 and 41 of the Blackburn with Darwen Borough Council Local Plan Part 2, Site Allocations and Development Management Policies (Adopted 2015).

5. With the exception of Knowsley Farm, any noise emissions generated by the development hereby shall not give rise to noise levels at neighbouring residential premises which exceed 35 dB LA90, 10min at wind speeds of up to 10 m/s, and the turbine noise at all neighbouring residential properties must not have a tonal character.

REASON: In order to prevent adverse noise pollution for neighbours, in the interests of residential amenity, and to comply with the requirements of Policy 8 of the Blackburn with Darwen Borough Council Local Plan Part 2, Site Allocations and Development Management Policies (Adopted 2015).

6. With the exception of Knowsley Farm, the development hereby approved shall not give rise to shadow flicker at any neighbouring dwelling.

REASON: In order to prevent shadow flicker for neighbours, in the interests of residential amenity, and to comply with the requirements of Policy 8 of the Blackburn with Darwen Borough Council Local Plan Part 2, Site Allocations and Development Management Policies (Adopted 2015).

7. Where relevant, no works in support of the development hereby approved to clear trees or shrubs shall occur between the 1st March and 31st August in any year unless a detailed bird nest survey produced by a suitably experienced ecologist has been carried out immediately prior to clearance works. In addition, written confirmation confirming that no active bird nests are present shall have been submitted to and approved in writing by the Local Planning Authority prior to the commencement of any such works.

REASON: In order to minimise disturbance for nesting bird populations during the construction phase, in the interests of local ecology, and to comply with the requirements of Policy 9 of the Blackburn with Darwen Borough Council Local Plan Part 2, Site Allocations and Development Management Policies (Adopted 2015).

8. The development hereby approved shall be implemented in strict accordance with all of the recommendations and measures of ecological mitigation detailed in the submitted Preliminary Ecological Appraisal, prepared by Taxus Ecology, and dated April 2022.

REASON: In order to minimise the developments impacts on local wildlife populations, in the interests of maintaining the ecological value of the site, and to comply with the requirements of Policy 9 of the Blackburn with Darwen Borough Council Local Plan Part 2, Site Allocations and Development Management Policies (Adopted 2015).

9. No development shall commence on site unless and until, detailed plans showing the required foundations for the wind turbine hereby approved, together with any relevant geotechnical investigations, have been submitted to and approved in writing by the Local Planning Authority. The development shall thereafter be implemented in strict accordance with the agreed details.

REASON: In order to agree the required extent of foundations works, in the interests of preventing adverse impacts on hydrology and below ground conditions, and to comply with the requirements of Policy 37 of the Blackburn with Darwen Borough Council Local Plan Part 2, Site Allocations and Development Management Policies (Adopted 2015).

Case Specific Informative Note

1. The proposed development lies within an area that has been defined by the Coal Authority as containing potential hazards arising from former coal mining activity at the surface or shallow depth. These hazards can include: mine entries (shafts and

adits); shallow coal workings; geological features (fissures and breaklines); mine gas and former surface mining sites. Although such hazards are seldom readily visible, they can often be present and problems can occur in the future, particularly as a result of new development taking place.

It is recommended that information outlining how former mining activities may affect the proposed development, along with any mitigation measures required (for example the need for gas protection measures within the foundations), is submitted alongside any subsequent application for Building Regulations approval (where relevant)

Any form of development over or within the influencing distance of a mine entry can be dangerous and raises significant land stability and public safety risks. As a general precautionary principle, the Coal Authority considers that the building over or within the influencing distance of a mine entry should be avoided. In exceptional circumstance where this is unavoidable, expert advice must be sought to ensure that a suitable engineering design which takes into account all the relevant safety and environmental risk factors, including mine gas and mine-water. Your attention is drawn to the Coal Authority Policy in relation to new development and mine entries available at: www.gov.uk/government/publications/building-on-or-within-the-influencing-distance-of-mine-entries

Any intrusive activities which disturb or enter any coal seams, coal mine workings or coal mine entries (shafts and adits) requires a Coal Authority Permit. Such activities could include site investigation boreholes, excavations for foundations, piling activities, other ground works and any subsequent treatment of coal mine workings and coal mine entries for ground stability purposes. Failure to obtain a Coal Authority Permit for such activities is trespass, with the potential for court action.

If any coal mining features are unexpectedly encountered during development, this should be reported immediately to the Coal Authority on 0345 762 6848. Further information is available on the Coal Authority website at: www.gov.uk/government/organisations/the-coal-authority

6.0 PLANNING HISTORY

6.1 No relevant planning history.

7.0 CONSULTATIONS

7.1 BwD Public Protection – Should this application be approved, the following conditions are recommended to be imposed if planning permission is granted;

(Noise Condition) The approved wind turbine shall not give rise to noise levels at residential premises and the Toby Inn which exceed 35 dB LA90, 10min at wind speeds of up to 10 m/s, and the turbine noise at these premises will not have a tonal character.

(Shadow Flicker) The wind turbine hereby approved shall not give rise to shadow flicker at the Toby Inn or any dwelling, with the exception of Knowsley Farm.

7.2 BwD Ecological Advisor – The potential ecological issues include bats and birds.

7.3 (Bats) Bats are known to collide with windturbines and normally we would request a bat activity survey to ensure the turbine was not located in a high risk location for commuting and foraging bats. In this instance the development is a small single turbine in an area assessed less than 2 years ago for bats as part of an adjacent application. This found the building to be negligible risk and to be located in a low risk area for foraging and commuting. In terms of risk to bats the overall risk would therefore be low (single small turbine a low risk location).

The turbine does however appear to be located adjacent to a couple of trees that could attract bats. To reduce the risk further it would be better located away from any trees or linear landscape features that could be utilised for bats. I therefore recommend either relocation of the turbine away from any landscape features that could attract or act as flight paths for bats or carry out bat activity surveys at the location proposed to demonstrate negligible to very low bat activity.

(Nesting Birds) It is unclear whether the windturbine or cable laying will require removal of trees or shrub, potential bird nesting habitat. I therefore recommend as a precaution a condition along the following lines – No works to trees or shrubs shall occur between the 1st March and 31st August in any year unless a detailed bird nest survey by a suitably experienced ecologist has been carried out immediately prior to clearance and written confirmation provided that no active bird nests are present which has been agreed in writing by the LPA.

(Contributing to and Enhancing the Natural Environment) Section 174 of the NPPF 2021 states that the planning policies and decisions should contribute to and enhance the natural and local environment. The habitat losses for the turbine and solar array are small. Mitigation should however be provided for any loss of trees, shrubs and associated bird nesting habitat. The details can be conditioned.

(Update) I acknowledge the relocation of the turbine away from the copse in to the body of the field. I now have no further issues regarding bats, which given the scale of the turbine and location is very low risk. The previous recommendations regarding nesting birds and mitigation/enhancement measures still apply.

7.4 BwD PROW Officer – Knowsley lane is a public footpath, being footpath 91 Edgworth. Looking at the location provided the turbine appears to be adjacent to the Public right of way however it doesn't directly affect it as it is only a footpath and not a bridleway. If the right of way is to be used for access to install the turbine and the surface needs to be changed to allow this, prior approval for a change of surface needs to be sought from the Highway authority before

any work commences. If there is any risk to the public using the right of way during site preparation and installation the applicant will need to apply for a temporary closure of the footpath prior to any work commencing.

7.5 North Turton Parish Council – We strongly object to application 10/22/0419 for the construction and operation of combined ground mounted solar PV array (7Kw) and wind turbine (5.5Kw) with maximum height of 17.5m at Knowsley Farm, Knowsley Lane, Turton, on the grounds that they will have an intrusive visual impact on the openness of the Green Belt and the nearby SSSI, and would be of detriment to public visual amenity.

7.6 Natural England – As submitted, the application could have potential significant effects on West Pennine Moors Site of Special Scientific Interest (SSSI). Natural England requires further information in order to determine the significance of these impacts and the scope for mitigation. The following information is required: • An Impact Assessment which considers bird species and populations which form part of the SSSI.

(Update) Based on the information submitted, Natural England considers that the proposed development will not have significant adverse impacts on designated sites and has no objection. Natural England's further advice on designated sites/landscapes and advice on other natural environment issues is set out below.

West Pennine Moors Site of Special Scientific Interest Based on the plans submitted, Natural England considers that the proposed development will not damage or destroy the interest features for which the site has been notified and has no objection. Natural England would welcome mitigation measures such as those listed within Paragraph 6.1.4 and those to address the potential displacement of nearby lapwing, including avoidance of sensitive timings. Other Advice

7.7 Coal Authority – The proposed development lies within an area that has been defined by the Coal Authority as containing potential hazards arising from former coal mining activity at the surface or shallow depth. These hazards can include: mine entries (shafts and adits); shallow coal workings; geological features (fissures and break lines); mine gas and former surface mining sites. Although such hazards are seldom readily visible, they can often be present and problems can occur in the future, particularly as a result of new development taking place.

It is recommended that information outlining how former mining activities may affect the proposed development, along with any mitigation measures required (for example the need for gas protection measures within the foundations), is submitted alongside any subsequent application for Building Regulations approval (if relevant).

7.8 Ward Cllrs – I wish to object to application 10/22/0419 – mostly the proposal for a wind turbine, on the following grounds: In my opinion the wind turbine would be a detriment to the public visual amenity alongside landscape character also

the location would have a significant impact on the green belt adjacent with long views to the SSSI landscape.

7.9 Health and Safety Executive – No objections.

7.10 NERL Safeguarding (Aviation) – No objections.

7.11 Ministry of Defence – No objections.

7.12 Summary of Public Responses

- The development would appear incongruous
- Adverse landscape impacts may be caused by the windturbine
- Private views may be adversely effected
- Structural damage to Knowsley Lane may be caused
- No details of the foundations have been submitted
- The proposals may cause ground disturbance and impacts on hydrology

8.0 CONTACT OFFICER: Christian Barton – Planning Officer

9.0 DATE PREPARED: 04th August 2022

10.0 SUMMARY OF REPRESENTATIONS

Objection – Cllr Jean Rigby. Received: 09/06/2022.

I wish to object to the following planning application: 10/22/0419 mostly the proposal for a wind turbine, on the following grounds: In my opinion the wind turbine would be a detriment to the public visual amenity alongside landscape character also the location would have a significant impact on the green belt adjacent with long views to the SSSI landscape.

Objection – Norma Syddall & Mrs Irma Syddall, Lower Giles, Knowsley Lane, Turton. Received: 26/05/2022.

Dear Mr Barton

Following our telephone conversation on 18/5/22, I have now been able to access the plans and supporting documents for the above application.

I am writing to register my serious concerns regarding the proposed wind turbine. Our home is at the bottom of Knowsley Lane - downhill to the west of the proposed location of the turbine. As I explained in our conversation I am deeply worried about the ground disturbance.

We have lived here for 55 years and over that time have experienced many occasions where any digging - sometimes even to a shallow level - has resulted in the contamination of our seepage well with soil and silt. We have also had fecal contamination, which we referred to The Environment Agency and Blackburn Council. This was subsequently resolved when our neighbour kindly relocated his sewage plant waste pipe.

I have been advised by Waterline Environmental Ltd (who maintains our water system) that the cause of any contamination is the high clay level in this area, which carries this contaminated water into our well when the water table/aquifer is disturbed.

Our well is our only source of water as there is no mains water provided in Knowsley Lane.

Looking at the size of the turbine - 17.5 metres to the tip - the supporting statement refers to a "small" concrete foundation. No details are yet available as :-

"the final foundation design will depend on the results of pre-construction geotechnical investigations at the turbine location. These investigations will provide confirmation of the suitability of ground conditions for the intended foundations and allow for the preparation of a detailed foundation design."

So I understand from this that there may be multiple test digs until suitable ground conditions have been identified. Given the size of the turbine I can't imagine that a "small" concrete base would be adequate to stabilize a structure of this height - supporting rotating blades of 4.3 metres in diameter. As you will already be aware - we regularly experience extremely high winds (according to The MET Office occasionally 60/80 mph) here on the West Pennine Moors.

In addition, I note that the "15 metres tall steel monopole" would be transported to the proposed location down Knowsley Lane. Knowsley Lane is a private lane maintained by the 5 properties situated here. Although the supporting document states that there would be minimal disruption we would need to have a **realistic** assessment of what possible damage to our lane might be caused should the pole be transported by this route.

I will be asking for a written guarantee that, should any contamination of our well occur during the digging operations, or any damage to Knowsley Lane happen - the cost of rectifying the situation will be borne by the applicants.

As we were not included in your list of neighbours to be consulted, I would be grateful if you would add Lower Giles to your list of neighbour consultations. This would keep us informed of any future changes or additional information if or when it becomes available.

