

# Public Document Pack

## Planning and Highways Committee

Thursday, 14th September, 2023

6.30 pm

Meeting Room A, Blackburn Town Hall

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### AGENDA

1. **Welcome and Apologies**
2. **Minutes of the Previous Meeting**  
**Minutes of Previous Meeting** 3 - 6
3. **Declaration of Interest**  
**Declaration of Interest Form** 7
- Material Consideration** 8 - 9
4. **Planning Application for Determination**  
**Committee Agenda 14/09/2023** 10
- 4.1 **Planning Application 10-23-0497**  
**Land at Hollin Bridge Street, Hollin Bridge Street, Blackburn** 11 - 40
- 4.2 **Planning Application 10-23-0564**  
**Ryal Fold Barn, Tockholes** 41 - 62
- 4.3 **Planning Application 10-23-0629**  
**Longshaw Infant School, Crosby Road, Blackburb** 63 - 83
5. **Definitive Map Modification Order for Public Footpath 253 Darwen**  
**Definitive Map Modification Order for Public Footpath 253 Darwen** 84 - 91  
**Order Plan.pdf**
6. **Diversion of Public Footpaths 80, 51 & 52 Blackburn**  
**P & H Report - FP's 80, 51 & 52 - Pets Choice.docx** 92 - 99

**Consultation Plan.pdf**

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

**7. Enforcement**

<b>ENF 0349 Former Hob Lane Farm Enforcement Report.docx.pdf</b>	<b>100 - 105</b>
<b>Planning Enforcement location plan WheatBrook View Blackburn Road Turton.jpg</b>	
<b>ENF 0349 Photo 1 - caravan at Former Hob Lane Farm.jpg</b>	
<b>ENF0349 Photo 2 - caravan at Former Hob Lane Farm.jpg</b>	

Date Published: Wednesday, 06 September 2023  
Denise Park, Chief Executive

**PLANNING AND HIGHWAYS COMMITTEE**  
**Thursday, 17 August 2023**

**PRESENT** – Councillors, David Smith (Chair), Casey, Khan, Marrow, Baldwin, Imtiaz, Mahmood, McCaughran, Patel, Khonat, Shaw (substitute for Jackson) and N Slater (substitute for Jac Slater).

**OFFICERS** – Gavin Prescott, Saf Alam, Michael Green & Shannon Gardiner

**RESOLUTIONS**

**19 Welcome and Apologies**

The Chair welcomed everyone to the meeting.

Apologies were received from Cllr Matthew Jackson who was substituted by Cllr Anthony Shaw, Cllr Jacquie Slater who was substituted by Cllr Neil Slater and Cllr Samim Desai.

**20 Minutes of the Previous Meeting**

**RESOLVED** – That the minutes of the previous meeting held on 13<sup>th</sup> July 2023 be agreed and signed as a correct record.

**21 Declaration of Interest**

A Declaration of Interest was received from Cllr Paul Marrow in relation to Item 4.2, Fenisowles and Pleasington War Memorial Recreation Ground, due to being a Trustee of Fenisowles and Pleasington War Memorial Recreation Ground.

**22 Planning Applications to be Determined**

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.

**22.1 Supplemental Report: Planning Application 19/1084**

**Applicant** – GFW Ltd

**Location and Proposed Development** – GFW Ltd, Waterside Distribution Centre, Waterside Park, Johnson Road, Eccleshill, BB3 3RT

Outline planning application with all matters reserved except for access, for residential development of up to 95 dwellings following demolition of onsite buildings.

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

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

Delegated authority is given to the Strategic Director of Growth & Development and Deputy Chief Executive to approve planning permission, subject to an agreement under Section 106 of the Town & Country Planning Act 1990, relating to the payment of £1,506,900; Payments are to be made prior to commencement of development:

- £201,400 for education;
- £237,500 for highways;
- £38,000 for Public Open Space; and
- £1,030,000 for off-site Affordable Housing.

**Should the Section 106 agreement not be completed within 6 months of the date of the planning application being received, the Strategic Director of Growth & Development and Deputy Chief Executive will have delegated powers to refuse the application.**

## **22.2 Planning Application 22/1069**

*Cllr Paul Marrow vacated the meeting due to his declaration of interest*

*Speaker – Jane Green (Applicant)*

**Applicant** – The Trustees of Feniscowles and Pleasington War Memorial Recreation Ground

**Location and Proposed Development** – Feniscowles and Pleasington War Memorial Recreation Ground, Livesey Branch Road, Livesey, Blackburn, BB2 5EG

Full Planning Application: Re-development of recreation ground to include demolition of existing cub house and construction of new club house, multi-use games area pitch, groundsmen store, relocation of tennis courts and cricket nets, repositioned football pitch and improvements to access road and parking areas

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

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

## **22.3 Planning Application 23/0274**

**Applicant** – Mr Leary

**Location and Proposed Development** – Land adjacent 18 Northumberland Close, Darwen, BB3 2TN

Approval of reserved matters for the appearance, landscaping, layout and scale for the erection of 3 No. dwellings pursuant to planning application 10/20/0806

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

**RESOLVED** – Approved subject to the conditions highlighted in the Director’s Report and the amended condition –

In response to Condition 13, an Environmental Management Plan has been submitted, which details a range of acceptable measures to protect the adjacent watercourse from pollution during the construction phase of the development. Based on the contents of the Plan it is recommended that Condition 13 is reworded to the following;

(13) The development hereby approved must be implemented in strict accordance with all of the mitigation measures detailed within the submitted Outline Construction Environmental Management Plan (dated 09/08/2023).

**REASON:** In order to minimise pollutants entering the adjacent watercourse during construction works, in the interests of achieving sustainable development, and to comply with the requirements of Policies 8 and 9 of the Blackburn with Darwen Borough Local Plan Part 2, Site Allocations and Development Management Policies (Adopted 2015).

### **Against –**

Cllr Paul Marrow  
Cllr Jon Baldwin  
Cllr Neil Salter

## **22.4 Planning Application 23/0535**

**Applicant** – Blackburn with Darwen Borough Council

**Location and Proposed Development** – Newfield School, Old Bank Lane, Blackburn, BB1 2PW

Proposed installation of a temporary classroom block within the school grounds to provide additional capacity for up to 3 years

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

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

## **22.5 Planning Application 23/0538**

### **Deferred**

*Speaker – Mr Iqbal (Objector)*

**Applicant** – Divine Patisseries Ltd

**Location and Proposed Development** – Units 7 and 7A Brookhouse Business Centre, Whalley Range, Blackburn, BB1 6BB

Full Planning Application for Proposed single storey side extension to replace part of previously approved decking area

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

**RESOLVED –** That the application be deferred to the next Planning and Highways Committee due to the increased footprint and capacity of the proposed development it would require a further assessment from Public Protection.

**23 ENFORCEMENT – LAND ADJACENT TO 46A NEW WELLINGTON STREET BLACKBURN BB2 4HA**

A report was submitted seeking authorisation to take enforcement action against all person having an interest in the land at 46A New Wellington Street Blackburn, BB2 4HA,

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

**RESOLVED -** Authorisation was given to the proposed enforcement action at land at 46A New Wellington Street Blackburn, BB2 4HA,

**24 ENFORCEMENT – THE ROYAL – 13 PRESTON NEW ROAD, BLACKBURN. BB2 1AR**

A report was submitted seeking authorisation to take enforcement action against all person having an interest in the land at 13 Preston New Road, Blackburn, BB2 1AR.

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

**RESOLVED -** Authorisation was given to the proposed enforcement action at land at 13 Preston New Road, Blackburn, BB2 1AR.

Signed: .....

Date: .....

Chair of the meeting  
at which the minutes were confirmed

## DECLARATIONS OF INTEREST IN ITEMS ON THIS AGENDA

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

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

MEETING: **PLANNING AND HIGHWAYS COMMITTEE**

DATE:

AGENDA ITEM NO.:

DESCRIPTION (BRIEF):

NATURE OF INTEREST:

DISCLOSABLE PECUNIARY/OTHER (delete as appropriate)

SIGNED :

PRINT NAME:

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

## Material Consideration

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

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

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

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

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

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



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

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

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

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

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

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

#### Reasons for Decision

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

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



## BwD Council - Development Control

General Reporting

REPORT NAME: *Committee Agenda.*

### REPORT OF THE STRATEGIC DIRECTOR OF GROWTH & DEVELOPMENT AND DEPUTY CHIEF EXECUTIVE

**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: 14/09/2023

Application No	Applicant	Site Address	Ward
Application Type			

10/23/0497			
Mr H and P Gregson Unit 4 Albert Street Blackburn BB2 4BL	Land at Hollin Bridge Street Hollin Bridge Street Blackburn BB2 4AY		Ewood
Full Planning Application for Proposed construction of an industrial unit (B2/B8 use), with associated office space			

**RECOMMENDATION: Permits**

10/23/0564			
Mr Graham Prescott Ryal Fold Barn, Tockholes, BB3 0PB	Ryal Fold Barn Tockholes BB3 0PB		Darwen West North Turton With Tockholes
Full Planning Application for Change of use of land to include in residential garden (Use Class C3) and erection of a double storey side extension to form annex			

**RECOMMENDATION: Permits**

10/23/0629			
Longshaw Infants School Longshaw Infants School Mrs Jo Leaks Crosby Road Blackburn BB2 3NF	Longshaw Infants School Crosby Road Blackburn BB2 3NF		Blackburn South East

Variation/Removal of Condition/Minor Material Amendment for Variation/Removal of Condition/Minor Material Amendment for Variation of Conditions 2 (approved drawings), 8 (parking), 20 (EV charging) and removal of conditions 7 (site access) and 9 (closure of existing access) pursuant to application 10/21/1210 "Erection of single storey nursery building" - Reduction in height of building, replace side bi-fold door with a window, install cowls to roof, formation of new play area, parking layout changes and erection of decking / ramped access to rear and side elevations

**RECOMMENDATION: Permits**

## REPORT OF THE STRATEGIC DIRECTOR

Plan No: 10/23/0497

**Proposed Development: Proposed construction of an industrial unit (B2/B8 use) with associated office space**

**Site Address: Land at Hollin Bridge Street, Hollin Bridge Street, Blackburn, BB2 4AY**

**Applicant: Mr H and P Gregson**

**Ward: Ewood**

**Councillor Elaine Whittingham  
Councillor Jon Baldwin  
Councillor Jim Casey**



## **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 below 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 Constitution, and given that a large number (5) of public objections have been received. A summary of those objections is detailed below in Section 7.10.
- 2.2 The proposed development has been publicised through letters to residents and occupants of the nearest 39 adjacent properties on 19<sup>th</sup> July 2023. A site notice was displayed outside of the site on 01<sup>st</sup> August 2023. In addition, all the objectors were reconsulted on 18<sup>th</sup> August 2023 given the receipt of updated information. Should any further comments be received ahead of the committee meeting they will be presented as part of an update report.
- 2.3 The Council's development plan supports new commercial/employment development and associated works, provided they constitute sustainable development and accord with the development plan when taken as a whole.
- 2.4 The proposals would deliver an industrial unit (Use Class B2 and B8) to be used as a 'service area' with an integral two-storey office building (Use Class Eg). Access would be gained from an existing gated entrance point off Hollin Bridge Street. 8 off-street vehicle parking spaces would be formed alongside the provision of a bin/cycle store and landscaping area.
- 2.5 On balance, the proposals would be satisfactory from a technical point of view, with all issues having been addressed during the course of the application process, or capable of being controlled or mitigated through appropriately worded planning conditions.
- 2.6 The key issues to be assessed in determining this application are as follows;
- Establishing the principle for development
  - Design and assessing visual amenity impacts
  - Safeguarding the amenities of residential neighbours
  - Assessing highways impacts
  - Ensuring adequate off-street vehicle parking facilities are provided
  - Assessing the potential for flood risk
  - Foul and surface water drainage considerations
  - Assessing the potential for land contamination
  - Minimising the proposals impacts on air quality
  - Ensuring the potential for crime is appropriately minimised

### 3.0 RATIONALE

#### 3.1 Site and Surroundings

3.1.1 The application site is a plot of currently vacant land located within the defined Inner Urban Area of Blackburn. A number of commercial storage uses have been operated from there previously, as shown below in Figure Six. Vehicle access is currently gained from the southwest via a gated access point from Hollin Bridge Street. Tall walls of various heights and materials define the site boundaries.

Figure One – Submitted Location Plan and Site Satellite Image



3.1.2 The site covers an area of circa 0.3 acres. Dwellings along Hollin Bridge Street, Hollin Street and Exeter Street are positioned to three sides with commercial land uses positioned to the southwest.

#### 3.2 Proposed Development

3.2.1 As detailed above, this application seeks full planning permission for the erection of an industrial unit (Use Class B2 and B8) to be used as a 'service area' with an integral two-storey office building (Use Class Eg). The development would comprise of a single building built in a modern, commercial style.

Figure Two – Proposed Site Plan (amended)



3.2.2 Carpark and logistics areas would be formed to the southwest of proposed building, which would be accessed via the existing entrance point. 8 parking spaces would be provided including 2 mobility impaired spaces. A bin and cycle storage area and small landscaped area would be provided at the west corner of the site.

3.2.3 The proposed building would have an irregular footprint. It would have a maximum length of 35m, a maximum width of 20.4m and a flat parapet roof 5.9m in height. A 3-bay service area, offices and supporting rooms would be provided on the ground floor with offices and a meeting room on the first floor.

Figure Three – Proposed Ground Floor Plan



3.2.4 Blockwork and grey cladding would be used to finish the elevations with a range of materials used to seal the flat roof. Any doors and windows to be installed would be externally coated in a grey colour. The existing boundary walls would be retained and repaired accordingly.

Figure Four – Proposed Elevation Plans and Materials Palette



### 3.3 Case Officer Site Photos



#### 3.3.1 Local Plan Part 2 (adopted December 2015):

- Policy 1: The Urban Boundary
- Policy 2: The Inner Urban Boundary
- Policy 7: Sustainable and Viable Development
- Policy 8: Development and People
- Policy 9: Development and the Environment
- Policy 10: Accessibility and Transport
- Policy 11: Design
- Policy 36: Climate Change

#### 3.3.2 BwD Parking Standards

- B1 (now Eg): Stand Alone Offices 1 car space per 35 sqm.
- B2: General Industry 1 car space per 60 sqm.
- B8: Storage and Distribution 1 car space per 100 sqm.

## 4.0 **ASSESSMENT**

### 4.1 Principle of Development

4.1.1 The site is located within the defined Inner Urban Area of Blackburn. The defined urban boundaries are the preferred locations in the Borough for all new employment and commercial development. The principle of development is therefore acceptable, in accordance with Policies 1 and 2.

4.1.2 In accordance with the presumption in favour of sustainable development detailed in the Framework, and Policy 7, development proposals should proceed without delay, unless impacts which significantly and demonstrably outweigh the benefits of the proposal are identified; subject to assessment of the following matters:

## 4.2 Design and Visual Amenity

- 4.2.1 The site is positioned within an area that has a highly 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 visual amenity. The site currently appears unkempt and any development proposals here would offer a welcomed opportunity to improve its appearance. Concerns have been raised in public comments regarding tree loss.
- 4.2.2 The proposed building would form a relatively prominent feature within its immediate setting given its scale. That said, large commercial buildings of a multitude of styles form part of the prevailing character of the local area and this building would be significantly smaller than the majority of those existing buildings. The existing boundary walls would also be retained that would provide screening opportunities for the lower parts of the proposed building.
- 4.2.3 A condition is recommended to control the quality and finish of the external construction materials to be used so that a satisfactory form of development is achieved. A further condition has been added to agree the scope of changes/repairs to the existing boundary walls as the submitted information is limited in that respect. Moreover, improvements to the appearance of the boundary walls would be desirable given their current condition.
- 4.2.4 Regarding tree loss, a review of the proposals has been undertaken by the BwD Arboricultural Advisor and no objections have been raised. The trees within the site are low quality, self-seeded specimens that provide a limited contribution to the visual amenity of the local area.
- 4.2.5 Planting opportunities are limited at this site given the nature of the proposals. A small landscaped area is proposed yet no planting specifics are provided as part of the submission documents. Therefore, a condition is recommended to control those details, as requested by the BwD Arboricultural Advisor. Subject to compliance with those conditions, the proposed development would be acceptable with reference to design and visual amenity, in accordance with the relevant requirements of Policy 11.

## 4.3 Residential Amenity

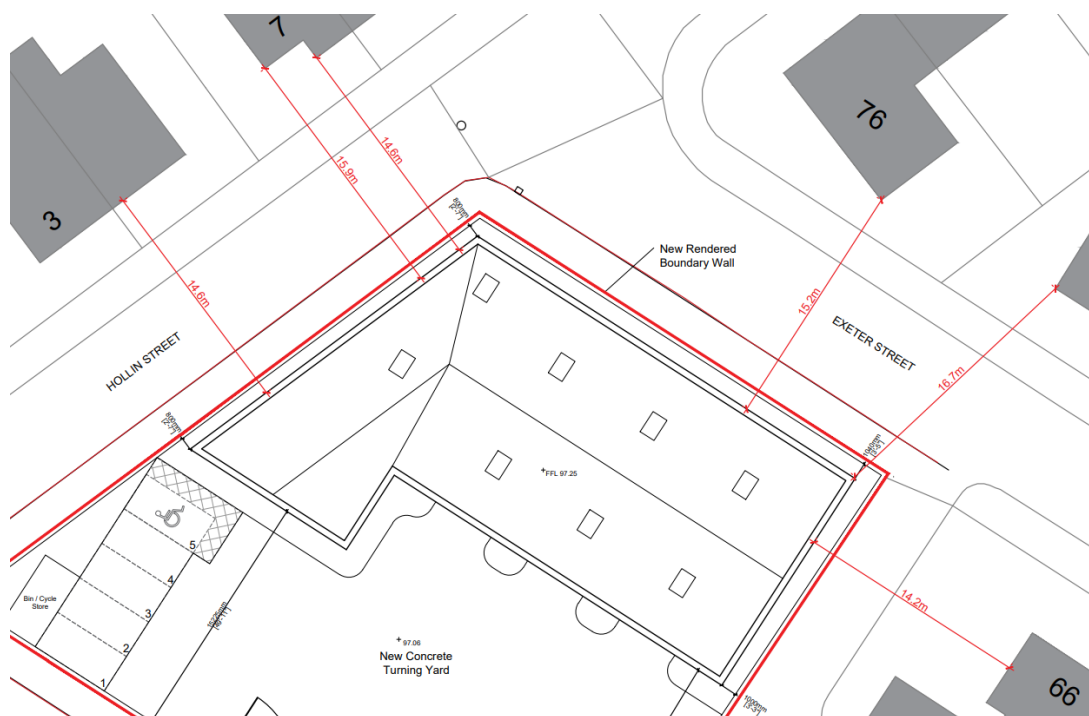
- 4.3.1 Dwellings surround to three sides and safeguarding the amenities of neighbours is an important material planning consideration. Policy 8 states that all development proposals must secure a satisfactory level of amenity and safety for surrounding uses and for occupants or users of the development itself, with reference to noise, vibration, odour, light, dust, other pollution or nuisance, privacy/overlooking, and the general relationship between buildings. Concerns have been raised in public comments on residential amenity grounds.
- 4.3.2 A Residential Amenity Impact Assessment has been submitted in support of the application. A review of the submitted assessment and proposals as a whole has been undertaken by BwD Public Protection. No objections have been



raised. Conditions have been advised to control the hours of use, noise emissions, construction working hours, and any required pile-driving operations (or similar). It is recommended that all of those conditions are added to safeguard to aural amenities of the immediate neighbours during the construction and operational phases of the development. A further condition is recommended to control wider aspects of the construction phase for the same reason.

- 4.3.3 An updated version of the proposed site plan has been submitted during the course of the application that clarifies the distances between the proposed building and main habitable room windows in adjacent dwellings. In excess of 13.5m would be maintained, which is acceptable to ensure the proposed building does not appear overbearing to the immediate neighbours. The loss of a few low quality trees here would not materially harm the outlook of the immediate neighbours when the current condition of the site is taken into account. Moreover, no unacceptable losses of privacy would be caused for neighbours when the nature of the development is considered alongside the levels of separation involved.

Figure Five – Plan Clarifying Separation Distances



- 4.3.4 A further condition is recommended to control and sources of external lighting, as requested by BwD Public Protection. Such a condition is necessary to prevent external lighting causing adverse levels of light pollution for the immediate neighbours once the development becomes operational. Subject to compliance with those conditions, the proposed development would be acceptable with reference to residential amenity, in accordance with the relevant requirements of Policy 8.

#### 4.4 Highways, Servicing and Parking

- 4.4.1 As detailed above, the proposals would utilise an existing access point from Hollin Bridge Street. Policy 10 requires all development proposals to not prejudice road safety, or the safe, efficient and convenient movement of all highway users. Off-street vehicle parking should also be provided in accordance with the adopted Parking Standards. Concerns have been raised in public comments of highways and parking grounds.
- 4.4.2 A Transport Assessment has been submitted in support of the application. A review of the assessment and the proposals as a whole has been undertaken by BwD Highways. No objections have been raised yet a number of residual concerns have been identified. The development would not have any unacceptable implications for the wider highways network owing to its limited scale. Moreover, the existing access point is appropriate for the proposed use in terms of its width and layout. A condition is recommended to agree a scheme for a delineated pedestrian route from the new gateway to the proposed building. Such a condition is necessary in order to optimise pedestrian safety.
- 4.4.3 Regarding internal manoeuvrability, vehicle tracking plans have been provided for multiple vehicles. The plans confirm that refuse wagons and commercial vehicles up to 10.2m in length can safely navigate the site, and egress in a forward gear. The residual concerns identified by BwD Highways relate to internal manoeuvring arrangements.
- 4.4.4 It is acknowledged that some management would be required by the site operatives to ensure multiple large commercial vehicles do not enter the site at once. However, no further planning controls are necessary to control such an outcome as the onus should ultimately be placed on the site operatives to adequately managed such activity.
- 4.4.5 The proposed yard area would not be large enough for articulated wagons to enter the site and no further assessments are required in that respect. It should also be noted that the current use of the site is for commercial storage, as shown below in Figure Six. The landowner could currently use the site for the storage of multiple large commercial vehicles and such activity would likely have a much greater impact on the surrounding highways network than these proposals.

Figure Six – Historic satellite images of the site



- 4.4.6 Regarding off-street vehicle parking provisions, slight shortfalls have been identified by BwD Highways yet no concerns have been raised given the accessible nature of the site. The 4 office rooms would have a combined floorspace of 70.5 square metres, which equates to a requirement of 2 spaces. The service area would have a floorspace of 325 square meters. 7 spaces would be required for a B2 operation yet only 4 would be required for a B8 operation.
- 4.4.7 Based on those calculations, a shortfall of only 1 space is applicable based on the 'worst case scenario', which is acceptable. A condition is recommended to ensure the carpark and manouvering areas are provided prior to the development becoming operational. A further condition is recommended to agree a covered cycle storage scheme in order to encourage the use of sustainable modes of transport. It is not possible to move cycle storage provisions closer to the proposed building given constrained manouvering arrangements yet those provisions would be installed around 10m from the main entrance, which is acceptable. Motorcycles could also readily park within one of the parking bays, where relevant.
- 4.4.8 A detailed above, a condition is recommended to control the logistics of the construction phase. The condition is also necessary on highways grounds in order to minimise the potential for highways disruptions to be caused from that phase. Subject to compliance with those conditions, the proposed development would be acceptable with reference to highways, servicing and parking, in accordance with the relevant requirements of Policy 10.

#### 4.5 Flooding and Drainage

- 4.5.1 The site is at risk from both fluvial and pluvial flooding. Policy 9 requires all development proposals to avoid unacceptable impacts on environmental assets or interests, including flood risk. Development with the potential to create significant amounts of new surface water run-off will be expected to consider and implement where required, sustainable drainage systems (SuDS) or other options for the management of the surface water at source. Concerns have been raised in public comments on flooding grounds.
- 4.5.2 A Flood Risk Assessment (FRA) has been submitted in support of the application. Both BwD Drainage and the Environment Agency have reviewed the submitted FRA and the merits of the application as a whole. No objections have been raised. A condition has been advised by the Environment Agency to ensure the development is implemented in accordance with the mitigation measures detailed within the submitted FRA, which is recommended to be added.
- 4.5.3 Further conditions are recommended to control foul and surface water drainage provisions and the maintenance of the surface water drainage system to be installed, as advised by BwD Drainage and United Utilities. Subject to compliance with those conditions, the proposed development would be acceptable with reference to flooding and drainage, in accordance with the relevant requirements of Policy 9.

#### 4.6 Land Contamination

4.6.1 The site has been identified as one of concern by BwD Public Protection regarding land contamination. Policy 8 contains further requirements to ensure development proposals on previously developed land can be remediated to a standard that provides a safe environment for users of the development whilst also ensuring contamination is not displaced. Concerns have been raised in public comments regarding the removal of the fuel tank currently on site.

4.6.2 In response to the above requirements, it is recommended that all three standard land contamination conditions be imposed, as requested by BwD Public Protection. Subject to compliance with those conditions, the proposed development would be acceptable with reference to land contamination, in accordance with the relevant requirements of Policy 8. For clarity, the removal of the existing structures on site will be resolved in conjunction with the Public Protection as a legacy issue, and as part of the land remediation strategy.

#### 4.7 Air Quality

4.7.1 The development would likely involve additional traffic movements when compared with the existing use. Policy 36 requires all development proposals to minimise contributions to carbon emissions and climate change, both directly from the development and indirectly arising from factors such as travel to and from the site. Concerns have been raised in public comments on air quality grounds.

4.7.2 BwD Public Protection have reviewed the merits of the application and no objections have been raised. A condition has been advised regarding the submission of a scheme for the provision of charging points for low emissions vehicles, which is recommended to be added. Subject to compliance with that condition, the proposed development would be acceptable with reference to air quality, in accordance with the relevant requirements of Policy 36.

#### 4.8 Crime Management

4.8.1 In order to prevent crime and disorder and to keep people safe and feeling safe, crime prevention strategies should be integrated into the design of developments as early as possible. Further requirements within Policy 8 state that all development proposals must incorporate positive measures aimed at reducing crime and improving community safety, including appropriately detailed design.

4.8.2 In response to those requirements, the development should be designed and constructed using the security principles and security rated products detailed within the Commercial Developments Secured by Design Guide (2015). An Informative Note should be added to any approvals issued raising awareness to those requirements. Subject to those obligations being followed, the proposed development would be acceptable with reference to crime management, in accordance with the relevant requirements of Policy 8.

#### 4.9 Wider Considerations

- 4.9.1 Further concerns have been raised in public comments regarding the fact that the site currently provides habitat, adjacent properties may be devalued, the proposals may increase antisocial behavior and that the building may become vacant in the future.
- 4.9.2 The site is an urban location with low quality trees lining its peripheries. Minimal demolition works are proposed and those works could be implemented outside of the planning process given the limit scale of the building to be demolished. Therefore, any ecological impacts caused by the development would be negligible.
- 4.9.3 Impacts on the value of adjacent properties cannot be lawfully considered as part of planning applications. Antisocial behaviour is a Police matter and these proposals would not materially increase such activity given their nature. Finally, the risk of commercial buildings becoming vacant over time is a threat that faces all such buildings yet such an outcome is not a valid reason to resist commercial development. Those comments, therefore, have no material influence on the assessment of this application.