We have no objections to the solar panels but would ask you to take our real concerns regarding the wind turbine into consideration when determining this application.

Objection - Jackie Lloyd, Fox's Lair, Top O'th' Lane Farm, Broadhead Road, Edgworth. Received: 27/05/2022.

I am writing to lodge an objection to the location of the proposed wind turbine which will cause a significant visual obstruction in an area of outstanding natural beauty. It's proposed location will be highly intrusive to the whole environment and will be visible from many miles around and from almost every direction. A ground mounted solar panel on the other hand would be less intrusive and prominent, for not only the immediate neighbours and surrounding home owners, but also for visitors to the area who walk and visit for the area's natural beauty and environmental interest. Of particular note is the proximity of the proposed erection site to my adjoining land and property, and therefore the risk it poses to my horses who will be grazing next to and in the shadow of, the proposed turbine. They will be at significant risk of harm and injury due to the movement and sound of the turbine immediately next to them, which will in essence appear to them to actually be in their grazing paddock as it is so close and borders the fence line perimeter of my grazing land. It may in fact render their grazing paddock unusable.

In conclusion, the siting of a turbine in the proposed location would be damaging to the environment, harmful to wildlife and residing equines, obtrusive to visitors to the area and detrimental to the visual beauty for residents who live in the area. There is of course the likelihood of the proposed turbine posing a threat to several property values in the area too. The proposal is likely to cause more harm and damage to the area overall than it adds benefit to the individual. The overall preservation of the area's natural beauty with it's environmental and scientific interest should be protected for the future, especially given the relatively small benefit to the individual that the proposed erection would bring. Whilst ground mounted solar panels still bring some potential environmental risk and damage, they are at the very least a little less visually intrusive.

Please would you acknowledge receipt of this e mail and lodged objection.

Objection – Terry Kakoullis, The Toby Inn, Broadhead Road, Edgworth. Received: 13/06/2022.

I write in relation to planning application number 10/22/0419.

The proposed (17.5m) wind turbine is in the direct line of sight from our conservatory, bedroom and living room. The conservatory is downstairs in our restaurant and is our main dining area – customers specifically request to sit in there so they can enjoy the uninterrupted views over Broadhead Valley. Our business and wider industry has been severely affected by Covid, and we are no where near back to full strength. The location of this turbine would have a further devastating effect, of this I am certain.

I also live on the premises and the turbine seems to be very close to our building. I am concerned about this on a personal level in addition to the points made above and the further impact it will on me. Whilst I am no expert, my understanding is this a turbine needs to be located the turbine's height plus a minimum of 10% away from the boundary of a property. Our boundary includes the car park on the other side of the road, opposite our building. I am quite certain that the location proposed for the turbine does not meet this criteria and is in fact too close.

I strongly object to this application and I look forward to hearing from you in response. If you would like to discuss further, I am contactable on 07710025932 and 01204 852276, or via this email address.

REPORT OF THE STRATEGIC DIRECTOR

Plan No: 10/22/0430

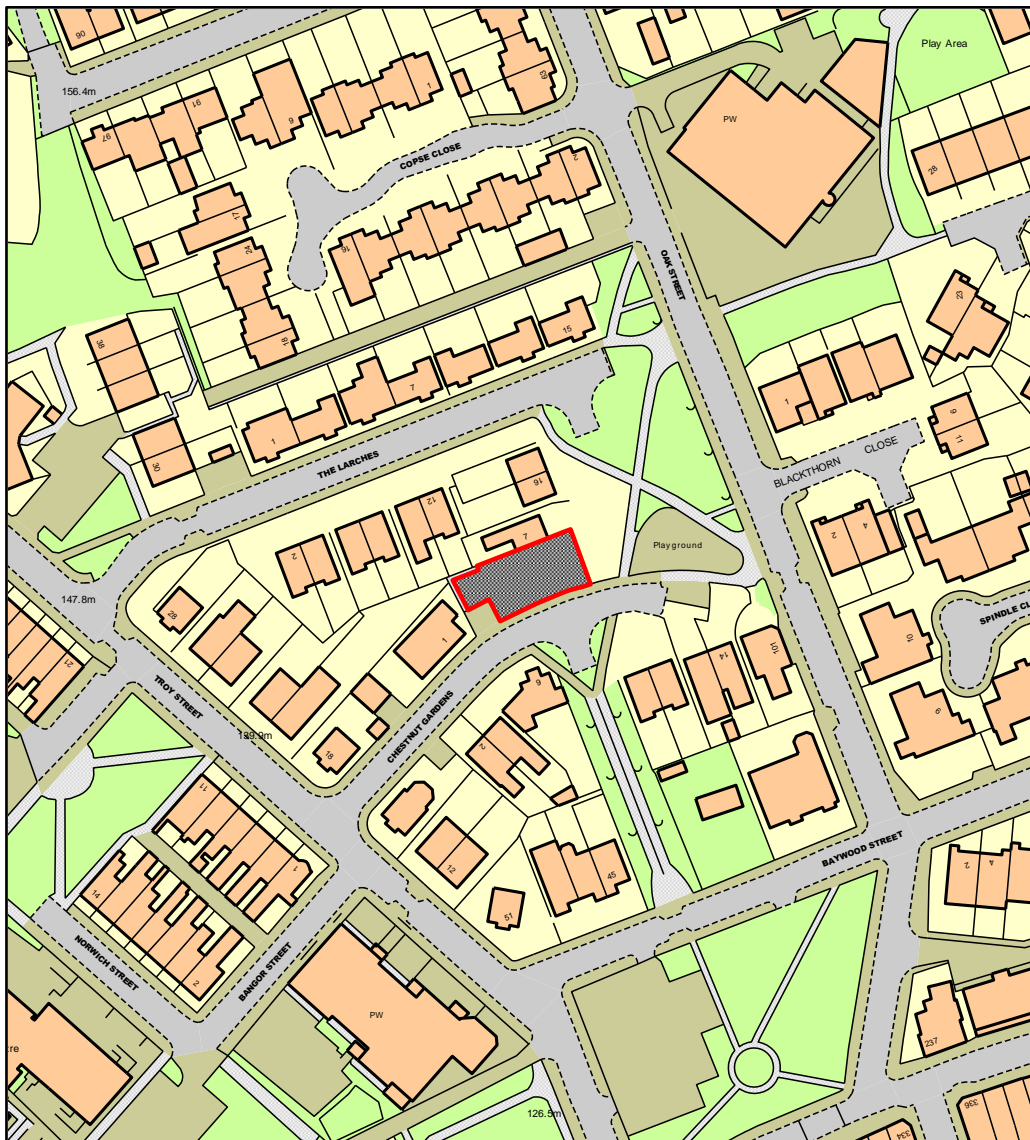
Proposed development: Full Planning Application for Extension to rear single storey and erection of a front porch. Alteration to rear garden levels and replacement party and side/rear boundary wall (retrospective)

Site address: 5 Chestnut Gardens, Blackburn, BB1 6PS

Applicant: Mr Majid Anwar

Ward: Bastwell & Daisyfield

**Councillor: Parwaiz Akhtar
Councillor: Iftakhar Hussain
Councillor: Shaukat Hussain**



1.0 SUMMARY OF RECOMMENDATION

1.1 APPROVE – Subject to conditions detailed in Section 5.

2.0 KEY ISSUES/SUMMARY OF PLANNING BALANCE

2.1 This planning application is presented to Committee in accordance with the Chair Referral process of the Scheme of Delegation of the Council's Constitution, in which the application has received a high number of objections from local residents and the works are retrospective. Members will recall that the application was deferred at the last meeting in July, as it became apparent that the application site edged in red did not correspond with the Land Registry Title Plan, and therefore procedurally, the correct notices had not been served under Certificate B in accordance with Article 14 of the Town and Country Planning (Development Management Procedure) England Order 2015. The correct notice was served on Gleeson Homes on the 19th July 2022. In addition, the site location plan was amended to reflect the title plan (see below), and a reconsultation with the neighbouring properties has been undertaken.



Revised site location plan received 19th July 2022.

Land registry title plan relating to No.5 (LA857719).

2.2 After a site visit on the 17th May, it was acknowledged that the applicant had commenced with works by way of land level changes and erecting boundary treatment retrospective works. The applicant was advised by the Council's Planning Enforcement Officer to stop any on-going works and that any further works, which proceeded, would be done at their risk.

2.3 The key issues in the assessment of the application are the impact of the development on residential amenity of the adjoining properties, together with the design/visual amenity impact on the host property and the immediate surroundings. In arriving at the recommendation, all material matters have been considered, in the context of relevant Development Plan policies and The National Planning Policy Framework (NPPF), as set out in the Assessment section of the report.

3.0 RATIONALE

3.1 Site and Surroundings

3.1.1 The application site relates to a semi-detached property located to the north of the residential cul-de-sac Chestnut Gardens, within the Blackburn Inner Urban Area. The gable elevation of the property faces the road. The host dwelling benefits from a generous sized rear garden area and has an off-street parking area to the side which can accommodate up to two vehicles.

3.1.2 Chestnut Gardens is reached off Troy Street near its junction with Whalley Range. The cul-de-sac is characterised by varying red brick house types differing in sizes and styles – refer to the google image below.



Figure 1: Google aerial view of the application site

3.2 Proposed Development

3.2.1 The proposal is for a householder planning permission for the erection of a rear single storey extension and erection of a front porch. Planning permission is further sought for alterations to the rear garden levels and replacement of party/side and rear boundary walls.

3.2.2 As previously noted, the works have commenced for the alterations to the rear garden levels and the replacement of party/side and rear boundary walls. The application is therefore part-retrospective. The proposed single storey extension will measure a further 0.5m off of the existing single storey extension to take the full projection to 6m and will measure 2.9m wide. The proposed front porch will project 1.65m off of the front elevation and measure 2.5m in width.

Height to the ridge will be 3.5m. The boundary wall which faces onto the highway of Chestnut Gardens measures 2.4m in height. The wall which acts as a boundary wall between No.5 and No.7 Chestnut Gardens measures 2.3m in height.

3.2.3 The proposed first and second floor plan, as well as the proposed elevations are shown below:

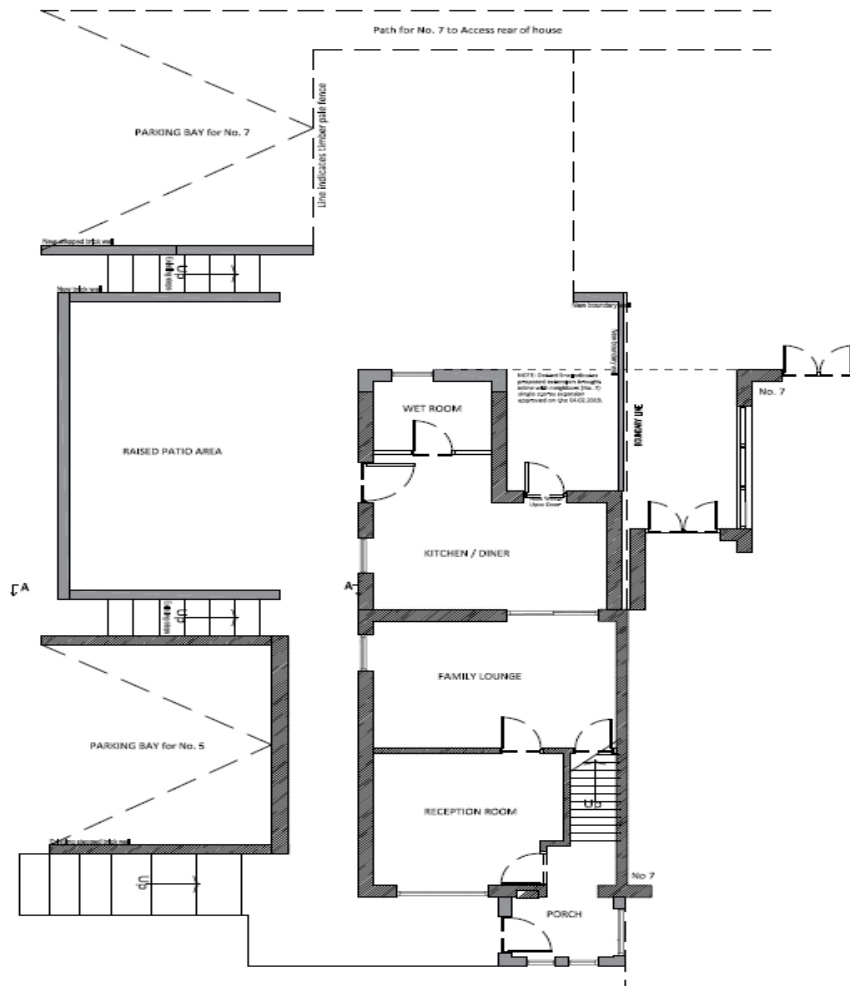
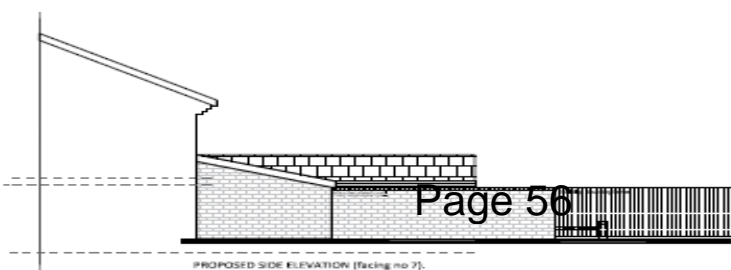
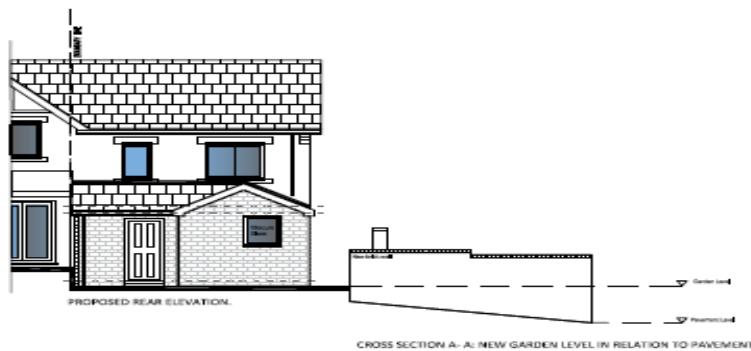