#### 4.10 Summary

- 4.10.1 This application involves the erection of an industrial unit (Use Class B2/B8) with associated office space (Use Class Eg) and the formation of a carpark and logistics area. 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 Sections 3.3.1 and 3.3.2.
- 4.10.2 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 in terms of design and visual amenity, residential amenity, highways, servicing and parking, flooding and drainage, land contamination, air quality, and crime management.
- 4.10.3 The development therefore complies with the development plan. There is a positive presumption in favour of approving the development and there are no material reasons to object to the application.

#### 5.0 **RECOMMENDATION:**

**Delegated authority is given to the Strategic Director of Growth and Development to approve, subject to the following conditions and informative note;**

- 5.1 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.

- 5.2 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 (6805 – E00), 6805 – E01 – Revision A, 6805 – P01 and 6005 – P02.

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

- 5.3 Prior to the commencement of any above ground works on site, details confirming the colours and finishes of all the external materials to be used in the construction of the development hereby approved shall have first been submitted to and approved in writing by the Local Planning Authority. The development shall thereafter be implemented in strict accordance with the approved materials and details.

REASON: In order to ensure a satisfactory form of development is achieved, 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).

- 5.4 No above ground works shall commence on site unless and until, a scheme detailing repairs/changes to the existing boundary walls has first been submitted to and approved in writing by the Local Planning Authority. The development hereby approved shall thereafter be implemented in strict accordance with the approved scheme and it shall not be brought into use unless and until the approved measures have been provided in their entirety.

REASON: In order to agree the scope of those works, 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).

- 5.5 No above ground works shall commence on site unless and until, a detailed Landscaping Scheme has first been submitted to and approved in writing by the Local Planning Authority. The scheme shall provide for but not be exclusively limited to the following;

- a) Details of proposals for supplementary landscaping, 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 within the first available planting season following the substantial completion of the development. 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 ensure that the development is adequately landscaped so as to integrate with its surroundings, in the interests of visual amenity and local ecology, and to comply with the requirements of Policy 9 and 11 of the Blackburn with Darwen Borough Council Local Plan Part 2, Site Allocations and Development Management Policies (Adopted 2015).

- 5.6 The development hereby approved shall only operate between the hours of 8:00 – 18:00, Monday – Saturday. The development shall not operate whatsoever on Sundays or Bank Holidays.

REASON: In order to minimise the potential for noise disruptions to be caused for 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).

- 5.7 Following the development hereby approved being brought into use, the noise rating level arising from the development shall not exceed 45dB (A) at all surrounding residential premises for the duration of the approved use. Any relevant assessments shall be made in accordance with BS4142:2014 (Methods for rating and assessing industrial and commercial sound).

REASON: In order to minimise the potential for noise pollution to occur for 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).

- 5.8 Any construction works associated with the development hereby approved shall only take place between the hours of 8:00 – 18:00 Monday – Friday and 9:00 – 13:00 on Saturdays. No such works shall take place on Sundays or Bank Holidays whatsoever.

REASON: In order to minimise noise disturbances for neighbours from construction works, 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).

- 5.9 Should any pile-driving and/or ground compaction techniques be required to construct the development hereby approved, no development shall commence on site unless and until a programme for the monitoring of noise and vibration generated from those works has first been submitted to and approved in writing by the Local Planning Authority. The programme shall specify the measurement locations and maximum permissible noise and vibration levels at each location. At each location, noise and vibration levels shall not exceed the specified levels in the approved programme during construction works.

REASON: In order to minimise disruptions for neighbours from the construction phase, 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).

- 5.10 No development shall commence on site unless and until, a Construction Method Statement has first been submitted to and approved in writing by the Local Planning Authority. The approved statement shall be strictly adhered to throughout the construction phase and it shall provide for but not be exclusively limited to the following;
- a) The parking of vehicles of site operatives and visitors;
  - b) The loading and unloading of plant and materials;
  - c) The storage of plant and materials used in constructing the development;
  - d) Wheel washing facilities;
  - e) Measures to control the emission of dust and dirt from construction works, where relevant;
  - f) Measures to control noise and vibrations from construction works, where relevant;
  - g) A scheme for recycling/disposing of waste resulting from construction works;
  - h) Details of the type, position and height of any required security hoardings;
  - i) Details of the type, position and height of any required external lighting, and;
  - j) A compound plan showing the location of the above provisions.

REASON: In order to control the logistics of the construction phase, in the interests of residential amenity and highway safety, and to comply with the requirements of Policies 8 and 10 of the Blackburn with Darwen Borough Council Local Plan Part 2, Site Allocations and Development Management Policies (Adopted 2015).

- 5.11 Prior to their installation, details overviewing the types, positions and heights of any new external lighting sources to be incorporated as part of the development hereby approved shall have first been submitted to and approved in writing by the Local Planning Authority. The development shall thereafter proceed in strict accordance with the agreed details.

REASON: In order to minimise the potential for light pollution to be caused 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).

- 5.12 No above ground works shall commence on site unless and until, a scheme detailing delineated pedestrian routes around the site has first been submitted



to and approved in writing by the Local Planning Authority. The development hereby approved shall thereafter be implemented in strict accordance with the approved scheme and it shall not be brought into use unless and until the approved measures have been provided in their entirety.

REASON: In order to ensure appropriate delineated pedestrian routes are provided in support of the development, in the interests of pedestrian safety, and to comply with the requirements of Policy 10 of the Blackburn with Darwen Borough Council Local Plan Part 2, Site Allocations and Development Management Policies (Adopted 2015).

- 5.13 The development hereby approved shall not be brought into use unless and until, the vehicle parking and manouvering areas as detailed on the approved plan '6805 – P01' have been provided in their entirety. The provisions installed shall thereafter remain in perpetuity with the development and be permanently available for users of the development.

REASON: In order to ensure adequate off-street vehicle parking and manouvering areas are provided in support of the development, in the interests of highway safety, and to comply with the requirements of Policy 10 of the Blackburn with Darwen Borough Council Local Plan Part 2, Site Allocations and Development Management Policies (Adopted 2015).

- 5.14 No above ground works shall commence on site unless and until, a covered cycle storage scheme has first been submitted to and approved in writing by the Local Planning Authority. The development hereby approved shall thereafter be implemented in strict accordance with the approved scheme and it shall not be brought into use unless and until the approved measures have been provided in their entirety.

REASON: In order to encourage the use of sustainable modes of transport, in the interests of securing sustainable development, and to comply with the requirements of Policy 10 of the Blackburn with Darwen Borough Council Local Plan Part 2, Site Allocations and Development Management Policies (Adopted 2015).

- 5.15 The development hereby approved shall be implemented in strict accordance with the mitigation measures detailed within the submitted Flood Risk Assessment, prepared by SLR, and dated 14<sup>th</sup> July 2023. Any mitigation measures applied shall remain in perpetuity with the development.

REASON: In order to ensure adequate flood mitigation measures are provided in support of the development, in the interests of securing sustainable development, 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).

- 5.16 No development shall commence on site unless and until, a surface and foul water drainage 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) An investigation of the hierarchy of drainage options in the National Planning Practice Guidance (or any subsequent amendment thereof). This investigation shall include evidence of an assessment of ground conditions and the potential for infiltration of surface water in accordance with BRE365;
- b) A restricted rate of discharge of surface water agreed with the local planning authority (if it is agreed that infiltration is discounted by the investigations);
- c) Levels of the proposed drainage systems including proposed ground, finished floor, cover and invert levels in AOD;
- d) Incorporate mitigation measures to manage the risk of sewer surcharge where applicable; and
- e) Foul and surface water shall drain on separate systems.

The approved scheme shall be in accordance with the Non-Statutory Technical Standards for Sustainable Drainage Systems (March 2015) or any subsequent replacement national standards.

Prior to the development hereby approved being brought into use, the drainage scheme shall be completed in accordance with the approved details and thereafter retained in perpetuity with the development.

REASON: In order to promote sustainable development, to manage the risk of flooding and pollution, 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).

- 5.17 The development hereby approved shall not be brought into use unless and until, a Sustainable Drainage Management and Maintenance Plan for the lifetime of the development has first been submitted to and approved in writing by the Local Planning Authority. The submitted plan shall include, but not be exclusively limited to the following;

- a) Arrangements for adoption by an appropriate public body or statutory undertaker, or, management and maintenance by a resident's management company, and;
- b) Arrangements for inspection and ongoing maintenance of all elements of the sustainable drainage system to secure the operation of the surface water drainage scheme throughout its lifetime.

The development shall subsequently be completed, maintained and managed in accordance with the approved plan.

REASON: In order to ensure that adequate management arrangements are in place for the sustainable drainage system, in the interests of preventing flooding on and off 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).

- 5.18 No development shall commence on site unless and until, a Contamination Method Statement which sets out in detail the method, standards and timing for the investigation and subsequent remediation of any contamination, which may be present on site, has first been submitted to and approved in writing by the Local Planning Authority. The submitted Statement shall detail the following;
- a) An investigation and assessment to identify the types, nature and extent of land contamination affecting the application site together with the risks to receptors and potential for migration within and beyond the site will be carried out by an appropriately qualified geotechnical professional (in accordance with a methodology for investigations and assessments which shall comply with BS 10175:2001) will be carried out and the method of reporting this to the Local Planning Authority, and;
  - b) A comprehensive remediation scheme including an implementation timetable, details of future monitoring and a verification methodology (which shall include a sampling and analysis programme to confirm the adequacy of land decontamination).

All the agreed remediation measures shall thereafter be carried out in strict accordance with the approved implementation timetable under the supervision of a geotechnical professional and they shall be completed fully in accordance with the agreed measures and timings, unless otherwise agreed in writing by the Local Planning Authority.

REASON: To protect the health of future occupiers of the site, prevent the displacement of pollution and any associated environmental impacts, and to comply with the requirements of Policies 8 and 9 of the Blackburn with Darwen Borough Council Local Plan Part 2, Site Allocations and Development Management Policies (Adopted 2015).

- 5.19 Prior to first use of the development hereby approved, two copies of a comprehensive Validation Report shall be submitted to and approved in writing by the Local Planning Authority. The Validation Report shall demonstrate effective remediation in accordance with the agreed remediation scheme and any necessary supplementary information. All the installed remediation must be retained for the duration of the approved use, and where necessary, the Local Planning Authority should be periodically informed in writing of any ongoing monitoring and decisions based thereon.

REASON: To protect the health of future occupiers of the site, prevent the displacement of pollution and any associated environmental impacts, and to comply with the requirements of Policies 8 and 9 of the Blackburn with Darwen Borough Council Local Plan Part 2, Site Allocations and Development Management Policies (Adopted 2015).

- 5.20 Should contamination be encountered unexpectedly during redevelopment of the site, all works should cease, and the Local Planning Authority should be immediately informed in writing. If unacceptable risks are identified, a remedial options appraisal and detailed remediation scheme should be presented, and

agreed in writing by the Local Planning Authority. The development shall thereafter proceed in strict accordance with the agreed details.

REASON: To protect the health of future occupiers of the site, prevent the displacement of pollution and any associated environmental impacts, and to comply with the requirements of Policies 8 and 9 of the Blackburn with Darwen Borough Council Local Plan Part 2, Site Allocations and Development Management Policies (Adopted 2015).

- 5.21 No above ground works shall commence on site unless and until, a scheme for the provision of charging points for low emission vehicles has first been submitted to and approved in writing by the Local Planning Authority. The development hereby approved shall thereafter be implemented in strict accordance with the approved scheme and it shall not be brought into use unless and until the approved measures have been provided in their entirety.

REASON: In order to minimise negative impacts on air quality arising from the development, in the interests of combatting climate change, and to comply with the requirements of Policy 36 of the Blackburn with Darwen Borough Council Local Plan Part 2, Site Allocations and Development Management Policies (Adopted 2015).

#### Case Specific Informative Note

- 5.22 We would advocate that the installation be designed and constructed using the security principles and security rated products as stated in the attached SBD 'Commercial Developments 2015'. Further details about Secured by Design, including application forms and security specifications can be found at [www.securedbydesign.com](http://www.securedbydesign.com).

## **6.0 PLANNING HISTORY**

- 6.1 No relevant planning history.

## **7.0 CONSULTATIONS**

- 7.1 BwD Arboricultural Advisor – I have considered the proposal with regard to the existing tree cover and the landscaping associated with the proposed development.

The site consists of predominately natural regeneration from self-set tree growth, consisting of mainly young Birch and Goat Willow with some Elm and Ash. There is one established tree, an Elm opposite number 3 and 5 Hollin Street. This has been previously topped and is not suitable to retain or incorporate into the proposed development.

Proposed landscaping provision is limited to an area at the junction with Hollin Street and Hollin Bridge Street. The indicative landscape proposals could include some small trees and shrubs. The landscaping has potential to provide some good visual amenity in a prominent street location. Within this area is a

young Birch which may be suitable to incorporate into a proposed landscape scheme.

(Conclusion) A condition for full landscape details, including plant species, sizes, numbers, planting specifications, maintenance and aftercare, would be appropriate with any approval.

7.2 BwD Public Protection – No objections. Should this application be approved, conditions should be imposed to control the hours of use, noise emissions, sources of external lighting, construction working hours, any required pile-driving operations (or similar), land contamination and air quality mitigation measures.

7.3 BwD Highways – In principle I do not offer objections, subject to the below matters being addressed satisfactorily.

(Parking) In accordance with the adopted parking standards, based on the floorspace of B1 use at 233sqm of floorarea/1 car space per 35sqm = 6.6; B2 use at 176sqm of floorarea/1 car space per 60sqm = 3 space, and; B8 use at 176sqm of floorarea/1 car space per 100sqm = 2 space.

The amounts to a total allowance of 11 spaces. The drawings received annotate 8 spaces. When taking into consideration that the site is highly accessible from alternative modes of transport, we would accept the number of parking spaces proposed.