Figure 2: Proposed Plan



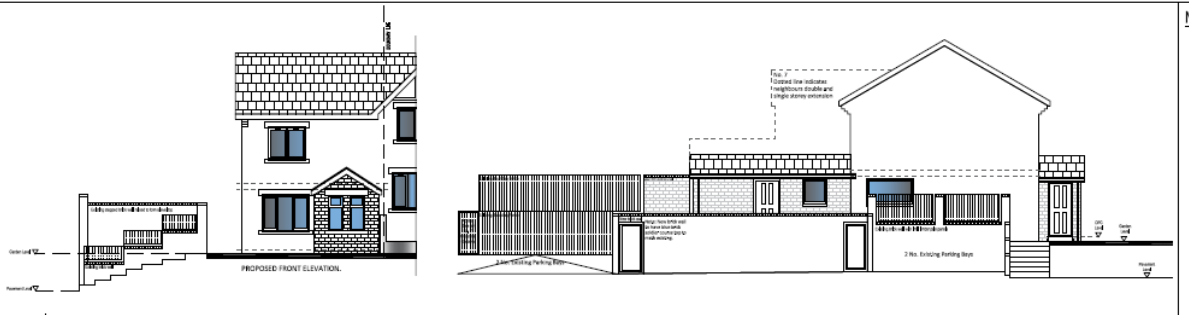


Figure 2: Proposed Elevations

3.3 Case Officer Photos



3.4 Development Plan

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

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

- Policy 8: Development and People

- Policy 11: Design

3.4.3 Residential Design Guide Supplementary Planning Document Revised Edition (September 2012)

- RES E1: Materials
- RES E2: 45 Degree Rule
- RES E6: Boundary Treatments
- RES E7: Rear Extensions
- RES E16: Porches

3.5 Other Material Planning Considerations

3.5.1 National Planning Policy Framework (NPPF)

4.0 ASSESSMENT

Residential Amenity

- 4.1.1 Local Plan Part 2, Policy 8 ii) requires new development to “*secure a satisfactory level of amenity and safety for surrounding uses and for occupants or users of the development itself*”, with reference to noise, vibration, odour, light, dust or other pollution or nuisance, privacy/overlooking, and the relationship between buildings.
- 4.1.2 The original porch proposed measured a depth of 2.3m by 2.7m in width with a ridge height of circa 3.4m. In close proximity to the siting of the proposed porch is a ground floor lounge window at No.7 Chestnut Gardens. It was considered during the application process that the scale and massing of the porch as initially proposed would result in a dominant and overbearing addition resulting in a loss of light to this aforementioned window at the neighbouring property. As such, amendments have been sought for a reduction in the size of the porch. The revised porch will project 1.65m beyond the front elevation of the dwelling and measure 2.5m wide. The smaller porch safeguards neighbouring amenity.
- 4.1.3 It should also be noted as a fall-back position the porch only exceeds Part 1, Class D permitted development parameters by 400mm when measuring the overall height and circa 1.1sqm in external floor area.
- 4.1.4 In regards to the rear extension, a larger homes householder notification application was submitted under planning ref. 10/21/0414 “*Erection of single storey extension to rear from original rear wall – 5.5m from rear wall maximum height 3.4m, height to eaves 2.4m*”. As no objections were received from the adjoining neighbouring properties (Nos 1 and 7 Chestnut Gardens) during the application consultation process, the prior approval of the Local Planning Authority was not required, and this was confirmed on the 21st May 2021. The

rear extension as granted under ref. 10/21/0414, projected 3m along the shared boundary with No.7 and then stepped up to 5.5m at circa 2.4m wide.

- 4.1.5 This current application largely comprises of the same rear extension, albeit the proposal seeks an additional 500mm depth of the 5.5m aspect thus resulting in part of the rear extension projecting 6m beyond the existing rear elevation.
- 4.1.6 Policy 8 requires an assessment in to issues including loss of light and dominance. The principle tool for appraising these impacts is the 45 degree rule, as set out within policy RES E2 of the adopted residential design guide. The proposal rear extension is noted as marginally failing this assessment in relation to the patio doors within no.5's own rear extension. However, mitigation for this shortfall is provided by the fact the affected patio door windows serve a room that has multiple other light sources unaffected by the proposal. As such, the overall impact upon the neighbouring property is reduced. Additional mitigation is also provided by the land level difference between the two properties, with no.7 being sited at a higher level than the host dwelling (refer to site photographs above).
- 4.1.7 Taking all of the above into account, the proposal for the rear single storey extension will not unduly impact the neighbouring occupants in terms of loss of loss of light and outlook.
- 4.1.8 The proposal also details the erection of a 2.3m high boundary wall between no's 5 and 7. This element is retrospective. Members are advised that under the allowances of Schedule 2, Part 2, Class A of the General Permitted Development Order 2015 (as amended) a wall could be erected up to a height of 2m without the benefit of planning approval. It is considered that when allowing for the differing garden levels the additional 300mm beyond permitted development allowances is without detriment to the amenity of no.7, or other properties adjoining the application site.
- 4.1.9 No.10 and No.12 The Larches, are sited north-west of the application site at a higher level. The existing fence in place dividing the properties is retained. As such, given the relationship between these dwellings no harm to living conditions of the neighbouring occupants will be caused.
- 4.1.10 The rear garden levels have been altered and raised from the road level. The garden is enclosed by boundary treatments to all sides, the engineering operations carried out will not impact upon neighbouring amenity in terms of loss of privacy by virtue of overlooking given the screening benefits from fences/walls.
- 4.1.11 On balance, the proposal is considered to meet the requirements of Policy 8 of the LLP2 (2015) and supporting SPD Policies.

Design and Visual Amenity

4.1.12 Policy 11 of the Blackburn with Darwen Local Plan Part 2 (2015) requires all new development to “present a good standard of design and will be expected to:

- i) Demonstrate an understanding of the wider context; and
- ii) Make a positive contribution to the local area.

4.1.13 The external materials to be used in the construction of the proposed single storey extension and front porch are red brick which will harmonise with the host dwelling. This is the same for the retrospective boundary walls which have also been constructed with red brick and include the same detailing as the host dwelling. The single storey rear extension and front porch both feature a pitched roof to match the existing dwelling house.

4.1.14 Furthermore, there is a similar porch at No.7 Chestnut Gardens meaning the proposed porch will be a subordinate addition to the street scene and will not form an obtrusive feature.

4.1.15 The boundary wall which has been erected facing onto the highway at Chestnut Gardens measures 2.4m high. It was noted on the case officer’s site visit that the boundary wall harmonises with the existing dwelling with the use of the same details and red brick (see site photographs above). Upon analysing the street scene on google maps before the boundary walls were erected (see below image) it is noted that the previous fencing offers little privacy for the occupants and the neighbouring dwellings.



4.1.16 On balance, the proposal is considered to be acceptable from a design and visual amenity perspective, in accordance with Policy 11 of the LPP2 (2015).

Other Comments

4.1.17 Concerns have been raised regarding the loss of value to nearby properties resultant of the proposal. It should be noted that this is not a material planning consideration, and has therefore not been taken into account when assessing this application.

4.1.18 Objections have also cited consent has not been gained to erect boundary treatments on shared ownership. Any party wall issues are a private matter between the relevant parties, and not in the scope of the assessment from a planning perspective. Both the objector and the applicant have been made aware of this.

4.1.19 Concerns have also been raised regarding the erection of an outbuilding to the rear of No.5 Chestnut Gardens. This hasn't been included within the proposal, the subject of this current planning application. As such, the applicant's agent was reminded on the 15th July 2022, about the permitted development rights for outbuildings to ensure that any future outbuilding would conform. This will be monitored by the Planning Enforcement Team.



Photograph of the foundations relating to the outbuilding at No.5, taken from the rear of No.7.

5.0 RECOMMENDATION

5.1 Approve 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 permission, the development hereby permitted shall be carried out in complete accordance with the proposals as detailed on drawings:

Drawing No. SK 003, Proposed front, side and rear elevations and proposed ground floor plan - Received 13th June 2022

Drawing No. SK 004, Proposed front, side and rear elevations, proposed plan indicating new boundary wall, proposed cross section garden level – Received 13th June 2022.

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

3. Notwithstanding the submitted details, the external walling and roofing materials to be used in the construction of the building hereby permitted shall match those used in the existing building to the satisfaction of The Local Planning Authority.

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.

6.0 PLANNING HISTORY

- 6.1 10/96/0148 – Residential development incorporating one retail shop unit
- 6.2 10/21/0357 – Erection of porch to front. Approved.
- 6.3 10/21/0362 – Single storey rear extension, 6.0m from original rear wall. Withdrawn.
- 6.4 10/21/0414 – Erection of single storey extension to rear from original rear wall. 5.5m from rear wall, max height 3.4m. Prior approval is not required.

7.0 CONSULTATIONS

7.1 Public Consultation

Public consultation has taken place three times due to amended proposed plans and revised development description. Letters have been posted to 7 neighbouring properties on the 11th May 2022, 16th May 2022 and the 13th June 2022. The objections received are shown in section 10 of this report.

8.0 CONTACT OFFICER: Emily Colebourne, Assistant Planning Officer

9.0 DATE PREPARED: 3rd August 2022

10. SUMMARY OF REPRESENTATIONS

Objection – Miss Patel. Received: 25/05/2022

To whom this may concern,

I am a resident that has been written to re the proposed rear single storey extension for 5 Chestnut Gardens, Blackburn, BB1 6PS which I'd like to raise an objection to.

This property comes in my line of sight and has persistently been overbuilding walls which are 8 feet high which none of the cul de sac have been allowed to do as keeping in line with the look and feel of the whole cul de sac.

The current building build is sufficient and I do not wish for the building to be erected externally any further due to it then being an overdevelopment.

The walls built both party wall to their neighbour No 7 and to the public road on Chestnut Gardens exceeds the high allowance and makes the whole street look very industrial.

I have attached pictures of my concerns.





Objection – Mr & Mrs Chand, 12 The Larches, Blackburn. Received: 26/05/2022.

I've received a letter with a further planning proposal for 5 Chestnut Gardens, Blackburn BB1 6PS which I'd like to refuse.

I'm a resident of 12 The Larches, Blackburn BB1 6PR and this property comes in my direct line of sight from the back of our home.

The developers have continued to over build without plans and following the regulations in place which is causing a complete eye sore to the area.

Depreciating the value of the homes in the area with the very large overbuild of party walls and walls to the public path.

We've all got party / boundary wall's on split levels and never exceeded the legal limit or ever changed the look of the area which is 1 metre bricked walls and then up to 2 metres in total fenced up.

Why they have been allowed to build a brick wall which exceeds 8 feet is baffling to none residents who come and drive by let alone us residents.

The existing build of the home is sufficient and in rights with the 45*degree rule of light to all premises involved currently. Allowing any further development to the home will be in a legal breach of this from what information I have gathered by a visit from the local councillor.

Objection – Anonymous. Received: 27/05/2022.

First and foremost please can I express my comment to this application to remain anonymous.

I'd like to express my objections on any further development approval for 5 Chestnut Gardens, Blackburn, BB1 6PS due to the current build being over the legal allowance/ guidance on fencing, walls adjacent to public walkways & roads.

The property has built brick walls which are way above the legal requirements not fitting with the approval of the surrounding area or the requirement to any modifications allowed when we first purchased these homes of Gleeson Homes.

There is a Act in the Deeds of these homes that states all fencing & walls need to be 1 metre in height and within the same look of the area.

I myself have our back garden adjacent to the walkway and public path yet haven't ever been allowed to create such overshadow of a development and overshadow of brick walls.

This wall is blocking the total view to the neighbouring property which is no longer viewable from Chestnut Gardens at all.

As a neighbourhood watch area how is the neighbouring home visually protected when it's enclosed by this property with walls to this extent?

Objection – Ms Sabana Chand, 7 Chestnut Gardens, Blackburn. Received: 30/05/2022.

I've received a Full Planning Application from yourselves in proposal to an extension of the rear Single Storey and erection of a front porch which my neighbour has proposed and applied for at 5, Chestnut Gardens, Blackburn BB1 6PS.

I've reviewed the plans on your website under the application ref: 10/22/0430 and would like to raise an objection for this extension to take effect.

Firstly I'd like to query and escalate why this plan has been allowed to be submitted on multiple occasions, when these same proposals have been rejected and declined by the Planning Team in April 2021 and twice thereafter due to the reasoning mentioned below.

As per the plans for the rear extension of 5, Chestnut Gardens. They are proposing a 6.0m rear wall / home extension from our adjoining residence, which would result in a huge loss of light into our home and the breach of the 45 degree rule of light or Code 45 of Light, coming into the Open-Plan Kitchen, Dining, Lounge and my work which are all our habitable areas of the home and all situated at the rear of our home.

The front porch would yet again do exactly the same but to the front of our home overshadowing us both at the rear and front and blocking the light into our home.

If the extension took place as it's currently proposed, this would result of the ground floor of our home being completely out of sight and not in view from the street where our drive is located and we park and walk up to our home (Chestnut Gardens).

When at the back of our home, from the inside and externally from the street we are be completely snookered by the building that has been proposed and the surrounding walls that have been illegally built. I have attached pictures of the current boundary walls that have been built without any permission which is hiding our home from view completely both from our home outwards and from the street inwards.

I have also attached pictures of neighbours who have been happy to share their gardens and front walls that have been built all facing the public paths. No one has been allowed to build above 1 metre and have all kept within the legal requirements and within the look of the street.

The 8 feet external boundary wall is making us feel very vulnerable and unsafe as if our home was at an attempt of a burglary or theft (god forbid) no one from the view of the street or road would be able to view us or aide us to safety.

If there ever was a fire smouldering (god forbid) again this wouldn't never be visible to the general public to raise an alarm on, putting my young family at risk.

On these plans the Party Wall (Boundary) which they are proposing to erect has already been raised by full bricks (Pictures attached below). This is above the 2 metres they are allowed. It currently measures 8 feet from their ground level however I have been made aware by the enforcement officer that has visited the development, that the owners are claiming to raise their ground level and he will re-visit to make sure this wall is within the legal requirements on completion of the ground work. I do however currently maintain my objection to this wall.

On the drawings and plans proposed their Boundary lines are completely incorrect. As per my deeds and land registry the boundary wall starts from the end of our rear bedroom fascia board of the roof. If you look at the current build in reality, and the plans they have submitted they have built into and over our land. The boundary line they have proposed is completely incorrect.

Again this has been acknowledged by the Enforcement Officer awaiting the outcome of these plans.

This party wall was built without any “Party Wall Agreements” or written consent by either yourselves or alternative process. This has massively shaded daylight into our home and losing the view out of all of our rear right side windows & doors, and is completely overshadowing the light from our French Doors on the left-rear of the home. Proposing any further building extensions and extending the build to 6 metres would be a further catastrophe to the light coming into the home, to the enjoyment of our home, detrimental to the value of our home and most importantly the safety element of any home which we should legally be allowed to enjoy and feel.

I have had these plans independently reviewed by a Building Inspector who has pointed the above details for you to consider on my behalf.

Once again

- The Building to 6 metres would breach the 45 Degree Rule of light – this has already been explained to the Neighbours by the Enforcement Officer, Conor Dawson who visited the site with his manager and they have been made aware that they cannot breach this rule and allow any further building work – however they have still continued to submit plans, and they have continued in the last week to dig the foundation of the further 0.5metre they have applied for.
- The Front porch would be too dominant and yet again overshadow our home by obstructing light and view of the home.
- The current 8 feet wall built on the supposed boundary line is completely incorrect and not within their right of line – this is coming into our home / land.
- The current 8 feet wall built adjacent to the public path on Chestnut Gardens is not in line or look of the street and is once again completely blocking our home from view in case of emergency – all walls need to be reduced to the legal requirements to allow us to have the enjoyment of light and the reassurance that we are visible in case of emergencies.
- As with everything else built incorrectly i.e. the walls - the home owners and the builders have continued the build work without any plans in place which is causing me great concern as to why this should be allowed and why the process of application is being submitted after they have already built these walls?



Above is the 8 feet walls adjacent to the public path completely overshadowing the visibility of our home



If the porch is erected any further we'd be completely snookered in both front and back



8 feet wall yet again unable to view our home



Neighbour who built a 1 metre wall with panels inside in line with our street and the area



Back garden of a neighbour along the same path further up



Yet again another neighbour on the street with their back garden along the public path



The Current build of 5 Chestnut Gardens coming over and into our land / premises

Further Objection – Ms Sabana Chand, 7 Chestnut Gardens, Blackburn. Received: 28/06/2022.

Hope you're well.

I have yet again received another proposal for the Extension of the rear single storey and front porch for 5 Chestnut Gardens, Blackburn BB1 6PS. As well as a garden level erection and replacement of the Side Wall Boundary & Party Walls (Retrospective)

I have been awaiting a call from yourself to discuss this since the 16th June'2022, however I believe you were on Annual Leave last week and therefore will be calling me on Wednesday 29th June after 2.30pm.

In the meanwhile I do express too raise my comment on this application.

I do believe there are numerous comments / complaints in relation to this build already and they would be taken into consideration under the comments on Application reference: 10/22/0430 –

However as I have re-received a letter I'd like to re-raise my concerns which have now been independently verified by a planner and surveyor.

As mentioned previously I do not agree to the boundary wall line No 5 Chestnut Gardens has drawn on their plans to you. These are incorrect in line with the registry documents and very vital as this could result in a legal dispute and escalated into court.

I am yet again reiterating the fact they have submitted plans to you with incorrect boundary lines at the front and back of the home. As discussed over the phone, if you look at the back of the houses as an example, the party wall that they have proposed is over my roof fascia which is incorrect, and their build is overhanging into our home.

Likewise at the front of the home they have proposed a porch there is no mention of a 1 metre party wall that currently exist. Does this mean this wall will be used into the New Proposed Porch that has been submitted? Would this mean yet again they would eat into my premises and boundary?

No 5 Chestnut Gardens has an approval of a porch already in place, I do not understand why new plans have been re-submitted when they already have a plan in place and approved matching the size of our porch which could be located under Planning Application Ref: 10/21/0465

We have been reassured by a planning officer like yourself, Adam Sheikh, in April 2021 that both homes would have a porch of the same size, this was agreed and approved. Why are further size adjustments being allowed / considered when this would be oversized and overshadow our home?

The party wall between the 2 homes that has been raised to No 5's current ground level at 8+ feet high has been independently varied to be 1 foot too high even after they have attempted to raise their ground level. The reduction of this brick wall by 1 foot would significantly allow more angle light through all the windows at the rear of our home, and would also make our home visible externally from the street in case of emergency as mentioned in my prior comment.

The external wall along the public path, which again is 8+feet. I believe you've witnessed this wall yourself when you visited the site. This wall is not in line with any other homes within our cul-de-sac and is very large in size which again I emphasis is overshadowing not only the cul-de-sac but the visibility of our home, and depreciating the value of our home due to the fact we are now completely overshadowed and hidden.

There are other homes in and around the cul-de-sac who have gardens facing a public path, on higher ground levels that have a 1 metre wall with a fence risen above in line with the area's look. The fact they have built a double sided brick wall along the left of our drive without our consent on not the boundary line but over into our drive needs to be removed as we have not allowed any build of any infrastructure to take place by their builder in our premises. Our Fencing has been removed and replaced by Brick walls – and then a retrospective plan submitted, how is this ever legal ?

Yet again, the plans have slipped another request to the rear build of the home to be extended from the current 5.5metres to 6metres when this has been declined now 6+ times and also physically spoken to the owners about that this would breach the 45 Degree Rule of Light to a habitable room. Adam Sheikh has spoken to them in April 2021 as he was the planning officer in your office at the time who refused this build to 6 metres.

You, yourself have asked them to withdraw and re-submit their plans which they did do at 5.5metres however these new plans yet again state 6metres.

Your Enforcement Officer, Conor Dawson has spoken to the home owners too in relation to this not being possible however yet again they have submitted this.

I would like for you to take the above points into consideration for myself once again.
Awaiting to speak to you.

Further Objection - Ms Sabana Chand, 7 Chestnut Gardens, Blackburn. Received:28/06/2022.

Hope you're well.

I have yet again received another proposal for the Extension of the rear single storey and front porch for 5 Chestnut Gardens, Blackburn BB1 6PS. As well as a garden level erection and replacement of the Side Wall Boundary & Party Walls (Retrospective)

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Likewise at the front of the home they have proposed a porch there is no mention of a 1 metre party wall that currently exist. Does this mean this wall will be used into the New Proposed Porch that has been submitted? Would this mean yet again they would eat into my premises and boundary?

No 5 Chestnut Gardens has an approval of a porch already in place, I do not understand why new plans have been re-submitted when they already have a plan in place and approved matching the size of our porch which could be located under Planning Application Ref: 10/21/0465

We have been reassured by a planning officer like yourself, Adam Sheikh, in April 2021 that both homes would have a porch of the same size, this was agreed and approved. Why are further size adjustments being allowed / considered when this would be oversized and overshadow our home? The party wall between the 2 homes that has been raised to No 5's current ground level at 8+ feet high has been independently varied to be 1 feet too high even after they have attempted to raise their ground level. The reduction of this brick wall by 1 foot would significantly allow more angle light through all the windows at the rear of our home, and would also make our home visible externally from the street in case of emergency as mentioned in my prior comment.

The external wall along the public path, which again is 8+feet. I believe you've witnessed this wall yourself when you visited the site. This wall is not in line with any other homes within our cul-de-sac and is very large in size which again I emphasis is overshadowing not only the cul-de-sac but the visibility of our home, and depreciating the value of our home due to the fact we are now completely overshadowed and hidden.

There are other homes in and around the cul-de-sac who have gardens facing a public path, on higher ground levels that have a 1 metre wall with a fence risen above in line with the area's look. The fact they have built a double sided brick wall along the left of our drive without our consent on not the boundary line but over into our drive needs to be removed as we have not allowed any build of any infrastructure to take place by their builder in our premises. Our Fencing has been removed and replaced by Brick walls – and then a retrospective plan submitted, how is this ever legal?

Yet again, the plans have slipped another request to the rear build of the home to be extended from the current 5.5metres to 6metres when this has been declined now 6+ times and also physically spoken to the owners about that this would breach the 45 Degree Rule of Light to a habitable room.

Adam Sheikh has spoken to them in April 2021 as he was the planning officer in your office at the time who refused this build to 6 metres.

You, yourself have asked them to withdraw and re-submit their plans which they did do at 5.5metres however these new plans yet again state 6metres.

Your Enforcement Officer, Conor Dawson has spoken to the home owners too in relation to this not being possible however yet again they have submitted this.

I would like for you to take the above points into consideration for myself once again.

Awaiting to speak to you.

Objection – Hira Tahir, 1 Chestnut Gardens, Blackburn. Received: 30/05/2022.

I am a resident in 1 chestnut Gardens, Blackburn, BB1 6PS.

I recently received a letter regarding Number 5 Chestnut Garden's permission for an extensions and amendments to walls around the garden reference number 10/22/0430.

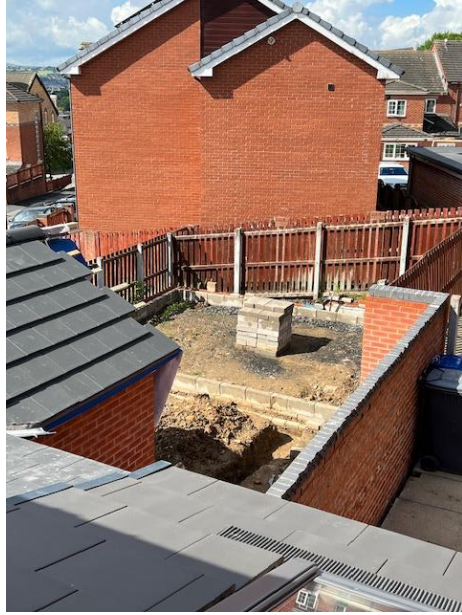
The new wall is a big eyesore in this area, as it is very high compared to others in the area. Everyone else in this area has an approx. 3ft brick wall with a fence on top which is in keeps of the area and a residential look.