The plans indicate a bin/cycle store at the edge of the site. The cycle parking should be relocated closer to the entrance of the building, be covered and secure. This should also accommodate provision for the parking of PTW space. Please request this information or condition accordingly. 2 disabled bays have also been accommodated within the layout, this is acceptable.

(Access/Layout) There is an existing vehicle entrance into the site which is adequate to support this development. Details of any sightlines have been provided, these are satisfactory. It is noted that there is a separate pedestrian gateway introduced into the site from the highway. There is however no connection into the site from the points. We would advise that a delineated route is provided from the highway leading up to the entrance of the building.

Swept path analysis has been provided within the Transport Statement. These demonstrate the movements for all the vehicles into and out of the site, there are some restrictions in movement within the site, which would need to be managed.

The document also mention use of an artic to the site, yet there are no swept path to support this movement, if this is the case, then these should be provided for assessment. I am led to believe that there will vehicle brought to site for repair i.e. diggers. I expect these to arrive on a transporter, further details of the manoeuvres of these is to be offered for assessment.

(Other) All existing street furniture including street lighting should be removed/disconnected at the applicants expense and relocated at locations to be agreed with by the relevant highways officer, (should they be required to do so). Construction method statement is to be received this should include wheel washing. Contact to be made with our Structures Division prior to commencement of any works affecting retaining walls/ structure adjacent to/abutting or within the adopted highway. Prior to any work commencing that affects the existing adopted highway contact to be made with the Local Highway Authority to undertake a condition survey. Any old entrances that are no longer required should be closed and reinstated back to full footway, at the developers' expense.

7.4 BwD Drainage – No objections. Should this application be approved a condition should be imposed to control foul and surface water drainage provisions. The condition is necessary to ensure that the development is not at risk of flooding and that adequate measures are put in place for the disposal of foul and surface water.

7.5 BwD Cleansing – No objections.

7.6 Environment Agency – We have no objections. The planning application is accompanied by a Flood Risk Assessment (FRA) prepared by SLR Consulting Limited. Dated 14 July 2023 referenced 432.000319.00001. We have reviewed the FRA in so far as it relates to our remit and we are satisfied that the development would be safe without exacerbating flood risk elsewhere if the proposed flood risk mitigation measures are implemented.

The proposed development must proceed in strict accordance with this FRA and the mitigation measures identified as it will form part of any subsequent planning approval. Any proposed changes to the approved FRA and/or the mitigation measures identified will require the submission of a revised FRA.

7.7 United Utilities – No objections. Should this application be approved, conditions should be imposed to control foul and surface water drainage provisions and ensure a management plan is put in place for any surface water drainage provisions.

7.8 Lancashire Fire and Rescue – It should be ensured that the scheme fully meets all the requirements of Building Regulations Approved Document B, Part B5 'Access and facilities for the Fire Service'.

7.9 Ward Cllrs

7.10 Summary of public responses received:

- Trees will be felled to facilitate the development
- Noise impacts may be caused for neighbours
- Losses of light may be caused for neighbours
- Increases traffic volumes may be caused
- Highway safety issues may be caused

- An inadequate amount of parking is proposed
- The site is at risk of flooding
- There is nothing in relation to the safe removal of the large tank (possible oil etc.) on site
- Air pollution may be caused
- The site currently provides habitat
- Adjacent properties may be devalued
- The proposals may increase antisocial behavior
- The building may become vacant in the future

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

**9.0 DATE PREPARED:** 01<sup>st</sup> September 2023

## **10.0 SUMMARY OF REPRESENTATIONS**

**Objection – Kate Hollern MP on Behalf of Mr Thomas Alberts, 99 Exeter Street, Blackburn, BB2 4AU. Received: 21/08/2023.**

Ref: 10/23/0497

I write on behalf of my constituent Mr Thomas Alberts, of 99 Exeter Street, Blackburn, BB2 4AU.

Mr Alberts has been in touch with our office regarding his concerns about the proposed construction of an industrial unit behind his property, on the land at Hollin Bridge Street.

My constituent has advised that according to plans, the proposed structure will face the front elevation of his property, thereby affecting his garden, bedroom window, kitchen, and, due to the positioning of his property, will impact his rear garden and conservatory also.

As I understand, Mr Alberts is concerned, firstly, that the proposed height of the unit, at 5.9 meters, consisting of two-storeys, and surrounded by a 2m boundary wall, will create complications with privacy for surrounding properties, such as my constituents', which are positioned at a close proximity of the site. My constituent is also concerned that due to the height of the unit, the building will overshadow his residence, and will obstruct light from entering into his garden and property.

Furthermore, due to the industrial purpose of the site, Mr Alberts is concerned that there will be substantial noise and air pollution from both machinery and traffic movement and that this will inevitably impact his and his neighbours' quality of life.

My constituent has also highlighted that whilst the above concerns may have been minimised by the shrubbery currently surrounding the site, construction plans demonstrate that this greenery, providing privacy for bordering properties and a home to wildlife, will be destroyed.

As you will appreciate, my constituent feels that the above factors will significantly impact his daily life, and will also have a detrimental impact on the value of his property.

In light of this, I would be most grateful if you my constituent's concerns could be taken into consideration, with a view to contacting Mr Alberts to discuss the above, and if my own interest in the case could be noted.

**Objection – Mr Thomas Alberts, 99 Exeter Street, Blackburn, BB2 4AU. Received: 03/08/2023.**

After a visit yesterday from a planning officer think his name was Christian, he advised me of the size of the building that is being proposed on the site facing our family's front door not just my front door, my bedroom window, my rear kitchen door the blot on the landscape would even extend to my rear garden and conservatory in fact the 2 storey building covers my properties boundary to the inch by what I can see.

The planning officer was very helpful and told me to put in an email my concerns he gave me a drawing of the aerial view which obviously does not show the true picture of the impact this will have to my home when my house was built the front elevation was built not to face Exeter St but the proposed site boundary the main front elevation and front and rear garden where obviously originally built that way it was one of the reasons we bought the property all these years ago being the end property we get the advantage of wrap around gardens which every inch would be affected by this on the opposite corner Hollins Bridge St that is a traditional gable end with no windows or doors.

Having lived in the area all my life I do know the history of the plot never having buildings sited there before. I may have been being naïve but I thought planning for a 2 storey building so near my boundary would not have been easy to obtain so when we went on line to view the full plans I was amazed to see plans for a huge 2 storey prefabricated structure, this will be a blot on the landscape affecting every day life for numerous people it will be like we are all living in a prison yard.

I have spoken to a couple of residents already and basically do not think people in the area are aware of what the finished building will look like for all residents of the area, one of my neighbours told me yes they are building offices oblivious to the fact the lovely looking office space will be facing a main road right across from another industrial building factory with large industrial yard also on Hollins Bridge St surely plans for the office and car park would have been kinder to me and all other residents in the area would have been better facing Exeter St, with office building not over shadowing any residents in the area and then the industrial entrance on the main road for large plant which then this monstrosity of a building will not have a detrimental effect on mine and so many other people's lives just seems daft to me.

I fully understand the need to build but again I must ask do we really need to give up what you call a brown belt site which is surrounded by trees which again I must ask does the building really need to come so close to chop the trees down? the site sustains wild life bats birds etc I feed the birds in my gardens, I grow plants in my garden wild flowers etc to attract bees and butterflies which visit regularly.

I would also have to question the amount of jobs this would create if any, also the fleet size of vehicles this company would be using to need a service building of such size, which in itself throws up more questions from the noise side of things I personally know what decibels are created using an impact gun the tool of choice in the motor trade an impact gun for a car is tremendously loud being used outside in an open space. They are proposing running 3 service bays 3 lots of bigger louder tools than a car service bay would use and don't forget like I say 3 we are talking 3 compressors running, numerous buzz guns being used, then the yard activity!!!!!! skips being loaded unloaded, materials being loaded unloaded, bobcats JCB's etc etc The size of tools needed to enable work on these size wagons, low loaders plant etc you are talking being serviced here you have to ask when this factory garage, service area whatever you want to call it was thought up did the homes and residents surround the 3 sides that will all have bedrooms not much further away than 20 feet even given a



thought, residents who will no doubt be effected right around the 2 storey building in the area, all these homes will be affected by activity and potential noise pollution massive load loaders coming and going any time of the day the noise from unloading and loading has already been commented on has they are using the yard at the moment without any need for this huge service area that is potentially going to have a massive, massive effect on my health and then the relatively quite side I.e. the offices you would think from the plans the more presentable side will be on show to a main road and another huge industrial premises amongst other issues Light to grow things and encourage wild live gone. Light coming in my front door when I open it gone. Light coming in my back door when I open it gone. Light and the lovely view I enjoy from my bedroom window gone. Light in my bath room gone.

This email is more of a personal one mainly how my home and family will be effected and to register my total disagreement. Yesterday was my first incline that a 2 storey building could be built so close to my boundary !!!!!!! if it had have been houses their may have been more thought put in to the green side of things and the effects on other homes and other peoples lives.

To me this is a calculated effort to obtain maximum profit from a plot of land that clearly in my view could and should be looked at more closely.

This is going to be in all eyes from homes surrounding it is a very noisy blot on the land scape ugly looking factory like building stuck in a fully residential area.

Another point which I think should be looked into is the fact that basically this will look no different than a cladded 20 foot high wall more like the segregation between 2 warring factions at times of crisis which will darken a walk way that is used by school kids women everybody If this is built as per drawing in the said walk through from Exeter St to Hollins St will become a no go zone dark by day and pitch black by night this in turn will add to the fly tipping problem and drug selling activity in the area.

Also very concerning is the only green consideration I can see is a scrub or 2 around the bin area !!!!!!!

Surely some consideration should be given to all the trees that will be uprooted and killed only for every last trees place be taken by a 20 foot cladded wall.

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**Objection – Mr & Mrs D Riley, 60 Exeter Street, Blackburn, BB2 4AU. Received: 07/08/2023.**

I have received notice from a neighbour that the land at the bottom of Exeter Street is to be used as a plant equipment service company.

Although this proposed development across the road from our property and 9 houses down. I have a couple of concerns that I feel are worth pointing out.

The proposed business will have low loaders coming in and out of the access gates at frequent times, this will inventively increase the traffic flow down Exeter Street as vehicle's that would normally use Hollin Bridge Street will start to make the detour at the alternative exits on Hollin Bridge St. causing a greater flow of traffic past our property on Exeter St.

Also, to note is that the application states there will be 35 employees working at this site, yet only 8 bays have been allocated for the onsite parking.

The three workshop bays indicates that there will be plant equipment servicing during the day, 6 days a week commencing at 8:00 AM. The noise generated by this I imagine be quite loud with the use of buzz guns, sledge hammers knocking steel pins in / out. High pressure noisy equipment being used throughout the day.

This area is a residential area with the only industrial units being located on the opposite side of Hollin Briges St. & then at the rear of the residential area at the top of Hamilton St.

It concerns me that an industrial unit with the a for mentioned business can be given planning permission to locate in a residential area meters away form neighbour's houses when there are empty units within 200 yards of this site in the Waterfall Trade Park Industrial Estate.

It also concerns me that this can be done without notifying residents who will suffer loss of light, noise pollution & traffic pollution.

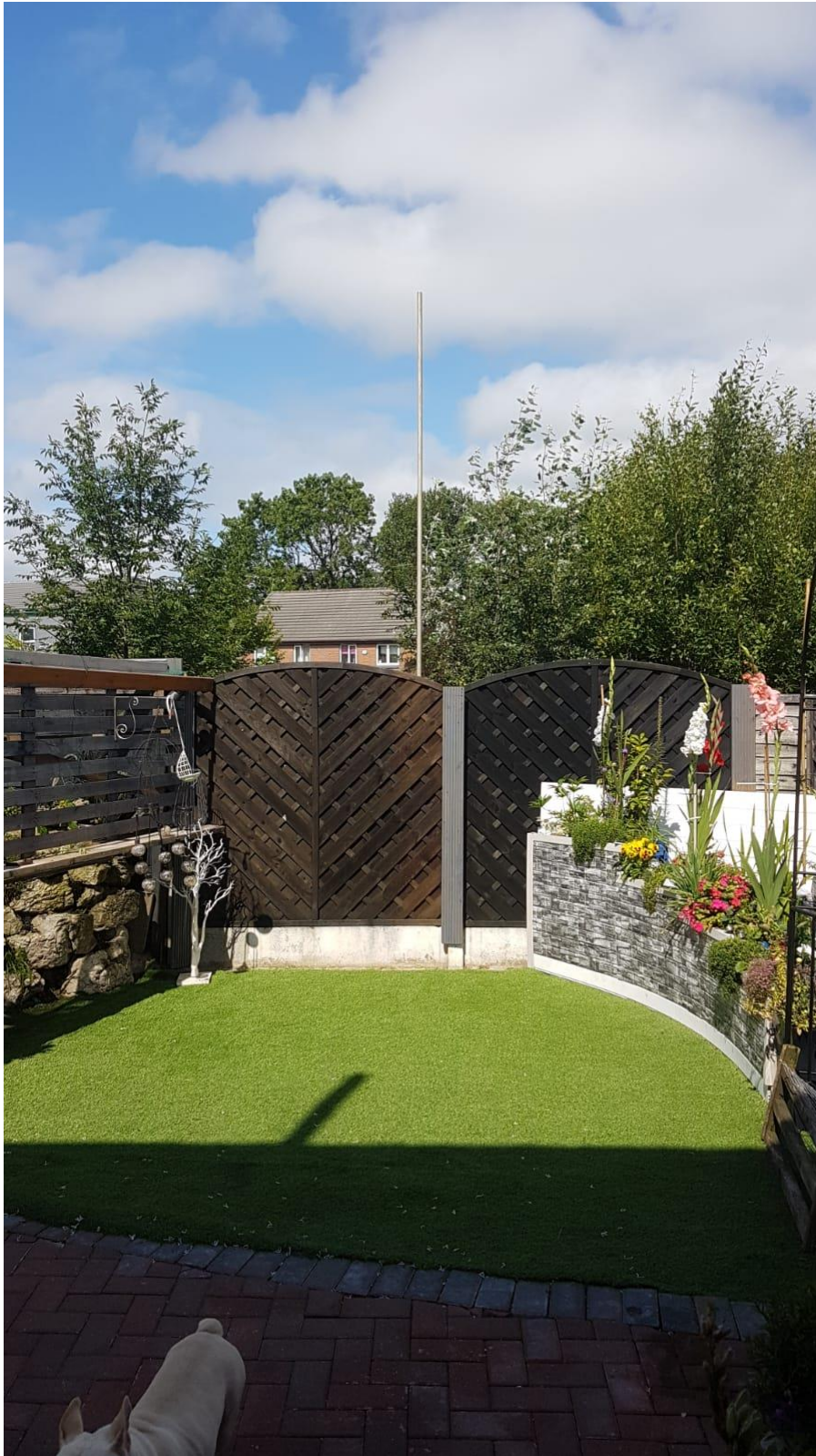
So, we wish to raise my concerns about this proposed development.