However, this wall makes it look very “industrialized” in design which does not fit into its surroundings.

Due to the high, different and industrial design, I am very worried how it may negatively affect my property value and the look of my area. This would also open an opportunity for anyone else to use this as an example and start building very high walls around their properties which will further affect the look of the area and reduce the value of surrounding properties.

Further Objection - Ms Sabana Chand, 7 Chestnut Gardens, Blackburn. Received: 13/07/2022.

As mentioned these are the photos of the ongoing out-building work going on at No 5 Chestnut Gardens, Blackburn BB1 6PS which I'd like the panel to consider when making a decision on the proposal of the further 0.5metres on the current extension at the rear off our home and in line of our 45* degree rule of light being breached.



REPORT OF THE STRATEGIC DIRECTOR

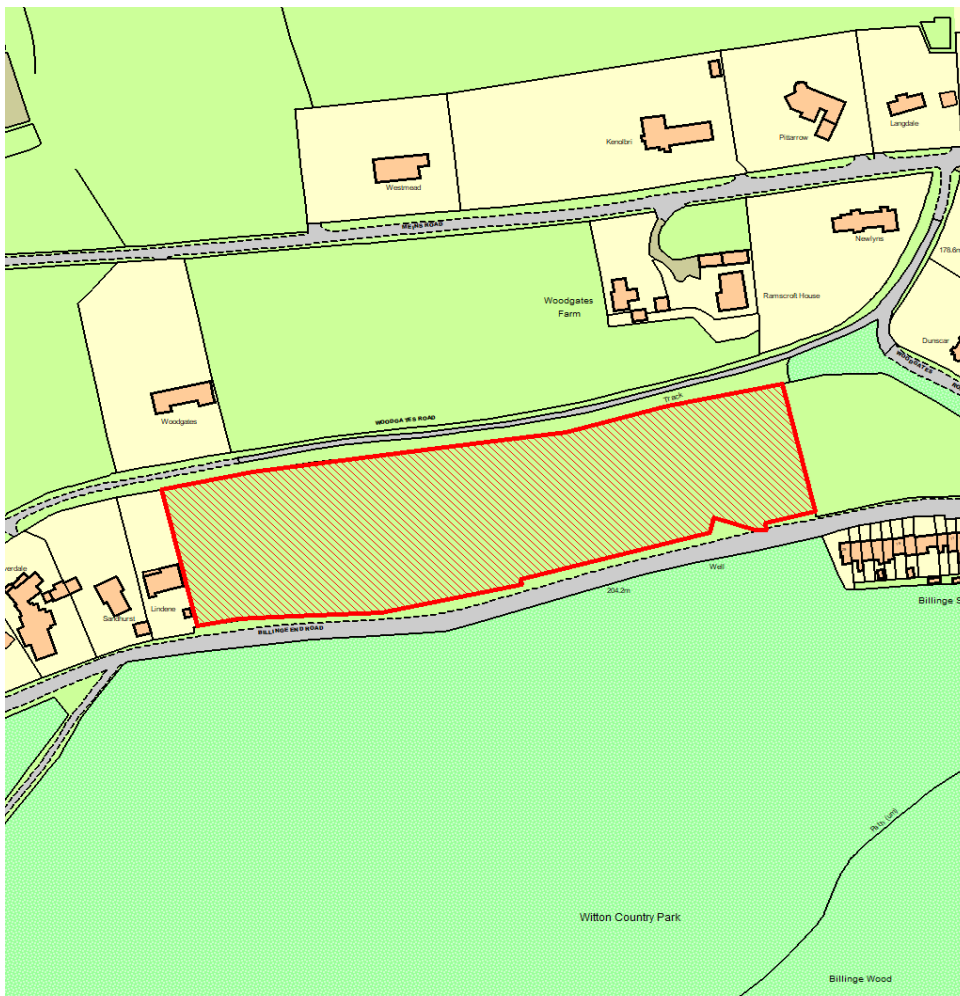
Plan No: 10/22/0509

Proposed development: Variation/Removal of Condition/Minor Material Amendment for Variation of Condition Nos 4 "Construction Method Statement", 10 "revised tree protection measures and working practices", 11 "revised landscaping scheme" and 23 "revised scheme relating to design of proposed housing (increase to ridge height; increase to depth of dwellings; increase to glazing on the ground and lower ground floors; relocation of access points and driveways to Plots 3-5" pursuant to planning application 10/18/0396 "Residential development of 5 no. dwelling following demolition of existing buildings"

**Site address: Land and Properties North of Billinge End Road, Blackburn
BB2 6PY**

Applicant: S Issa

**Ward: Billinge & Beardwood Councillors: Tasleem Fazal
Jackie Floyd
Mohammed Irfan**



1.0 SUMMARY OF RECOMMENDATION

1.1 APPROVE subject to the conditions set out within section 4 of this report

2.0 KEY ISSUES/SUMMARY OF PLANNING BALANCE

2.1 This application is before the Planning and Highways Committee as it relates to a variation to an earlier planning permission (10/18/0396) that was approved by the committee at the meeting in October 2018. The application has also generated public objections, detailed at section 9 of this report.

2.2 Planning permission 10/18/0396 was approved subject to 23 planning conditions. Subsequently, the Council have considered and approved condition discharge applications 10/18/1011 and 10/19/0571. As construction works have progressed, the applicant has made a number of working amendments to the approved scheme. This application is under s.73 of the 1990 Town and Country Planning Act and seeks to regularise those changes.

2.3 The amendments represent modest changes to the previously approved development. The proposal will continue to deliver a high quality housing scheme consistent with the Council's planning strategy for growth and widening the choice of accommodation within the Borough. 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 application site occupies an area to the north of Billinge End Road, close to the junction with Woodgates Road. Prior to the extant approval 10/18/0396 being granted the site was occupied by 8no. detached units. Those units have been demolished and the site is currently occupied by 5no. detached dwellings that are at differing stages of construction. None are currently occupied.

3.1.2 The site is bounded to the west by 4no. detached dwellings, the nearest property being Linden. The application site and those 4 units are all situated within the urban boundary. Beyond Billinge End Road to the south lies an area of woodland, whilst a bridle way bounds much of the site's northern boundary, with the remainder formed by an un-adopted section of Woodgates Road. Also in close proximity are large detached properties to the north and Billinge Side, a traditional terrace holding an elevated position above Billinge End Road, to the south east.

Site Photographs



3.2 Proposed Development

3.2.1 This application seeks to amend the details approved within planning approval 10/18/0396 under conditions; **4 (construction method statement); 10 (tree protection details); 11 (landscaping); and 23 (approved drawings)**. The proposed changes are further detailed below.

- 3.2.2 Condition 4: This condition relates to construction methods. The current proposal seeks to amend the details agreed through condition discharge application 10/18/1011 in order to revise the location of the site compound and parking locations.
- 3.2.3 Condition 10: This condition relates to the agreed tree protection measures and working practices. The current proposal seeks to amend those details to provide for additional tree removal and to agree modified tree protection measures necessitated by the revised access and layout changes. Trees G1, G6, G9, G15, T3, T5 and T40 to be removed.
- 3.2.4 Condition 11: This condition identifies the agreed landscaping to be completed in the first planting season following completion of each plot. The current proposal seeks to amend the previously agreed landscaping to allow for additional planting to be added to compensate for the existing trees being removed.
- 3.2.5 Condition 23: This condition identifies the approved drawings and other supporting documents. The current proposal seeks to regularise the working amendments that have occurred during the construction of the 5 dwellings. Specifically the alterations to the 10/18/0396 planning permission are;
- 1.1m addition to ridge height and increase to roof angle
 - 650mm increase in projection of the lower ground floor
 - Increase in the proportion of glazing within the rear (north) elevation of the ground floor and lower ground floor
 - Relocation of access points and driveways for plots 3 and 5, each moving towards the eastern edge of the respective plots
 - Internal changes to the layouts of each dwelling
- 3.2.6 The changes to the design of the properties are detailed on the following images. The green outline indicates the size and form of the development approved previously.

Proposed south elevation



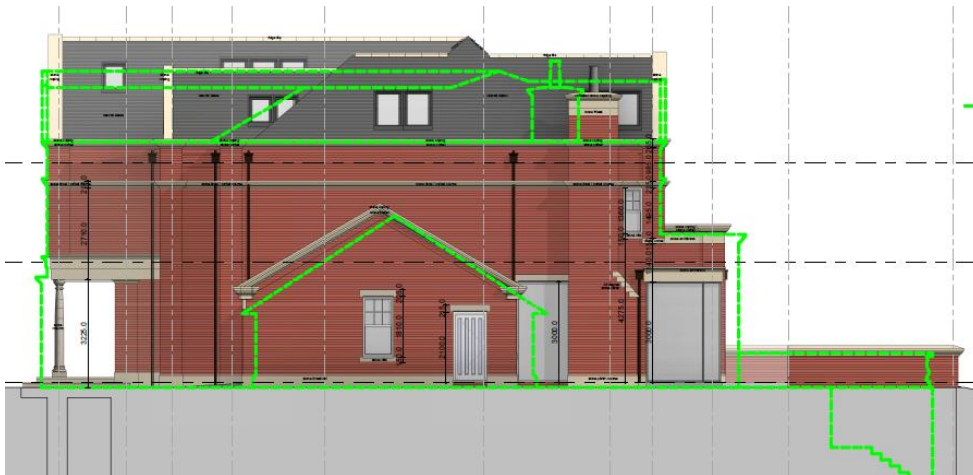
Proposed north elevation



Proposed west elevation:



Proposed east elevation:



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

- CS1 – A Targeted Growth Strategy
- CS16 – Form and Design of New Development

3.3.3 Local Plan Part 2

- Policy 8 – Development and People
- Policy 9 – Development and the Environment
- Policy 10 – Accessibility and Transport
- Policy 11 – Design

3.4 Other Material Planning Considerations

3.4.1 Residential Design Guide Supplementary Planning Document

This document provides targeted advice to ensure the delivery of high quality new homes. It aims to ensure that new development reflects the individual and collective character of areas of the Borough and promotes high standards of design. The document also seeks to ensure a good relationship between existing and proposed development in terms of protecting and enhancing amenity.

3.4.2 National Planning Policy Framework (NPPF)

3.5 Assessment

3.5.1 Condition 4 amendment: The applicant has submitted a revised construction methods statement to cover the remaining development period. The main changes from that previously agreed by condition discharge application 10/19/0571 are;

- *Site operative parking to be on the footway adjoining Billinge End Road. Additional overflow parking within the site, in front of plot 1.*
- *Removal of wheel wash facility adjacent to the site access/egress points. Replacement with road sweeper, to be utilised as necessary.*

3.5.2 The applicant has indicated that the change of parking location for site operatives is necessary as the original location within the site is no longer viable due to the need for a 'thoroughfare' within the site to enable construction works to continue. The applicant has also indicated that it is enforced by the site manager that vehicles do not park on the opposite side of the carriageway in order to avoid traffic congestion.



Image detailing parking area on the left

3.5.3 The applicant has also sought to explain why a jet washing facility is no longer to be provided adjacent to the site access/egress points; *“There are no wheel washes outside of the three vehicular entrances, as we have a road sweeper on call, as and when we know there will be big deliveries and can organise for the day before. From the original proposal, due to the depth of mud and tackiness of the muck on site, we were finding the mud was sticking to vehicle chassis when on site and trailing on the road as they left. No jet washing of wheels could eliminate this. All plant on and off site is banksed accordingly”.*

3.5.4 The Council's highways team have appraised the revised construction methods statement and observed;

The area for operative parking is on the adopted highway, this should be provided within the curtilage. This is not ordinarily acceptable, however as this area, which was grassed has been torn up, by the vehicles, we will allow it

on this occasion. We will continue to monitor the area, and reserve the right to challenge and remove if they are not observing safe parking. Upon completion of works, we require the area to be returned to grass at the developers cost.

Wheel washing: the site is well advanced not to require a machine-operated wheel washing system, therefore the road sweeping should suffice. We also maintain the right to request further sweeping if we deem necessary.

3.5.5 Given the advanced stage of the development and subject to the controls outlined, the revised construction methods statement is agreeable and the revision of condition 4 can be supported.

3.5.6 Conditions 10 and 11 amendments: Policy 9 of the LPP2, at sections 11 to 14, provides guidance in relation to the development and the impact on trees. The policy offers a general requirement that development will be expected to incorporate existing trees into the design and layout of the scheme and should avoid the future conflict between buildings and trees. Where development would result in the loss of protected trees then planning permission will only be granted where (i) the removal of one or more trees would be in the interests of good arboricultural practice; or (ii) the desirability of the proposed development outweighs the amenity and/or nature conservation value of the trees.

3.5.7 The original approval for the development, 10/18/0396, identified the loss of 51 trees within the site, 13 due to their condition and 38 as a result of the proposed development. In mitigation the proposal provided for 64 extra heavy standard trees, along with hedge and shrub planting.

3.5.8 The suggested amendment to the previously agreed arboricultural impact and method statements identifies the loss of a further 6 trees. All affected trees are positioned to the rear of the plots and sit on the boundaries between plots 3, 4 and 5. Further supporting comment is offered within the submission;

“The proposed development appears to impact on the RPA’s of T4, T27 & T34 due the location of the new driveways and access arrangements. However, in all these instances this encroachment is extremely minimal in terms of the effect on their overall RPA’s. In addition the entrance adjacent T34 is as existing so no roots should be disturbed provided it is correctly fenced off.

Therefore, the impact on these trees is negligible and the line of the wall is to remain as existing but rebuilt on its original foundation where possible. No special measures other than tree protective fencing is considered necessary in this instance.

The loss of any tree is always regrettable although in this instance it is inevitable due to the major changes within the site, particularly by reducing the number of houses and changing the boundaries. However, several significant trees (mainly protected by a TPO) are to be retained along the frontage (T4, T10, T15, T16, T17, T18, T19, T20, T21, T23, T24, T25, T26, T27, T28, T35, T34, T36, T37, T40, G15, T53, T54 & T55).

The majority of the internal trees located back from the frontage and within the gardens are insignificant specimens and typical of most gardens with a high proportion of conifer and ornamental species. However, T6, T7, T8, T10, T11 & T12 are now to be removed. It is considered that these losses can be mitigated with the implementation of the proposed detailed landscape scheme produced by DEP, which includes new trees of advanced stock and extensive formal evergreen hedging and shrub areas.

It is clear that this development requires the removal of many trees within the site and to the rear. However, it is considered that with the retention of the majority of the prominent specimens along the frontage and the new landscaping scheme that any loss of amenity will only be short term”.



3.5.9 The updated submission has been considered by the Council’s arboricultural officer who has advised;

“BS 5837 Arboricultural Impact Assessment and Arboricultural Method Statement has been updated to reflect the latest proposed layout and tree protection details.

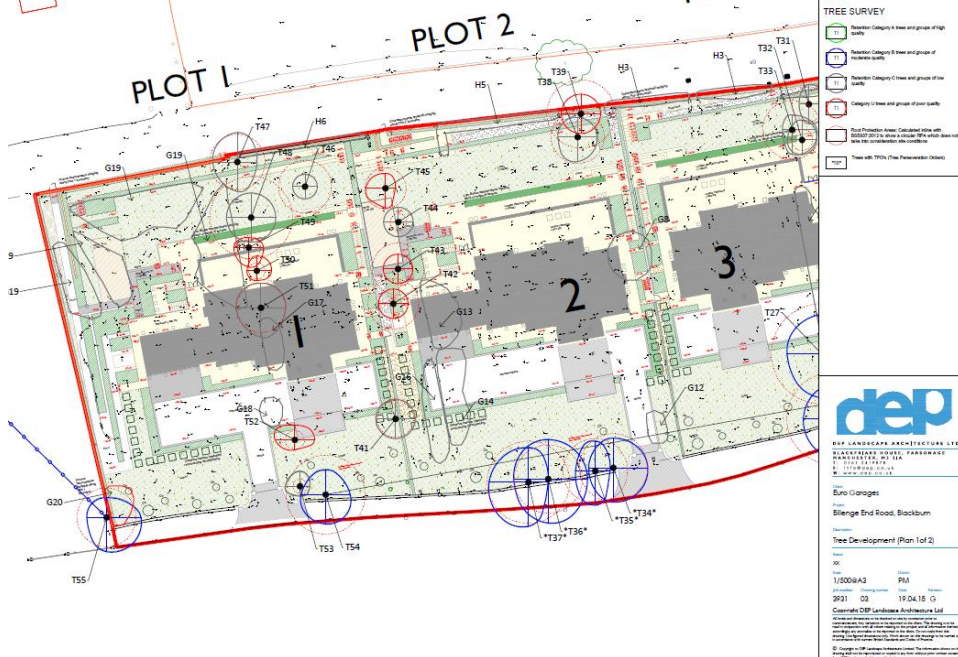
Tree Protection Plans rev G now show trees T6, T7, T8, T10, T11 and T12 as being removed clearing this matter up

The new protective fencing provides adequate protection for the retained trees at the front of the development and this should be in place and not moved until the completion of all construction works. No material, debris or anything should be within the area behind the fence and the trees.

The landscape plans show adequate planting for the loss of trees on this site”.



Extract – proposed landscaping plan



3.5.10 Given the above comments, it is considered that the proposal remains compliant with Policy 9 and can therefore be supported in principle. However, one area of concern has been identified by the submission;

“The protection plan refers to no dig areas in the key, yet these are not shown on the plan. It is understood that the areas where there is to be no dig solutions implemented is within the rooting area of trees T4, T15, T27 and T34 where new driveways/entrances are to be constructed/resurfaced. These areas should be shown on the Tree Protection Plans so these plans can be fully adhered to and signed off”.

3.5.11 The above matter has been relayed to the applicant and it is anticipated that the requisite information and comment will be provided via the committee update report.

3.5.12 Condition 23 amendment: The current proposal seeks to regularise the working amendments that have occurred during the construction of the 5 dwellings. Specifically the alterations to the 10/18/0396 planning permission are;

- 1.1m addition to ridge height and increase to roof angle
- 650mm increase in projection of the lower ground floor
- Increase in the proportion of glazing within the rear (north) elevation of the ground floor and lower ground floor
- Relocation of access points and driveways for plots 3 and 5, each moving towards the eastern edge of the respective plots
- Internal changes to the layouts of each dwelling

3.5.13 Core Strategy Policy CS16 and Policy 11 of the Local Plan strive for high quality design within all new developments. Policy 11 specifically requires development to present a good standard of design, demonstrating an understanding of the wider context and make 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. Additional support is also set out within the Council's adopted Residential Design Guide

3.5.14 The most contentious element for Members to consider is the increase in the overall height of the new dwellings. Many of the public objections at the time of the 2018 application centred on the design of the new houses, principally their size and massing. The current proposal involves a further increase in height of 1.1m and an associated steeping of the roof pitch.

3.5.15 The position offered in 2018 was that "*...given the generous proportions of the plots and the lack of a coherent roof-scape forming an abiding feature of the locality the raising of ridge levels can be justified*". Additional justification was also identified through the retained tree coverage and new planting that would serve to offer some screening benefits from Billinge End Road. The consideration now is whether the additional 1.1m ridge height and steepened roof pitches form such incongruous additions to the host building and locality to deviate from the earlier position and thus warrant refusal.

3.5.16 On balance, the proposed increase to ridge height and other associated alterations to the roof line are considered to be without detriment to the setting given the generous nature of the plots and lack of any coherent architectural form in the immediate locality. Further, the proposed tree removal within the current application would be to the rear of plots 3, 4 and 5 and thus the

screening benefits from the trees fronting Billinge End Road would be retained.

3.5.17 The proposed alterations to the rear façade, including the further projection of the lower ground floor and additional glazing to ground floor and lower ground floor is also considered to be without detriment to visual amenity. The affected elevations are, given the area's topography and open countryside to the north, not readily visible apart from distance views. The impact of which is to serve to reduce any potential harm from the overall proportion of glazing. That position is further strengthened by the existing retained and proposed planting.

3.5.18 The final design change relates to the location of the driveway access/egress points linking to Billinge End Road. The proposal seeks to reposition the access/egress to plots 3 and 5, with both being pushed to the south east corner of the respective plots.

3.5.19 The Council's highway officer has offered no objection. The wide verge and recessed boundary treatment serve to ensure that appropriate sightlines are retained. Further, no conflict with the root protection zones of retained trees along the site frontage has been identified.

3.5.20 The proposed amendments are considered to remain consistent with Policies 9, 10 and 11 of the Local Plan

4 RECOMMENDATION

Approve subject to imposing all conditions attached to 10/18/0396, save for those previously discharged in writing and the amended wording of the following conditions;

4. The development hereby approved shall be undertaken in accordance with the submitted 'Construction Phase H&S Plan', received 31st May 2022
REASON: In the interests of residential amenity and highway safety, in accordance with the requirements of Policies 8 and 10 of the Blackburn with Darwen Borough Local Plan Part 2.

10. The development hereby approved shall be undertaken in accordance with the tree protection measures and working practices detailed within the arboricultural method statement dated 20th May 2022 (reference: DEP Landscape Architecture Ltd job 3931), unless otherwise agreed in writing by the Local Planning Authority.

REASON: In the interests of biodiversity and visual amenity, in accordance with the requirements of Policy 9 of the Blackburn with Darwen Borough Local Plan Part 2.

11. Trees and shrubs shall be planted on the site in accordance with the landscaping scheme as shown on drawings no. 153 001 P, 153 002 P and 153 003 P. Planting shall occur during the first available planting season following completion of the affected plot 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 amenity in accordance with Policy 9 of the Blackburn with Darwen Borough Local Plan Part 2.

23. This consent relates to the submitted details marked received 24th April 2018, the bat emergence survey received 20th June 2018, AIA and AMS dated 20th May 2022, and drawings no. 3931 03 F 1 of 2, 3931 04 F 2 of 2, 3931 05 F 1 of 2, 3931 06 F 2 of 2, BB283-800, BB283-801, BB283-802, BB283-803, BB283-810, BB283-811, BB283-812, BB283-813, 153 001 P, 153 002 P, 153 003 P, 153 004 P, received 31st May 2022, and to any subsequent amendments approved in writing by the Local Planning Authority

REASON: To clarify the terms of this consent.

5 PLANNING HISTORY

10/18/0396 – Residential development of 5 new dwellings following demolition of existing buildings – approved October 2018.

10/18/1011 – Discharge of conditions 4, 5, 6, 12 and 13, pursuant to application 10/18/0396 – approved 8th February 2019.

10/19/0571 – Discharge of conditions 2, 4 and 18, pursuant to application 10/18/0396 – approved 25th March 2021.

6 CONSULTATIONS

6.1 Public Consultation: 26 neighbouring properties have been individually consulted by letter and site notices displayed. 2 letters of objection have been summarised (see section 9)

6.2 Highways:

There are two areas of highway relevance;

Condition 4: Construction Method Statement

- The area for operative parking is on the adopted highway, this should be provided within the curtilage. This is not ordinarily acceptable, however as this area, which was grassed has been torn up, by the vehicles, we will allow it on this occasion. We will continue to monitor the area, and reserve the right to challenge and remove if they are not observing safe parking. Upon completion of works, we require the area to be returned to grass at the developers cost.
- Wheel washing: the site is well advanced not to require a machine-operated wheel washing system, therefore the road sweeping should

suffice. We also maintain the right to request further sweeping if we deem necessary.

Condition 23: Approved Drawings - relocation of access points and driveways.

- The relocation of the access points for plots 3 and 5 is a modest change without detriment. There is a wide verge between the frontage wall and carriageway edge which gives good protection for sightlines.
- Developers are minded to ensure that there are no street furniture in the path that would affect the new entrance. Also for noting, they will be required to apply for formal dropped crossing at each access location.

6.3 Arboricultural Officer:

BS 5837 Arboricultural Impact Assessment and Arboricultural Method Statement has been updated to reflect the latest proposed layout and tree protection details.

Tree Protection Plans rev G now show trees T6, T7, T8, T10, T11 and T12 as being removed clearing this matter up

The new protective fencing provides adequate protection for the retained trees at the front of the development and this should be in place and not moved until the completion of all construction works. No material, debris or anything should be within the area behind the fence and the trees.

The protection plan refers to no dig areas in the key, yet these are not shown on the plan. It is understood that the areas where there is to be no dig solutions implemented is within the rooting area of trees T4, T15, T27 and T34 where new driveways/entrances are to be constructed/resurfaced. These areas should be shown on the Tree Protection Plans so these plans can be fully adhered to and signed off.

The landscape plans show adequate planting for the loss of trees on this site.

7 CONTACT OFFICER: Martin Kenny, Principal Planner

8 DATE PREPARED: 3rd August 2022

9.0 SUMMARY OF REPRESENTATIONS

Objection – Ian Whalley. Received: 30/06/2022

As I understand it, this is an application made by the developer to ‘ratify’ breaches of the existing plan.

Going back to 2018, I seem to recall the main factors so obviously contrary to the Blackburn ‘Plan’ were, size and tree removal.