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**Objection – Alison Wade, 99 Exeter Street, Blackburn, BB2 4AU. Received: 07/08/2023.**



Picture 1 shows the view i have stood at my front door at the moment !!!!!!!!!



Picture 2 shows the view i have stood on the ground in my front garden at the moment !!!!!!!! The scaffolding pole indicates the approximate height the proposed building will be 20ft according to the planning officer who paid us a visit last week.

## **Reasons for Objecting**

### **1 OVERBEARING**

See attached pics

### **2 EFFECT ON THE VALUE MY HOME AND OTHER PROPERTISE IN THE AREA.**

This will obviously have a effect on the value of our property and other homes in the area, i fear it could even make mine unsellable.

### **3 TRAFFIC CONTROL AND MANAGMENT.**

Contrary to TMR the area witnesses a large amount of HGVs in difficulty already due to the low railway bridge, which is in stone throwing distance of the proposed main gates. Only this morning I personally witnessed a HGV having to reverse into HOLLIN ST to avoid the said low bridge and get to his drop off !!!!! which is mainly the massive industrial unit which MDA operate which is sited in the Mill Hill area not far from us. The number of wagons delivering there is vast, their only approach is via the A666 all straight forward till leaving A666 on to Aqueduct Rd immediately on exiting the aqueduct bridge which gives the Rd its name there is a mini roundabout with 2 options one too keep left down a very quiet road passed the bowling green or stay on the main road ? you would not believe how many make the wrong choice and stay on main road which means they have no options then as all routes now lead to the low bridge on Hollin Bridge St which they cannot get under as already stated this massive problem the bridge is here to stay it is a railway line it already causes massive disruption backing up traffic both ways as HGV driver has no option but to block both sides of Hollin st and block both lanes on Hollin bridge St to make his turn around not a stone throw away from proposed development add this to the increase in traffic the large industrial unit directly across from the site already produces I have to question the potential increase another operation especially one this size is going to make, this will increase the number of cars speeding along Hollin St Exeter St Grafton St creating rats runs for speeding drivers and around the area. I myself have lived in the area all my live I remember the last company that owned both plots the plot in question and the plot directly across the road the company was Bowker's Haulage company both sites where seen as outdated to run large HGV vehicles out of due to the amount of traffic Hollin bridge st was producing in its own right and they had the option of servicing their vehicle's in the larger plot across the road disturbing no homes, the plot in question was merely used for empty trailers again effecting no homes in the neighbourhood.

Surely we should learn from this.

### **4 BUILDING IN A FLOOD ZONE**

Again, think it is public knowledge to everyone in the area we are in a flood zone, the already mentioned the low bridge which causes multiple issues becomes unpassable regular due to flood water from River Darwen that runs under the bridge.

When this is totally blocked the entire area suffers traffic backing up, side being used like racetrack with inpatient drivers speeding all over the place.

To suggest i site with the number of very large size transport coming and going from the site will not add to a very, very real problems the bridge already throws up.

Also not seen any mention in any of the reports of the traffic chaos Ewood Park Football Stadium can create match on days midweek and weekend concerts and other public events they all create large amounts of extra traffic.

5 **AIR POLLUTION**

I find it hard to believe that there is not great concern being shown regarding the amount of air pollution a large setup like this will create bringing into the area a large amount of very large toxic diesel engines in a highly populated area with a CHILDRENS large park play area not a stone's throw from proposed site.

Do we really need our kids breathing more toxic fumes !!!!!!!

6 **LOSS OF LIGHT**

See pics

7 **LOSS OF VIEWS**

see pics

8 **NOISE POLLUTION**

Obviously very concerned over noise a industrial operation of this size noise will be a factor just the noise of the HGV engines alone will have a bearing on mine and my close neighbours quality of live add to this the banging of heavy metal when diggers being unloaded, trailers being unhitched, the running of 3 service bays and assorted large power tools to enable the servicing of what must be a massive fleet to justify a setup of this size, on top of this we will have the noise from normal activates of office staff etc.

9 **GREEN ISSUES**

The site is lined with tress the proposal is to get rid of all these trees just uproot them, kill them all !!!!! in what I can see from drawing all the trees that will be lost the plan proposes a few shrubs around the bin area. That is simply due to the unreasonable size of the build compared to the size of the site and the need in the plans to use up every inch of available space to the extent that any green issue cannot be dealt with. The site is in a residential area on the same street as local shops, children's playground, basketball courts, swings slide LOTS OF GRASS Surely in this day and ages we have to question what we are losing before we go forward and ask ourselves.

DOES A RESIDENTAIL AREA WITH A LARGE AMOUNT OF YOUNG PEOPLE AND CHILDREN THE RIGHT AREA FOR A HUGE OPERATIONS CONSTRUCTED 99% OF CONCREATE AND STEEL HOUSING A UNKNOW AMOUNT OF MACHINES, TOOLS VEHICLES ETC ETC ALL MORE THAN CAPABILE OF NOT JUST NOISE POLLUTION BUT POLLUTANTS ME AND MY GRAND CHILDREN WOULD RATHER NOT BREATH IN!!!!!!!!!!!! JUST TO RUB SALT INTO THE WOUND THIS WOULD BE AT A LOSE OF TREES BIRDS BATS AND A MULTITUDE OF OTHER LIVING CREATURES.

10 **POSSIBILITY OF FUTURE PROBLEMS**

Again obviously a concern, if this companies expansion plans do not go to plan and they find the concrete yard is sufficient for there needs what happens to the huge building housing 3 service bays along with other things.

11 **WORKING HOURS**

What would happen if they had to start up one of their fleet of vehicles out of hours, just say they need a digger to be on site for 8pm and the site is 200 miles away.

That would open a new can of worms in the area.

## 12 ANTI SOCIAL BEHAVIOR

We already have a problem around the site partly I think due to no activate from the yard.

Drug issues, loitering, all this proposal will do is surround all residents with a building that will offer shelter from wind and rain while the anti social behaviour is carried out. The building itself will encourage children in the area to throw stones, kick and throw balls against it, graffiti everywhere etc adding to our nightmare.

The walkway between our boundary and the sites boundary is a regular spot for fly tippers {please see council records of repeated ongoing issues building waste, tree cuttings, fridges which are obviously from traders) specifically choosing this spot because of easy access and the fact in the dark with their lights out they cannot be identified they can easily drive down from Hollin Bridge St entrance tip whatever they like in the middle between the 2 streets then simply exit via Exeter St. The scale of the building along with the height will give them total blanket cover massively increasing the amount of fly tipping again creating a much bigger problem for the residents and their homes and again to rub salt in the wound the owners of this site will be oblivious what is going on at the rear of this huge building, driving in the gates at morning then driving home to a home that is not surround by what can be only be described as a prison wall which could not been designed built positioned in a place on the land that fly tippers and other person who participate in anti-social activities could not have designed and sited themselves any better to aid their activities.

## 13 NUMBER OF PARKING SPACE

The small amount of car park spots will surely not be adequate when the site is at full running capacity office staff, manual workers, plant servicers then visitors. The lack of parking in the area will mean people will use the side streets parking on Hollin street where some residents have off road parking but the residents that live in the flats at Hamilton house on the corner of Hollin St usually fill the road the residents across from Hamilton house the terrace block near the low bridge so the car owners living here have always parked on Hollin st on the same side as the proposed site, round the corner my steert Exeter St the boundary wall on Exeter St the spare parking there is taken up by the residents rear to my home of Hollin bridge st due to the fact their is not enough room to park outside their own homes on Hollin Bridge st. The increase in parking needs will inevitably again have a effect on the car owners who live in the area.

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**Objection – Janet. Received: 08/08/2023.**

My name is Janet.

I received a letter in regards to the building of offices etc.

I have since spoke to neighbours about his and it seems it's a lot more than offices. I feel this is really unfair, not only will we have to put up with big trucks refilling, noises, traffic. This could affect our house prices! These are our homes and I feel this isn't being taken into consideration. We are just being told this is happening and that's that.

I do not agree with this development and I feel like this should be reconsidered.

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**Objection – Sonia Edwards, 74 Exeter Street, Blackburn, BB2 4AU. Received: 09/08/2023.**

I have tried to contact via phone, just to discuss a few issues. I hope these below concerns are taken into account when making said decision on the proposed planning development for Hollin Bridge Street, Blackburn

I have several concerns regarding the usage & design/size the overbearing of the proposed unit.

Increase in traffic, which the site backs on to Exeter Street which is relatively a small Street with little traffic issues with exception when the Blackburn Rovers are playing or hosting events. The proposed application would increase traffic in the area, given that there is also limited parking bays in the said proposed site to sustain staff and visitors to the site.

The size of the proposed site would effect natural light to local houses especially the ones facing. At present the site is not in use but the original stone wall (with no damage) was knocked down and replaced with breeze block , I am not a builder but the construction of that wall was terrible and has blown down once in high winds. There are trees at the back of the wall giving somewhat a pleasant view. The design itself will make a quite Street look more industrial that being especially making the bottom end of Exeter street look more like a back alley, given the nature of the materials being used and that the trees and green growth visible at present will be destroyed if the application design goes ahead as planned.

Concerns even though there is a number of social housing properties, home owners like myself have concerns that this development would cause a decrease in value to properties, and possibly making a sale difficult in the future not necessarily getting the true value of present. Likewise this kind of development would down grade the area not add to it, making residential areas better surely is more productive.

Given that design concerns over the likelihood of increase in anti social behaviour, there has been issues raised with local councillors over drug dealing . The building of that nature will give coverage and shelter for that kind of behaviour. The alley at the side and the back alley of Exeter Street / Hollin Bridge Street has been a problem with fly tipping regular residents clean up the area.

The increase in noise pollution along with toxic fumes from engines . Air pollution is now know to be cause of asthma as well as other lung conditions, being in close proximity to houses this is of concern , not to mention the likelihood of early / possibly late working hours . There is no documentation for

local residents to see the purposed working hours. Obviously residents make also have working commitments but early opening of gates and noise from large lorries could be of a hindrance.

If there is a meeting possible for local residents to attend and discuss concerns please could I be informed.

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**REPORT OF THE STRATEGIC DIRECTOR**

**Plan No: 10/23/0564**

**Proposed Development: Change of use of land to include in residential garden (Use Class C3) and erection of a double storey side extension to form annex.**

**Site Address: Ryal Fold Barn, Tockholes, BB3 0PB**

**Applicant: Mr Graham Prescott**

**Ward: Darwen West**

**Councillor Dave Smith  
Councillor Brian Taylor  
Councillor Stephanie Brookfield**



## **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 Constitution, and given that the applicant is related to the Planning Manager. In addition, public objections have been received from 3 addresses.

2.2 The proposed development has been publicised through letters to residents of the nearest 5 properties on 19<sup>th</sup> July 2023. A site notice was displayed on 20<sup>th</sup> July 2023. In addition, residents were renotified on 24<sup>th</sup> August 2023 upon the receipt of amended information. A total of 6 public comments have been received objecting to the application so far. The objections raised principally relate to the potential for harmful landscape impacts to be caused, the nearby presence of listed buildings and the fact that trees have been previously felled on site. Should any further comments be received ahead of the committee meeting they will be presented 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 proposals broadly involve extending the garden area of Ryal Fold Barn and erecting a two-storey side extension off the north elevation to form a 1 bedroom annex for use by a relative.

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 follows;

- Establishing the principle of development
- Assessing any design and landscape character impacts
- Assessing impacts on nearby heritage assets
- Safeguarding the amenities of the immediate neighbours
- Assessing highways impacts and parking provision
- Ensuring land contamination does not pose a risk
- Ensuring appropriate drainage systems are installed

### 3.0 RATIONALE

#### 3.1 Site and Surroundings

3.1.1 The application site is a barn and associated grounds, which is located within the hamlet of Tockholes and as part of an allocated Countryside Area. The building currently benefits from an extant permission to be converted into a dwelling, which is detailed below in Section 6. The site is positioned within an area known as 'Ryal Fold', which is populated by predominantly stone faced buildings. The existing building is traditional in its form with stone elevations, a blue slate roof and minimal openings. Fencing of various styles defines the site boundaries.