The houses proposed were massive, even in comparison to the large detached houses in the immediate vicinity, such as ‘Woodgates’.

The tree clearance required in order to facilitate the construction of these gigantic properties was nothing short of *Amazonian*.

Normally, such a plan wouldn’t have stood a chance, but Blackburn Council applied its own in-house logic.

At the committee hearing we had Councillor Riley, who, paraphrasing, said, *yes, they certainly are big, but they have them this big in places like London and Manchester, so why not here?*

His colleague, on the question of trees said, again paraphrasing, *why all the fuss about trees, there are loads of trees in that area. And anyway, if they don’t build these houses what else might they do? You could maybe end up with a housing estate.* (As if to say that the developers could do what they wanted otherwise)

But this last point reveals the reality. The developers have been allowed to do what they wanted. They have been given an implicit permission to do carte blanche ever since they began to acquire the original 8 properties.

Legitimate and reasonable objections made by so many local residents have been completely ignored.

So, given that the Council will proceed to ignore any such further comments from local residents, I submit my formal objection to this application *on general principle*.

They shouldn’t have built them any bigger. They should not have removed any more trees.

The whole thing has been a pantomime. What we are left with is not two but **FIVE UGLY SISTERS**.

Objection – Liz Beaumont. Received: 01/07/2022.

Yes, I am aware that I am right on the line with my objections to Planning ref. 10/18/0396 at Billinge End. I wasn't going to waste more time outlining the objections myself and my neighbours have raised in the past as I have never received a reply and all our objections have been over ruled/overlooked.

However, I care about the environment and amenities of Blackburn residents, and feel each and everyone of us deserve consideration of our lives and chosen lifestyles, not just the rich and powerful within the borough, who seem to take a feudal view of the running of our town, and without any consideration for "the rest of us" are in control of decision making. Does anyone ever say "no" to these developers?

I am especially concerned about the number of trees that have been victims of, and those about to be destroyed by, the current development (maybe you know already that the demolition has begun.) As a member of the Woodland Trust I am aware of the campaigns around protection of old and environmentally valuable trees. I am in discussions about campaigning regarding this site, local/national publicity, etc. I am filled with horror as I look out of my window to the trees in the Billinge End site and know their likely fate, we need trees for a whole range of reasons that I am sure you are as aware of as I am.

Finally, I appeal to you to take very seriously my own, and those you have received from my neighbours, objections and concerns regarding the now established (the 5 "mansions") and the latest proposed complete changes to this area of Blackburn's landscape and natural environment.

Objection – Mr Ian Whalley, received 22nd July 2022:

Dear Mr Kenny,

The Five Ugly Sisters - Billinge End Road – Your ref: 10/22/0509

I refer to your letter dated 11 July 2022 concerning the further application made by the developer for variations, etc.

I do not find it at all clear from the documents listed on your site what these variations relate to are what they consist of. The only document I can see that refers to July 11 2022 is Murray's Tree Report but in this I cannot find specific mention of dates to indicate which of these updated variations relate to. Is this deliberately confusing? I appreciate I am a lay person, but surely there should be more clarity than is being provided here.

If you would care to point out which particular documents in your list are relevant, and the page numbers, I would be glad to take another look. Perhaps if you email me the details on Monday 25 July 2022, I'll be able to have another look at it and get back to you before the end of business on that day. In the meantime, however:

Why is not stated clearly which driveways/access points (with regard to plot numbers 1-5) are under discussion and why are they being varied, in what way they are being varied and why it is necessary to fell more trees, and finally, what was unreasonable about the original permission granted? Of course, I am not absolutely sure I have got this correct.

Having said that, I have to repeat the comments I made in my previous recent email dated 30 June 2022.

This has always been a totally undemocratic process. The Council have clearly paid lip service to their own planning criteria: size of buildings; massing; tree removal. And whilst they have been very careful to deal with the legal formalities of giving local residents the opportunity of commenting on the various plans proposed, the comments advanced by the residents have been completely ignored – an empty, meaningless and I would add, cynical exercise.

I assume this application relates to the developers wanting to remove more trees, due to their wish to relocate driveways/access points as well as to ratify breaches of planning granted to date.

Again, on general principle, because I have been against this grandiose plan for the start, I would object to all the variations requested.

Regards,
Ian Whalley

REPORT OF THE STRATEGIC DIRECTOR

Plan No: 10/22/0682

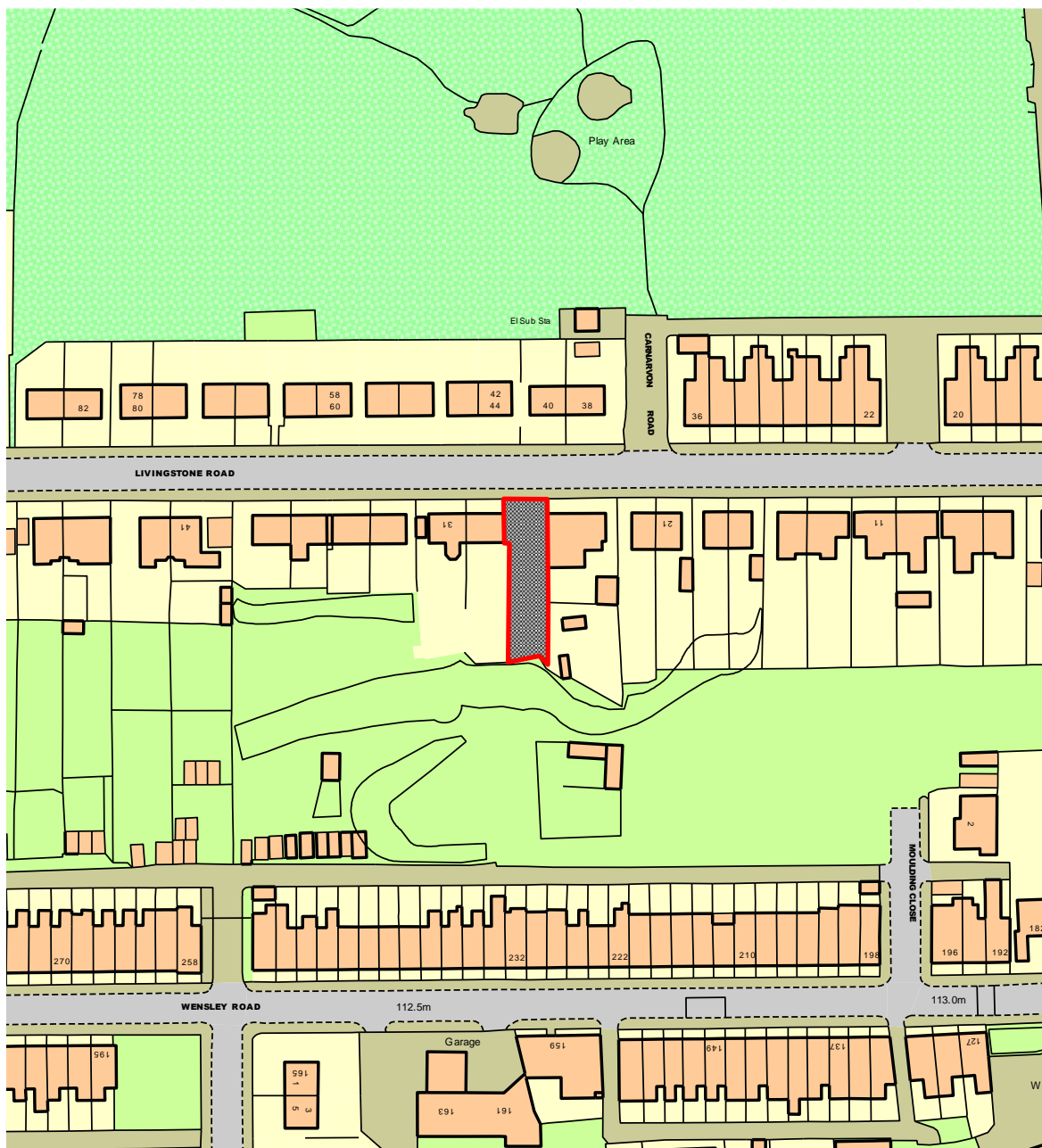
Proposed Development: Erection of porch and double and single storey rear extension and works to rear garden to raise garden level

Site Address: 27 Livingstone Road, Blackburn, BB2 6NF

Applicant: Ms Isma Mahmood

Ward: Wensley Fold

**Councillor Qesir Mahmood
Councillor Dave Harling
Councillor Sabahat Imtiaz**



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 Council's scheme of delegation, and given that the Applicant is a relative of a Ward Councillor.

2.2 The proposed development has been publicised through letters to residents of the nearest 8 adjacent residential properties, on 12th July 2022. In addition, a site notice was displayed outside of the site, on 22nd July 2022. No public comments have been received for the application insofar. Should any comments be received ahead of the committee meeting, they will be reported as part of an update report.

2.3 The Council's development plan supports new householder developments and associated works, provided they constitute sustainable development and accord with the development plan when taken as a whole.

2.4 The proposal will deliver a two-storey rear extension in order to provide extended living and kitchen areas on the ground floor with a fourth bedroom provided on the first floor. A modest front porch extension is also proposed together with levels changes within the rear garden.

2.5 On balance, the proposals 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.

2.6 The key issues to be addressed in determining this application are;

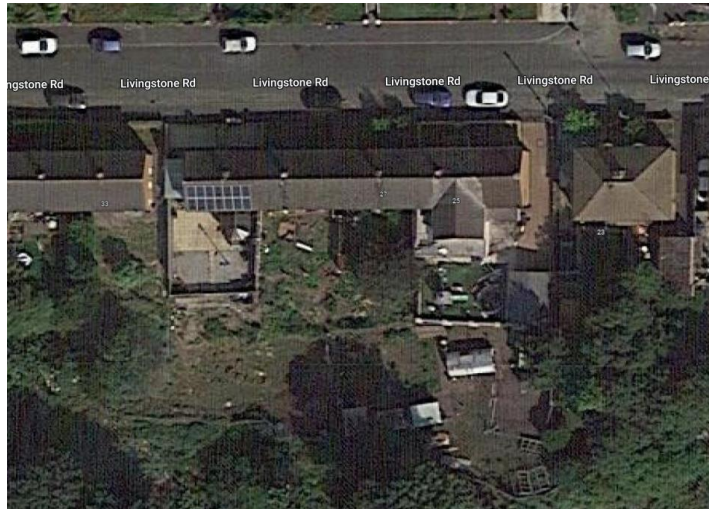
- Visual design considerations
- Safeguarded the amenities of the immediate neighbours
- Parking provision
- Establishing any potential impacts on highway safety

3.0 RATIONALE

3.1 Site and Surroundings

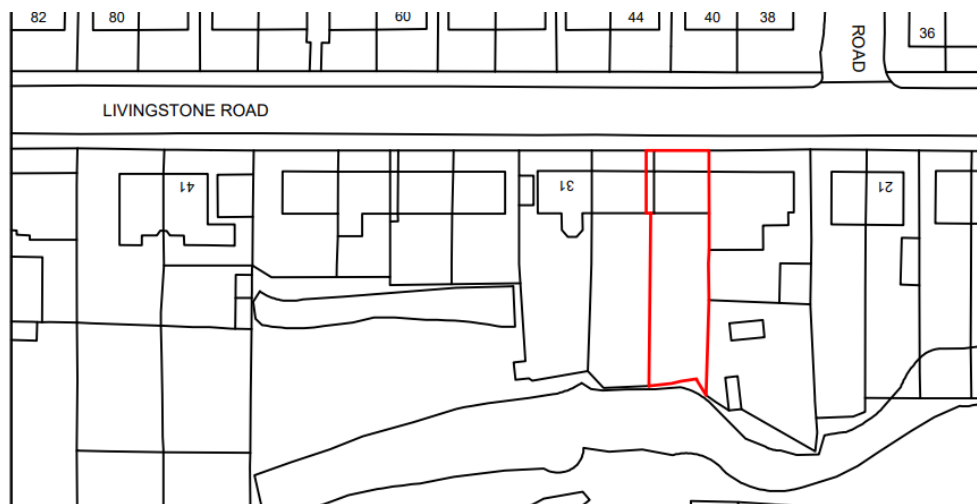
3.1.1 The application site is a two-storey mid-terrace dwelling located within the settlement of Blackburn. The extent of the site is shown below in Figure Two. Similar properties adjoin and surround to three sides that line Livingstone Road. Open land is positioned immediately to the south that it interspersed with trees and outbuildings.

Figure One – Satellite Image of the Site (taken 2022)



3.1.2 The host dwelling is typical of its age and was constructed in the post-war era. Buff coloured bricks have been used to construct the elevations with concrete pan tiles used as the roofing materials. White uPVC doors and windows have been installed throughout. The dwelling has a small garden area to the front with a larger enclosed garden area to the rear. The lower part of the rear garden currently slopes towards the south. Access to the rear garden is gained via a narrow archway between the site and number 29.