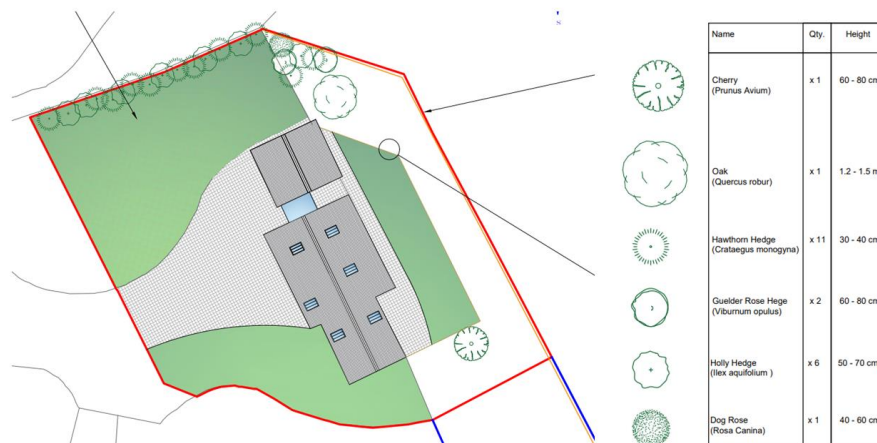
Figure One – Satellite image of the site and Location Plan



#### 3.2 Proposed Development

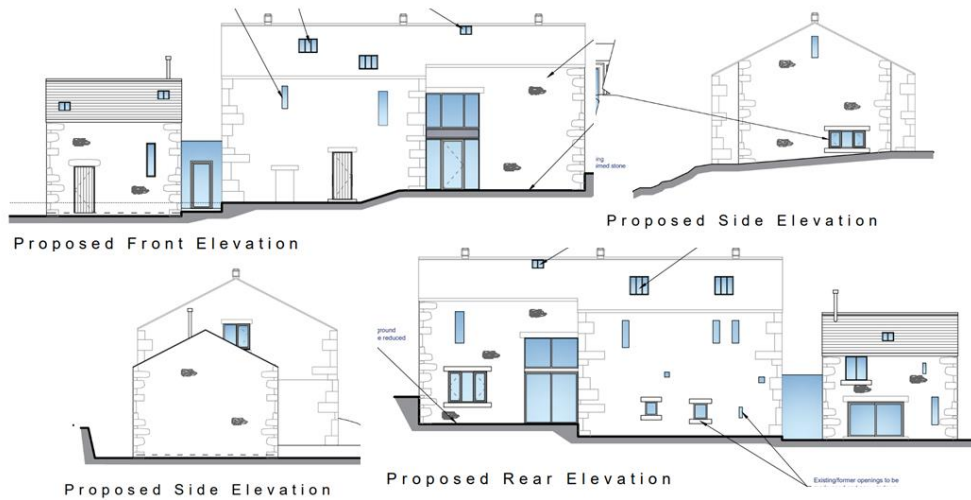
3.2.1 As detailed above, this planning application broadly involves extending the garden area of Ryal Fold Barn and erecting a two-storey side extension off the north elevation to form a 1 bedroom annex for use by a relative. Once extended, the garden area would be circa 0.3 acres in area. New planting, a driveway and a small patio area would be formed within the extended garden. The planting mix would comprise of a number of native species. New timber post and rail fencing would also be installed along the east site boundary.

Figure Two – Proposed Site Plan and Planting Schedule



3.2.2 The proposed annex extension would have a lounge, kitchen and toilet room on the ground floor with a bedroom and shower room on the first floor. It would have a depth of 6.9m, a width of 6m and a dual-pitched roof up to 6m in height. Natural stone and slates would be used to externally finish the extension. Openings would be inserted to three elevations with a glazed link extension installed to the south elevation providing an internal connection with the existing barn.

Figure Three – Proposed Elevations



3.3 Case Officer Site Photos



3.4 Development Plan

3.4.1 Local Plan Part 2 (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 25: Residential Curtilages
- Policy 39: Heritage
- Policy 41: Landscape

#### 3.4.2 Residential Design Guide Supplementary Planning Document (SPD) (2012)

- Policy RES E1: Materials
- Policy RES E9: Two-Storey Side Extensions
- Policy RES E5: Over Development

#### 3.4.3 BwD Adopted Parking Standards (2014)

- 4+ bedrooms: 3 car spaces and 2 secure cycle spaces per dwelling

#### 3.4.4 The Conversion of Buildings in the Countryside Supplementary Planning Guidance (SPG)

### **4.0 ASSESSMENT**

#### 4.1 Procedural Matters

4.1.1 Public comments have been received regarding the response dates displayed on public consultation documents and the fact that the applicant is related to the BwD Planning Manager.

4.1.2 The response dates displayed on public consultation documents invariably differ when multiple documents are issued, as is the case here. Reconsultation letters have also been posted and the correct notification procedures have been duly followed.

4.1.3 The fact that the applicant is related to the Planning Manager has emerged during the course of the application. An amended application form has been submitted acknowledging that fact. Moreover, the application is being referred to committee for determination to ensure further transparency in the decision making process.

#### 4.2 Principle of Development

4.2.1 As detailed above, the site is located within an allocated Countryside Area. Policy 5 does not specifically support the types of development proposed here. That said, Policy 25 supports the extension of garden areas provided that the development does not lead to any detriment to visual amenity or to the character of the surrounding landscape. Concerns have been raised in public comments regarding the principle of development.

4.2.2 Amended plans have been submitted during the course of the application and the garden area has been reduced to the south of the existing barn. The area

of land proposed for the garden area is already separated from surrounding landscape by fencing. Aside from the annex extension, only hard and soft landscaping works are proposed within the extended garden area. Furthermore, once covered the barn would not benefit from any householder permitted rights as the development was supported under the prior approval route and those rights are removed by default for any dwellings approved via that route.

- 4.2.3 When those factors are considered collectively, the proposed garden extension would not lead to any material detriment to visual amenity or to the character of the surrounding landscape and that aspect of the proposals is acceptable in principle. The same outcome is also applicable in relation to any development applied for within the boundaries of the extended garden that is incidental to the existing dwelling. Whilst it is acknowledged that a condition was imposed on 10/21/0734 limiting the size of the garden area, any subsequent successful planning applications to increase the size of the garden would effectively override that condition.
- 4.2.4 There is no requirement to comply with the Conversion of Buildings in the Countryside SPG here as the principle to convert the existing barn to a dwelling has already been established. Specific concerns have been raised in public comments around the nature of the accommodation and the lack of need for a glazed link. The glazed link would provide a physical connection between the existing barn and proposed annex and such features are relatively common to this type of development. A condition is recommended to prevent the annex being operated as an independent dwelling given the isolated nature of the site. Subject to compliance with that condition, the proposed annex would also be acceptable in principle.
- 4.2.5 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:

#### 4.3 Design and Landscape Character

- 4.3.1 The site is positioned within a rural area and within a cluster of buildings that are scattered and organic in their layout. Policy 11 requires all development proposals to represent a good standard of design through demonstrating an understanding of the sites wider context, and making a positive contribution to visual amenity. In addition, Policy 41 states that development will be permitted provided there is no unacceptable impact on landscape character or the principal traits associated with it.
- 4.3.2 The Design SPD reiterates those requirements in the context of residential developments. Policy RES E1 states that materials used in residential extensions will normally be required to match those used in the existing property. In addition, Policy RES E9 states that two-storey side extensions should not form obtrusive features within the streetscene. The general front

building line must be respected and the roof design must be appropriately integrated with that of the existing property by using a pitched roof on the extension itself. Any new roofline must be secondary to the existing building in terms of height. Concerns have been raised in public comments in relation to design and landscape character.

- 4.3.3 The proposed annex extension would be viewed as a relatively contemporary addition to the existing barn through the use of modest proportions, patio doors and a glazed link. Its scale would appear appropriately subservient to the existing barn with the use of matching materials and irregular opening arrangements ensuring a certain level of visual consistency is achieved. A condition is recommended to control the quality and finish of any external construction materials to be used so that a satisfactory form of development is achieved.
- 4.3.4 Any landscaping impacts caused by the garden extension are covered above in Section 4.2 and they would only be slight. The laying of driveways and patios is commonplace in the context of barn conversions and the proposed fencing does not require planning consent in its own right. A condition is recommended to remove any relevant permitted development rights from the extended garden area in order to preserve openness and greenery within the site.
- 4.3.5 An acceptable Landscaping Scheme has been submitted with the application. A further condition is recommended to ensure the development is landscaped in accordance with that scheme to ensure it positively integrates with the wider surroundings. Specific concerns have been raised in public comments regarding the previous loss of trees on site. Whilst firmly discouraged, any non-protected trees can legally be removed by landowners from a planning perspective. None of the trees within this site are protected and the proposed landscaping scheme offers sufficient replacements when that fallback position is considered.
- 4.3.6 Subject to compliance with the above conditions, the proposed development would be acceptable with reference to design and landscape character, in accordance with the relevant requirements of Policies 11 and 41 together with the guidance of the Design SPD.

#### 4.4 Heritage Assets

- 4.4.1 The issue from a heritage viewpoint is whether the proposals would harm the setting of the adjacent Grade II\* and Grade II listed buildings (Ryal farmhouse and adjacent barn) which lie approximately 70-80 metres to the north of the site. Policy 39 states that development with the potential to affect any designated heritage asset, either directly or indirectly including by reference to their setting, will be required to sustain or enhance the significance of the asset. Concerns have been raised in public comments given the presence of nearby listed buildings.
- 4.4.2 The significance of the listed buildings lies in their aesthetic, evidential and historic context, primarily evidenced in the C17th listed building's fabric,

architectural form/appearance and contribution to the group. In this context, the listed buildings can be attributed as having *high significance*. The existing agricultural building is a historic structure that according to historical mapping is likely to have been constructed at a similar time to the listed buildings. From visiting the site it is evident that the existing barn and the listed buildings are visually and historically connected, thereby contributing to their setting.

- 4.4.3 Whilst the existing barn provides some contribution to the setting of the listed building, an acceptable distance would be maintained between the proposed annex extension and listed buildings. Furthermore, the proposals include the planting of trees along the north site boundary, which would provide a good level of screening between the proposed annex extension and nearby listed buildings, thereby lessening any potential impact. Therefore, the previously recommended landscaping condition is also necessary on heritage grounds.
- 4.4.4 Whilst the proposed annex extension will be a new and noticeable addition within the setting of the listed buildings, its design and materials would be sympathetic to both the existing barn and that of the nearby listed buildings. Furthermore, its modest proportions and scale would result in the proposed annex appearing as an ancillary and subservient addition when related to the existing barn. The glazed link, whilst a modern addition, would provide some visual separation between the existing barn and proposed annex. Furthermore, the feature would provide distinction between the 'old and new', which is often a desirable outcome when historic buildings are extended.
- 4.4.5 Regarding detailing, it is unclear if the proposed rooflights would be of a conservation style based on the submission documents. Such rooflights should be used here given the age and setting of the existing barn. Therefore, a condition is recommended to control those details. Subject to compliance with that condition, the proposed development would be acceptable with reference to heritage assets, in accordance with the relevant requirements of Policy 39.

#### 4.5 Residential Amenity

- 4.5.1 Residential properties are positioned nearby and safeguarding the amenities of the immediate neighbours is an important material planning consideration. Policy 8 states that all development proposals should secure a satisfactory level of amenity for surrounding occupants with reference to noise, vibration, odour, light, dust, other pollution or nuisance, privacy/overlooking, and the general relationship between buildings. Concerns have been raised in public comments on residential amenity grounds.
- 4.5.2 Owing to ample separation, the proposed annex building would not appear overbearing or cause any harmful privacy impacts for the immediate neighbours. Furthermore, the use of a larger garden area for an existing dwelling would not pose any complications in the way of noise and disruptions. A condition is recommended to control construction working hours, as advised BwD Public Protection. The condition is necessary to minimise disruptions for neighbours from the construction phase.



4.5.3 Losses of private views are not material planning considerations and there would be no losses of public views to a point that would justify refusing the application. Overdevelopment has been raised in public comments yet the parameters of such an outcome are established by Policy RES E5. All residential developments must be able to function without impacting on neighbouring properties whilst also ensuring the existing property can meet its own servicing requirements in terms of parking, bin storage etc. The proposals would not conflict with those requirements.

4.5.4 Subject to compliance with the above condition, the proposed development would be acceptable with reference to residential amenity, in accordance with the relevant requirements of Policy 8 together with the guidance of the Design SPD.

#### 4.6 Highways and Parking

4.6.1 The proposals involve the use of an existing access point from Tockholes Road. Policy 10 requires all development proposals to not prejudice road safety or the safe, efficient and convenient movement of all highways users. Off-street vehicle parking should also be provided in accordance with the adopted Parking Standards. Concerns have been raised in public comments on highways grounds.

4.6.2 The proposed driveway would offer sufficient parking and manoeuvring space for the main dwelling and proposed annex. On that basis, no adverse implications would be caused for the surrounding highways network once the development becomes operational. Furthermore, the site has adequate land to ensure safe delivery of the construction phase.

4.6.3 The site is accessed by a private road and the upkeep of such roads is a civil matter. Any disagreements in that respect should be resolved outside of the planning process and between users of the road. As proposed, the development is thus acceptable with reference to highways and parking, in accordance with the relevant requirements of Policy 10 together with the adopted Parking Standards.

#### 4.7 Land Contamination

4.7.1 The development involves the formation of new residential accommodation and land contamination must be assessed on that basis. Policy 8 contains requirements to ensure development proposals on previously developed land can be remediated to a standard that provides a safe environment for users of the development whilst also ensuring contamination is not displaced.

4.7.2 BwD Public Protection has reviewed the merits of the application and no objections have been raised. A condition has been advised to control the potential for contamination to be unexpectedly encountered during redevelopment works, which is recommended to be added. Subject to compliance with that condition, the proposed development would be acceptable

with reference to land contamination, in accordance with the relevant requirements of Policies 8.

#### 4.8 Drainage Assessments

4.8.1 The submitted application form states that surface waters would be drained with the use of a Sustainable Drainage System (SuDS). Policy 9 requires all development proposals to be served with appropriate drainage systems. BwD Drainage has reviewed the merits of the application and no objections have been raised.

4.8.2 A condition has been advised to control foul and surface water drainage provisions, which is recommended to be added. Subject to compliance with that condition, the proposed development would be acceptable with reference to drainage assessments, in accordance with the relevant requirements of Policy 9.