Figure Two – Submitted Location Plan



3.2 Proposed Development

3.2.1 As detailed above, this planning application involves the erection of a two-storey split-level rear extension and small front porch. The ground floor part of the rear extension would have a depth of 5.4m, a width of 8m and a flat roof 3m in height. The first floor part would have a depth of 4m, a width of 3.9m and a dual-pitched roof up to 6.4m in height.

3.2.2 The front porch would have a footprint of circa 4.3 sqms and a mono-pitched roof up to 3.2m in height. Matching bricks and roofing tiles would be used to

construct the extension and porch and they would be fitted with white uPVC doors and windows.

3.2.3 The levels changes proposed within the rear garden would result in its lower being level with the upper part. The submitted plans indicate that a 2m wall would be constructed on the rear boundary enclosing those works. A retaining wall would also be required beneath it. No further details of boundary treatments are shown on the information provided.

Figure Three – Proposed Front and Rear Elevation Plans

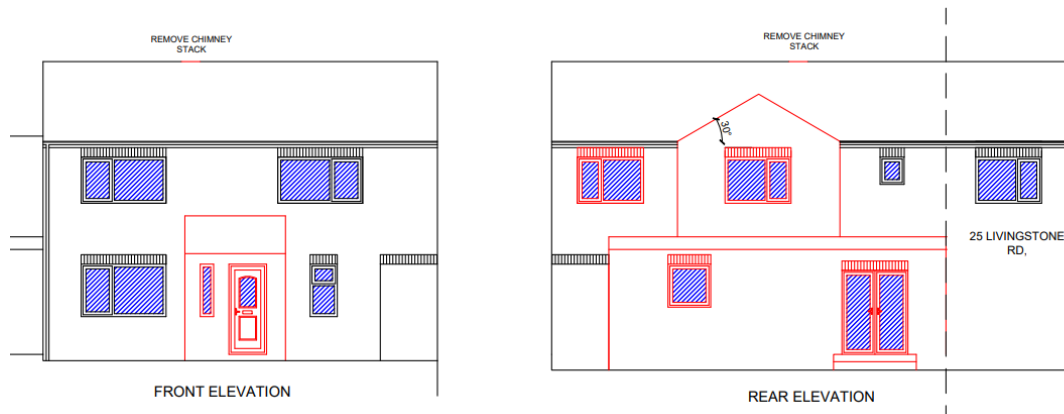
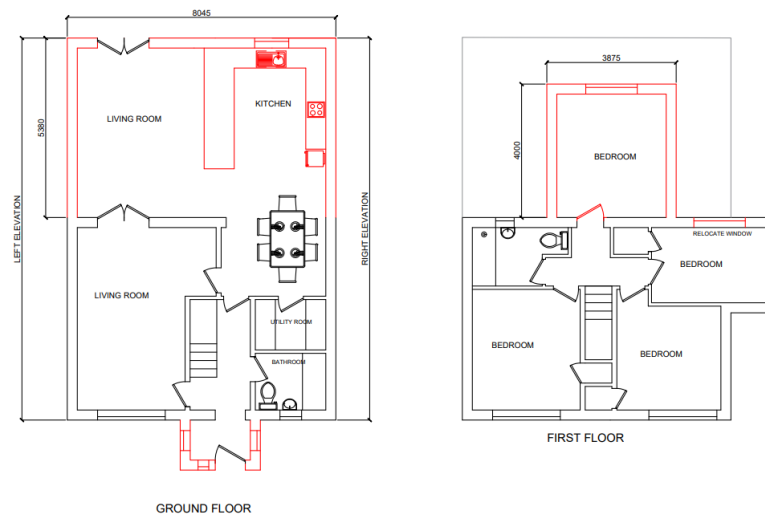


Figure Four – Proposed Ground and First Floor Plans



3.3 Case Officer Site Photos



3.4 Development Plan

3.4.1 Local Plan Part 2 (adopted December 2015):

- Policy 8: Development and People
- Policy 10: Accessibility and Transport
- Policy 11: Design

3.4.2 Residential Design Guide Supplementary Planning Documents (SPD) (adopted September 2012)

- Policy RES E1: Materials
- Policy RES E2: '45 Degree Rule'
- Policy RES E7: Rear Extensions
- Policy RES E16: Porches

3.4.3 Blackburn with Darwen Borough Council Parking Standards (adopted April 2014)

4.0 **ASSESSMENT**

4.1 Design and Visual Amenity

4.1.1 The site is positioned on an exclusively residential road that has a relatively varied streetscene. In general terms, Policy 11 requires all development proposals to represent a good standard of design through demonstrating an understanding of the site's wider context and making a positive contribution to public visual amenity. The Residential Design Guide SPD in relation to the siting, scale and appearance of domestic developments reiterates those

requirements. Domestic alterations must appear subservient in scale to the host dwelling and in keeping with the wider area more generally.

- 4.1.2 Policy RES E7 requires the design of all proposed rear extensions to be subservient in scale to the host dwelling. The design of the extension must also be in keeping with the existing property by virtue of the external construction materials used, overall architectural style, roof form and pitch, size, proportion and position of openings, and the fenestration details.
- 4.1.3 In addition, Policy RES E16 requires all proposed porches to not dramatically alter the appearance of the host dwelling, be modest in scale, and reflect the style and materials of the existing property. Such forms of development must also be in keeping with the appearance of the street and not detract from the character of the streetscene, ensure the roof style reflects that of the host dwelling, and ensure the facing materials used match those of the host dwelling.
- 4.1.4 Whilst the rear extension would appear as a relatively sizeable addition when related to the proportions of the rear façade, both levels would be set well below the main ridge height, thereby ensuring that aspect of the proposals appears acceptably subservient to the host dwelling. In addition, it should be noted that the proposed rear extension would be predominantly concealed from the perspective of the public domain. The overall style, roof form of the upper level, and fenestration detailing would also appropriately compliment the appearance of the host dwelling. The proposed rear extension would thus be acceptable in relation to aspect, form and scale.
- 4.1.5 The proposed front porch would appear as a modest addition when related to the front façade. Appropriate architectural detailing would also be applied. Similar developments are found in abundance locally and that aspect of the proposals would not dramatically alter the appearance of the host dwelling.
- 4.1.6 The same conclusions are also applicable to levels changes proposed within the rear garden. Minimal details have been provided regarding the retaining structure to the rear and how it would appear. A request has been made to the Agent to submit further details in that respect. Any new information submitted will be presented as part of an update report.
- 4.1.7 Appropriate external construction materials are proposed throughout that would match those of the host dwelling. A condition is recommended to ensure those materials are used so that a satisfactory form of development is achieved. Subject to compliance with that condition, the proposed development would be acceptable with reference to design and visual amenity, in accordance with Policy 11 together with the guidance of the Residential Design Guide SPD.

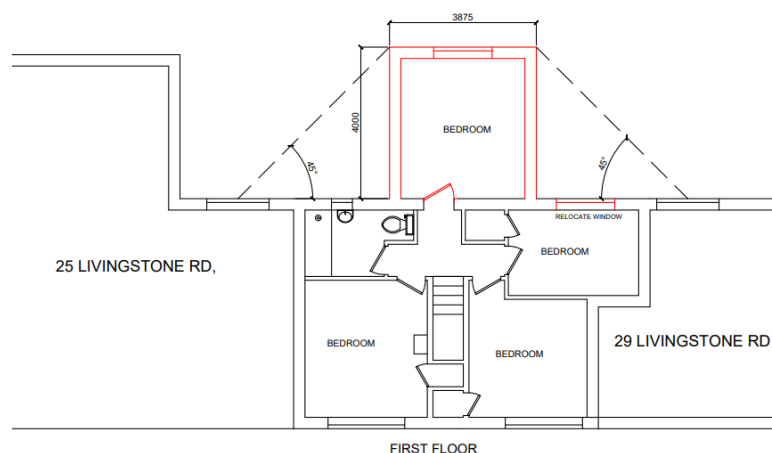
4.2 Residential Amenity

- 4.2.1 As detailed above, dwellings surround to three sides and safeguarding the amenities of those neighbours is an important planning consideration. Policy 8 states that all development proposals must secure a satisfactory level of

amenity for surrounding occupants, with reference to light, privacy/overlooking, and the general relationship between buildings.

- 4.2.2 In relation to rear extensions, the Residential Design Guide SPD states that such forms of development must not have an unacceptable impact on neighbours, with respect to the '45 degree rule' and the separation distances prescribed within the document. No specific residential amenity standards are detailed within the document for front porches given their typically modest nature.
- 4.2.3 When considering losses of light, a large rear extension at number 25 removes the potential for the proposed rear extension to detrimentally impact upon those neighbours. The ground floor part would breach the 45-degree rule in relation to a kitchen window at number 29. That said, the arrangement of that window and separation from the shared boundary would result in only a marginal breach occurring. Moreover, tall fencing is in place on the shared boundary that already causes a certain level of overshadowing for those neighbours. The majority of the ground floor part would be concealed behind the existing fence and any losses of light caused would not be at the level to justify a refusal on those grounds.
- 4.2.4 The 45-degree rule would be respected in relation to the first floor main habitable room windows at both of the adjoining properties. That arrangement is shown below in Figure Five. For those reasons, the proposals would not appear overbearing to the adjoining neighbours or cause any unacceptable losses of light. Those conclusions are also applicable to the proposed porch given its limited massing and scale.

Figure Five – Plan showing the 45-degree rule for the first floor level



- 4.2.5 In relation to overlooking and privacy, any proposed windows within the rear extension would face away from neighbouring dwellings. Moreover, the proposed porch is only realistically large enough to function as an entrance point and no harmful privacy impacts would be caused from that aspect. A condition has been added to ensure tall fencing is erected around the elevated

area of garden in order to safeguard the privacy of adjacent gardens and neighbours.

- 4.2.6 Subject to compliance with that condition, the proposed development would be acceptable with reference to residential amenity, in accordance with Policy 8 together with the guidance of the Residential Design Guide SPD.

4.3 Highways and Parking

- 4.3.1 The site has no off-street vehicle parking provision or appropriate land to provide such parking. Policy 10 contains requirements for all development proposals to not prejudice road safety, or the safe, efficient and convenient movement of all highways users. Parking should also be provided in accordance with the BwD Parking Standards, where achievable. Ideally, a four bedroom dwelling would have three off-street vehicle parking spaces.

- 4.3.2 That said, the BwD Parking Standards are maximum requirements and proposals can only be resisted on parking grounds where any resulting impacts on the local highway would severely compromise highway safety. Such a position is difficult to demonstrate here as a shortfall of only one space is applicable in comparison to the site's existing parking requirements. As proposed, the development is thus acceptable with reference to highways and parking, in accordance with Policy 10.

4.4 Summary

- 4.4.1 This application involves the erection of a two-storey rear extension and front porch. Levels changes within the rear garden are also proposed. Subject to appropriate conditions, the proposed development would be acceptable on all the relevant planning grounds, in accordance with the policies and guidance notes detailed in Section 3.4.

- 4.4.2 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 terms of design and visual amenity, residential amenity, and highways and parking.

- 4.4.3 The proposed 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:**

- 5.1 **Delegated authority is given to the Strategic Director of Place to approve planning permission, subject to the following conditions and informative notes;**

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 (1:1250), Existing Block Plan (1:500), Proposed Block Plan (1:500), Existing Floor and Elevation Plans and Proposed Floor and Elevation Plans.

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 match those of the existing property in terms of type, texture and colour and those materials shall not be varied unless first being agreed in writing by the Local Planning Authority.

REASON: To ensure the external construction materials used match those of the existing property, 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 levels changes within the rear garden hereby approved shall not be used for domestic purposes unless and until, a close-boarded fence no lower than 1.8m and no higher than 2m when measured from the altered ground levels has been erected on the east and west boundaries of the rear garden of the site. The fencing installed shall thereafter remain in perpetuity with the development and any replacement fencing shall be of an equal degree of height, unless otherwise agreed in writing by the Local Planning Authority.

REASON: In order to safeguard the privacy of the immediate neighbours, in the interests of residential amenity, and to comply with the requirements of Policy 8 of the Blackburn with Darwen Borough Council Local Plan Part 2, Site Allocations and Development Management Policies (Adopted 2015).

6.0 PLANNING HISTORY

- 6.1 No relevant planning history.

7.0 CONSULTATIONS

- 7.1 Ward Cllrs

- 7.2 Summary of Public Responses

No public comments have been received.

- 8.0 **CONTACT OFFICER:** Christian Barton – Planning Officer

9.0 DATE PREPARED: 04th August 2022

10.0 SUMMARY OF REPRESENTATIONS

None.