#### 4.9 Wider Considerations

4.9.1 Further concerns have been raised in public comments regarding the fact that no ecology reports have been provided with the application. However, there is no requirement to provide such details with this type of application and such assessment were undertaken for the existing barn as part of application 10/21/0734. Those comments, therefore, have no material influence on the assessment of this application.

#### 4.10 Summary

4.10.1 This application involves the change of use of land to include in residential garden (Use Class C3) and erection of a double storey side extension to form an annex. 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.

4.10.2 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 in terms of design and landscape character, heritage assets, residential amenity, highways and parking, land contamination and drainage assessments.

4.10.3 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:

**Delegated authority is given to the Strategic Director of Growth and Development to approve planning permission, subject to the following conditions;**

- 5.1 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.

- 5.2 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) (amendment submitted 24<sup>th</sup> August 2023), 002 – Revision C, 004 – Revision C and 005 – Revision A.

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

- 5.3 The annex accommodation hereby approved shall at all times remain ancillary to the domestic function of 'Ryal Fold Barn' and it shall not be sold off, leased or rented out as an independent property at any point in the future.

REASON: In order to prevent the formation of an independent dwelling at this isolated site, in the interests of safeguarding the function of the Countryside Area, and to comply with the requirements of Policy 5 of the Blackburn with Darwen Borough Council Local Plan Part 2, Site Allocations and Development Management Policies (Adopted 2015).

- 5.4 Prior to the commencement of any above ground works on site, details confirming the exact type all the external materials to be used in the construction of the development hereby approved, together with details confirming the types of doors and windows to be installed, shall have first been submitted to and approved in writing by the Local Planning Authority. The development shall thereafter be implemented in strict accordance with the approved materials and details.

REASON: In order to ensure a satisfactory form of development is achieved, 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).

- 5.5 Notwithstanding the provisions of Article 3 and Parts 1 and 2 of the Second Schedule of the Town & Country Planning (General Permitted Development) (England) Order 2015 (or any Order revoking and re-enacting that Order with or without modification), and following the issuing of this decision, no development as specified in Classes E and F of Part 1 of Schedule 2 and Class A of Part 2 of Schedule 2 of that Order shall be carried out on any part of the

site, without planning permission first being obtained from the Local Planning Authority.

REASON: In order to control certain forms of future development on site, in the interests of visual amenity and landscape character, and to comply with the requirements of Policies 11 and 41 of the Blackburn with Darwen Borough Council Local Plan Part 2, Site Allocations and Development Management Policies (Adopted 2015).

- 5.6 No part of the development hereby approved shall be brought into use unless and until, the landscaping scheme as detailed on the approved plan '004 – Revision C' has been implemented in its entirety. Any tree/shrub or other planting that is lost, felled, removed, uprooted, dead, dying or diseased or is substantially damaged within a period of 5 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 ensure the development is adequately landscaped so as to positively integrate with its surroundings, in the interests of visual amenity and biodiversity, and to comply with the requirements of Policy 9 and 11 of the Blackburn with Darwen Borough Council Local Plan Part 2, Site Allocations and Development Management Policies (Adopted 2015).

- 5.7 Prior to their installation, details confirming the exact type of rooflights to be installed as part of the development hereby approved shall have first been submitted to and approved in writing by the Local Planning Authority. The development shall thereafter be implemented in strict accordance with the approved details.

REASON: In order to ensure a satisfactory form of development is achieved, in the interests of visual amenity and given the age of the existing barn, and to comply with the requirements of Policies 11 and 39 of the Blackburn with Darwen Borough Council Local Plan Part 2, Site Allocations and Development Management Policies (Adopted 2015).

- 5.8 Any construction works associated with the development hereby approved shall only take place between the hours of 8:00 – 18:00 Monday – Friday and 9:00 – 13:00 on Saturdays. No such works shall take place on Sundays or Bank Holidays whatsoever.

REASON: In order to minimise noise disturbances for neighbours from construction works, 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).

- 5.9 Should contamination be encountered unexpectedly during redevelopment of the site, all works should cease, and the Local Planning Authority should be immediately informed in writing. If unacceptable risks are identified, a remedial options appraisal and detailed remediation scheme should be presented, and

agreed in writing by the Local Planning Authority. The development shall thereafter proceed in strict accordance with the agreed details.

REASON: In order to protect the health of future occupiers of the site, prevent the displacement of pollution and any associated environmental impacts, and to comply with the requirements of Policies 8 and 9 of the Blackburn with Darwen Borough Council Local Plan Part 2, Site Allocations and Development Management Policies (Adopted 2015).

- 5.10 No above ground works shall commence on site unless and until, a scheme for the disposal of foul and surface water from the annex hereby approved 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) Separate systems for the disposal of foul and surface water;
  - b) Details of proposed discharge points of surface water and outlet from a foul package treatment plant
  - c) Details of the package treatment plant, and;
  - d) Design details of any soakaway which must comply with Part H of the Building Regulations and include results of percolation test.

The duly approved scheme shall be implemented in its entirety prior to the annex being occupied, or within any other timescale first agreed in writing with the Local Planning Authority.

REASON: In order to ensure adequate drainage measures are provided in support of the development, in the interests of securing sustainable development, 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).

## **6.0 RELEVANT PLANNING HISTORY**

- 6.1 10/21/0734 – Change of use of an agricultural building to a C3 dwelling – Prior Approval is given – September 2021.

## **7.0 CONSULTATIONS**

- 7.1 BwD Heritage Advisor – As I am required to do so, I have given the duty's imposed by s.66(1) of the P(LBCA) Act 1990 considerable weight in my comments. Subject to further details (as noted above) or Condition, I consider the proposal would meet the statutory test 'to preserve', causing no substantive harm to the contribution made by setting to the nearby listed buildings. Therefore, no balancing exercise is required as per NPPF P.202. As such, the proposal meets the objectives of Chapter 16 of the NPPF and accords with the policies of the Local Plan.
- 7.2 BwD Public Protection – No objections. Should this application be approved, a condition should be imposed to control construction working hours and unexpected sources of land contamination.

7.3 BwD Drainage – No objections. Should this application be approved, a condition should be imposed to control foul and surface water drainage systems.

7.4 Ward Cllrs

7.5 Summary of public responses:

- Conflicting information is stated on the publication documents
- The applicant is a relative of the Planning Manager
- A condition was imposed on the previous consent to limit the size of the curtilage
- The proposed garden extension may have an adverse suburbanising impact on the character of this rural area
- The development does not comply with the Conversion of Buildings in the Countryside SPG
- The proposed annex is not ancillary to the main building
- The proposed glazed link has no purpose
- The proposed extension is not good design
- The proposed annex extension would not be modest in scale or subservient to the host building
- Harmful landscape impacts may be caused
- Views of Darwen Tower will be obscured
- Overdevelopment of the plot may be caused
- The proposed height of the extension would not be secondary to the existing building
- Harmful impacts may be caused for nearby listed buildings
- The submitted Planning Statement does not appraise impacts on the nearby listed buildings
- Tress have been felled on site previously – email agent – Forestry Commission requirements
- Further degradation of the private access road may be caused
- No ecology reports have been submitted

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

**9.0 DATE PREPARED:** 31<sup>st</sup> August 2023

## 10.0 SUMMARY OF REPRESENTATIONS

**Objection – Mr Samuel Salthouse & Mrs Salthouse, Ryal Farm, Ryal Fold, Darwen, BB3 0PB. Received: 09/08/2023.**

I am writing this letter to **OBJECT** to planning application **10/23/0564** Full Planning Application for change of use of land to include in residential garden (C3) and erection of a double storey side extension to form annex at Ryal Fold Barn, Tockholes, BB3 0PB.

I have lived at Ryal Farm for nearly 80 years and feel that I should comment about the proposed plans.

My objections are based on the following reasons:

\*The proposed extension is not in keeping with the area and doesn't have a positive impact on visual amenity.

\*The proposed extension is imposing due to its size and scale- this appears even more so because of its elevated position on the landscape.

\*The proposed extension is only 60 meters away from two Grade II\* listed buildings. This will impact how they are viewed within the setting. Ryal Barn has a history connected with these buildings and this will be lost with the proposed extension.

\*Ryal Barn will lose its identity and history as an agricultural barn with the proposed extension.

\*The proposed extension is dominating and won't be hidden by vegetation due to the applicant felling thirteen 200 year old trees on the site.

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**Objection – Miss Jody Harrison, Ryal Cottage, Ryal Fold, Darwen, BB3 0PB. Received: 09/08/2023.**

I am writing this letter to **OBJECT** to planning application **10/23/0564** Full Planning Application for change of use of land to include in residential garden (C3) and erection of a double storey side extension to form annex at Ryal Fold Barn, Tockholes, BB3 0PB.

I have examined the plans and know the area very well as I live in Ryal Fold. The reasons for my objection is as follows:

The National Planning Policy Framework (NPPF) (2021:38) states that high quality, beautiful, sustainable buildings are fundamental to the planning and development process and should be visually attractive. I would argue that the annex adjoining the barn is not of good design and lacks character- it could possibly even be described as 'ugly'. The annex, although described as 'an extension' appears to look like a separate dwelling which is 'overbearing' and the site 'over-developed'. I would argue that this development is out of scale and imposing.

The Planning Statement references that the pitched roof of the proposed annex is secondary to the roofline of the host dwelling. It appears from the Figure 3 Elevations that this is correct, however the site is on a considerable slope and I would argue that the building although it may appear secondary,

is actually not. Please see Picture A to see how elevated the site is, especially from the public footpath that runs alongside Ryal Barn.

The 'glazed link' appears to have no functional use due to the annex having its own front door. On examination of figure 3 of the planning statement, it appears that the barn (which is one residential property) will have four front doors/access points. I would question if the annex is actually a separate property and the 'glazed link' is merely to appease the planning department? I would argue that the annex is not ancillary to the barn and that occupants of the annex do not have to rely on facilities/support from the main occupants. A separate dwelling of this scale is not appropriate for this site.

The 'glazed link' is also not sympathetic to the character of the building. I believe the 'glazed link' will change the fabric of the building and its external appearance and harm the host building. This unacceptable alteration to the building will be detrimental to the barns character as the 'glazed link' and annex will obstruct the main barn door which I would argue is the buildings principal feature. I would argue that the openings should continue to correlate with the barns former agricultural use. I believe the 'glazed link' and annex are not in keeping with the vernacular of the current buildings in the area. I believe the annex and 'glazed link' design could be significantly improved and are detrimental to the barns character and wider landscape. The annex does not respect the character of the landscape. I would have liked to have seen an outstanding design, using sustainable materials, that reflected the highest standards of architecture to enhance our local area and not just a 'box'.

The Planning Statement remarks that The Council Residential Design Guide Supplementary Planning Document (SPD) states that two storey side extensions (if you can call this an extension?) should not be an obtrusive feature on the street scene. I would argue that the annex and 'glazed link' will be obtrusive and they will not be the 'modest' addition that the applicants Planning Statement reports. Ryal Fold is an area that is often enjoyed by tourists and the local community due to a public footpath running through it. Jake Berry MP used the footpath and associated views for his latest campaign to 'protect our green spaces (Jake Berry MP Reporting Back, 2023) in which Ryal Barn can be seen in the background (Picture J). This public footpath displays the most amazing open countryside views. This area is widely known and used by the community as a great vantage point for which to stop and enjoy the view. Local landmarks that are enjoyed include Darwen Tower and Pendle Hill. These views are currently there to be enjoyed by everyone. The public views of Darwen Tower will be obscured due to the scale of the extension and 'glazed link'. I have attached pictures B, C and D. The pictures that make up the current Planning Statement omit these.

The Planning Document states that Ryal Barn is 'not a prominent feature of the landscape', however planner Mr Christian Barton believes otherwise and wrote in his previous Delegated Decision Officer Report (2021) that 'the site occupies a relatively prominent position from the public domain'. I would agree with Mr Barton when he states that Ryal Barn is in a prominent position, as the barn can be seen from many different public vantage points including Earnsdale Reservoir and Darwen Tower. There is no 'natural screening from existing vegetation when viewed from public vantage points' as the Planning Statement may have you believe- please see attached pictures F and E. I don't believe the vegetation to be planted proposed in the Planning Statement will provide a 'natural screen' of the building due to its enormity.

The Planning Statement remarks on making 'a positive contribution to visual amenity' and understanding the sites 'wider context'. I would argue that this is not the case- the loss of views impacts the residential amenity. The Planning Statement informs the reader about Ryal Farm and 'other residential dwellings' in the area. To add some context, the other dwellings in Ryal Fold consist



of a former farmhouse (dated 1670) and two former industrial workers housing dated around 1860. This proposal does not improve the quality and character of the area in line with the Local Plan Policies.

Ryal Barn is adjacent to two Grade II\* listed buildings- Ryal Farm and an associated barn. The Planning Statement claims that these buildings are 'some distance' from Ryal Barn so will have 'little impact' on it. I would argue that it cannot be disputed that the annex and 'glazed link' could impact the setting of Ryal Farm, as clearly a development that can be seen within a view of a listed building will impact it? Historic England and the Planning Act reference how planners must pay special regard to the desirability of preserving the setting of a listed building. Ryal Barn once had a functioning relationship with Ryal Farm and I would like to think that will still be obvious to the public when experiencing the area. Please see attached photos, G and H for context.

Looking at the applicants Planning Statement, I am confused to where the applicant will plant the mature trees to supplement the landscape? If an annex and 'glass link' are built at the side of the property it doesn't allow for the replacement of the destroyed mature trees that were removed previously or for the growth of new ones. The current plans only show the planting of two young trees, one Oak and one Cherry (both trees are not of a similar size or specimen to what was there before the applicant had acquired the plot) . This is not 'adequately landscaping as to integrate with its surroundings' as per Blackburn and Darwen Council Local Plan Part 2, Site Allocations and Development Management Policies (2015).

Finally I also have some other points that you may be able to address as part of the planning process.

Ryal Fold is accessible via a 'Highway Not Maintainable at Public Expense' where maintenance responsibility falls to the owners of the property fronting that part of the road. There has been no maintenance to the road in front of Ryal Barn by the applicant and this part of the road is kindly being upkept by the farmer at Ryal Farm. The single width road is currently experiencing more traffic than is usual due to the development occurring at Ryal Barn. The road is frequently used by tourists and the local community, however on the 1<sup>st</sup> August 2023, when the applicant had a scaffold delivery made to the site, I was disappointed to watch vegetation along the road being destroyed by their delivery truck as they reversed down the lane- see photo I. I understand that the applicant was not there to supervise this- however this could have been avoided if someone was on site at the time of the delivery.

One of the previous planning application conditions for Ryal Barn (10/21/0734) states 'The curtilage of the dwelling hereby approved shall be solely limited to the area outlined in red on the approved plan 'Proposed Site Plan (1:500)' and the curtilage shall not be extended beyond that area whatsoever at any point in the future. Please could you advise why this has changed?

The planning notice was put up on the 20<sup>th</sup> July 2023, three days after the Parish Council met for their monthly meeting. This meant that the planning application could not be discussed by residents at the local Parish Council Meeting. The planning notice placed at the development site states there is a 24 day consultation period for comments, however the planning application on Blackburn with Darwen website states 21 days. I have spoken to Christian Barton at the planning department who has assured me that the 24 day notice will stand as correct.

It has also been discussed within the local community that the decision to grant planning has been pre-determined as the applicant is closely related to the planning manager who is named on the Notice of Planning Application. To ensure openness and transparency your planning application states 'with respect to the Authority, is the applicant related to a member of staff' to which the applicant has ticked 'no'. The planning application then goes on to state that 'a fair minded and informed observer, having considered the facts, would conclude that there was bias on the part of the decision

maker in the Local Planning Authority'. It is noted that on page three of the Planning Statement it mentions how 'the scheme has received support from BWD'.

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**Objection – Gary Hoerty Associates on behalf of Mr A Speakman, Ryal Cottage, Ryal Fold, Tockholes.**

**Received: 14/08/2023**

**Re: Our Client - Mr Andrew Speakman, Ryal Cottage, Ryal Fold, Tockholes, BB3 0PB. Representation relating to planning application 10/23/0564 for the change of use of land to include in residential garden (C3) and erection of a double storey side extension to form annex, at: Ryal Fold Barn Tockholes BB3 0PB.**

I am writing on behalf of our client Mr Andrew Speakman setting out his objection to planning application 10/23/0564 for “*the change of use of land to include in residential garden (C3) and erection of a double storey side extension to form annex*”, at Ryal Fold Barn, Tockholes, BB3 0PB.

Ryal Fold Barn is a detached two storey barn of traditional construction which is located in close proximity to a number of other dwellings which include the applicant's property, which is the closest to it, and two listed buildings at Ryal Fold Farm.

We are aware that Prior Approval (under the 'Class Q procedure') was granted on 16 September 2021 for the conversion of the barn to a dwelling, to include a tightly controlled area of residential curtilage.

As was acknowledged in application 10/21/0734 on page 9 of the delegated report:

*As detailed above, the existing building is traditional in its vernacular form. The existing openings are limited in their extent and they correlate with its former agricultural use. Moreover, a number of public footpaths span the adjacent countryside and **the site occupies a relatively prominent position from the public domain.** The plans initially submitted would have resulted in unacceptable alterations to the existing building that would have been detrimental to its character.*

The emphasis on the site's prominence is ours, and it is clear from a site visit that the barn is in a prominent position and the erection of a detached two storey building on what is currently agricultural land in the Open Countryside will have a significant landscape impact

and will detract from the traditional barn. The immediate landscape has already been changed as a consequence of a number of mature trees having been cut down, which potentially if they were still standing would have prevented the proposed development due to the presence of their roots.

The resulting dwelling is reasonably large in size, with three en-suite double bedrooms. The proposed 'annex' is also large, being two storeys and providing an additional bedroom, living accommodation, bathroom and WC, in 54 square metres of accommodation. If planning permission is granted, and if the 'annex' is viewed as an extension to the house, the applicant will have benefitted from obtaining a very large house in the open countryside, which in other circumstances would prove very difficult, if not impossible, to secure. The supporting statement submitted with the application says that the 'annex' will be occupied by a relative. The 'annex' is detached from the barn and could be occupied independently. We do have to query whether in fact an additional, independent dwelling is being formed. This would not comply with national or local planning policy.

Local Plan Policy 5 states that within the countryside areas, planning permission will only be granted for development needed for the purposes of agriculture or forestry, or economic uses appropriate in nature and scale to the rural area. Extensive new residential accommodation does not fit those criteria.

Local Plan 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 visual amenity. Good design is also promoted through Core Strategy Policy CS16. Local Plan Policy 41 states that development will be permitted provided there is no unacceptable impact on landscape character, or the principal traits associated with it. In our view, a large new detached building on a prominent site, close to existing public footpaths, and listed buildings will be visually intrusive and will have an adverse impact on the character of the area and the quality of the landscape. Furthermore, the proposal includes a change of use of land to provide a large garden area, significantly greater than that allowed in the Class Q proposal, for the new residential accommodation. This will have an adverse suburbanising impact on the character of this rural area.

The proposed new residential accommodation will be provided in a large new detached building. It will not be 'modest' in scale or subservient to the host building. As such it is our view that the proposal does not represent good design and does not comply with NPPF paragraph 130 or local design policies.

The Council's Conversions of Buildings in the Countryside SPG advises that conversions must be in keeping with the style of the building and respect the character of the landscape. The SPG advises that the building must be capable of conversion without the requirement for the addition of any two storey extension, or single storey extension which will increase the ground floor area by more than 20 square metres. It certainly does not support the provision of new detached residential accommodation. The guidance states that "*two storey extensions detract from the traditional form of any rural buildings which are traditionally simplistic in form.*"

The supporting statement submitted with the application dismisses the SPG due to its age (pre-Framework) and because it refers to a Local Plan policy that is not extant. The supporting statement errs in being so dismissive. The guidance is extant and has not been

replaced and is clearly promoted on the Councils website as a material consideration to planning applications for development that affects traditional agricultural buildings.

The SPG also advises that the curtilage to any proposed conversion should be minimal, relate to the position of the building to be converted and should follow traditional boundaries where possible. It advises that an excessive curtilage can detract from the rural setting of a building and that the size of curtilages should be no larger than necessary. In this case, there is no justification to provide such a large curtilage, which would significantly exceed that permitted under the approved Class Q approval.

The applicant's supporting statement acknowledges the presence of two listed buildings to the north of the site. However, the application does not include any assessment of the impact on the setting of those listed buildings. In addition, it does address the issue as to whether or not the building subject of the application is a heritage asset. In our view, the failure to adequately address heritage issues is contrary to NPPF Paragraph 194.

The application is not supported by any assessment of the impact on site ecology, which means that the Council is not able to fulfill the requirements set out in NPPF paragraphs 174 and 180.

In our view the proposal does not comply with relevant national and local planning policy and planning permission should be refused.

Our Ref: Spe/1126/3406/GH

Planning Objection in respect of application 10/23/0564 – Ryal Fold Barn

Photographs showing the prominence of the site in the landscape.





Our Ref: Spe/1126/3406/GH  
Planning Objection in respect of application 10/23/0564 – Ryal Fold Barn  
Photographs showing the prominence of the site in the landscape.



**Objection – Andrew Speakman, Ryal Cottage, Ryal Fold, Tockholes, BB3 0PB. Received: 21/08/2023.**

I am writing to you as a resident of your ward to state my concerns over a recent planning application.

My neighbour has submitted plans to build a large 2 storey annex and glazed link to a barn that was previously granted planning permission under the 'Class Q procedure'

I have a number of concerns about the proposed building as set out below;

- The building will be in a prominent location at the top of the hill visible from all public footpaths around the valley.
- This will be a new build set adjacent to a number of listed buildings circa 350 years old and is not in keeping with the areas heritage.
- The original permission under the 'Class Q procedure' sets out a very tight curtilage to the property, the new proposal seeks to extend this.
- Several trees have been cut down already, if these were still standing it would be unlikely the new building would fit on the plot.
- I have been informed by several residents that there is a family connection between our neighbour and a member of the planning department and feel this may influence a decision.

Given my concerns I engaged Gary Hoerty Associates to carry out an independent assessment and put together a planning objection on my behalf. They highlighted numerous additional issues with the planning application.

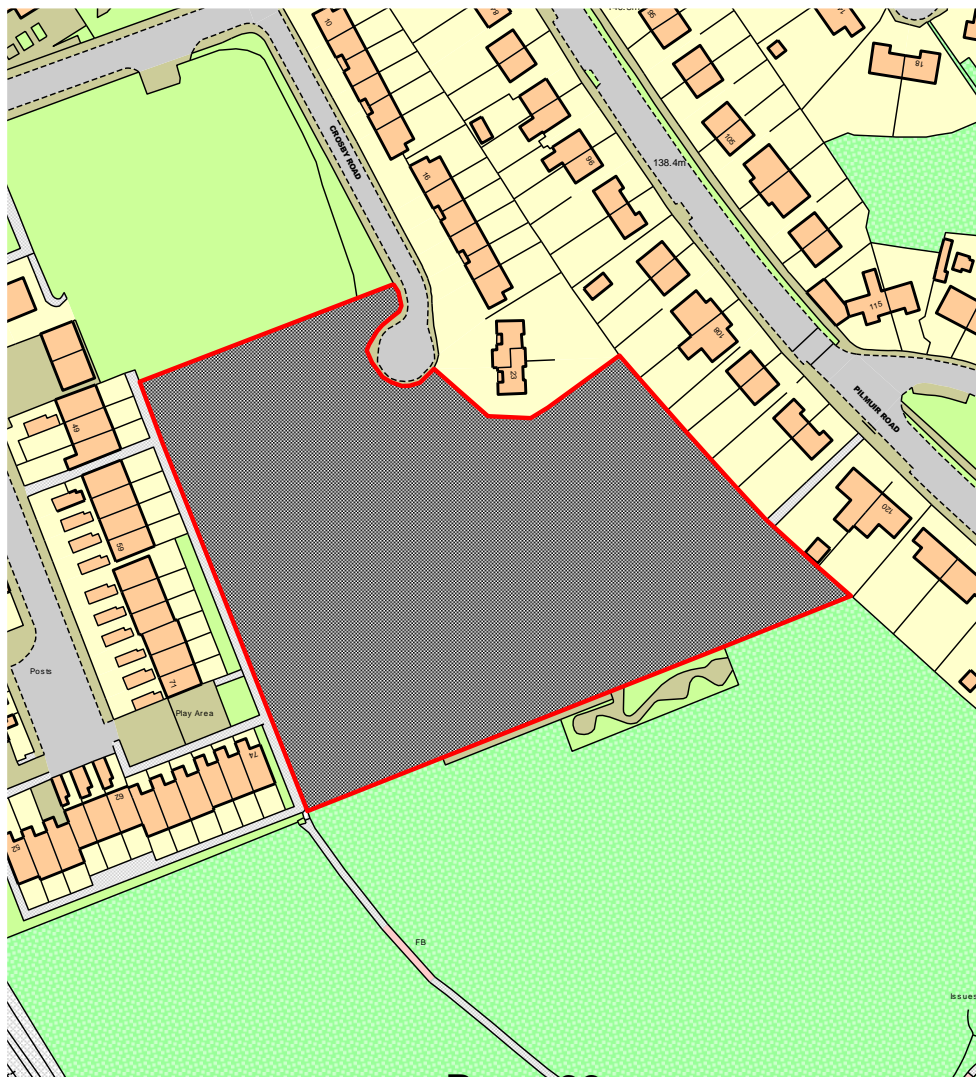
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**Proposed development: Variation/Removal of Condition/Minor Material Amendment for Variation of Conditions 2 (approved drawings), 8 (parking), 20 (EV charging) and removal of conditions 7 (site access) and 9 (closure of existing access) pursuant to application 10/21/1202 "Erection of single storey nursery building" - Reduction in height of building, replace side bi-fold door with a window, install cowls to roof, formation of new play area, parking layout changes and erection of decking / ramped access to rear and side elevations**

**Site Address:  
Longshaw Infants School  
Crosby Road  
Blackburn  
BB2 3NF**

**Applicant: Longshaw Infants School**

**Ward: Blackburn South East**



## **1.0 SUMMARY OF RECOMMENDATION**

1.1 APPROVE, subject to the conditions recommended within Paragraph 5.1.

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

- 2.1 This planning application is submitted under the provision of section 73 of the Town and Country Planning Act 1990, pursuant to approval for the erection of a single storey nursery building at Longshaw Infant School under planning ref. 10/21/1210. The application is before the Planning and Highways Committee, in accordance with the Scheme of Delegation, as a proposed amendment to the original planning application, which was determined by Committee at the 17<sup>th</sup> November 2022 meeting.
- 2.2 The application involves various minor material amendments seeking to vary previously approved drawings (set out in condition no.2 of the original approval) for external alterations to the building and site layout changes. The proposal also seeks to vary the wording of conditions 8 (car park) and 20 (EV charging scheme). In addition, conditions 7 (scheme for construction of site access) and 9 (closure of the existing access) on the original approval as the amendments to the proposals are such that these conditions are no longer deemed necessary.
- 2.3 The principle of the proposed nursery build was established as acceptable through the original planning application process, accounting for the delivery of a key public facility which would not conflict with the wider green infrastructure allocation at this site. The key issues in the assessment of the application were safeguarding residential amenity from potential noise impacts associated with the use and ensuring no detrimental highways safety impacts to the surrounding road network. In summary, the proposal remains satisfactory from a technical point of view, with all issues having been addressed through the previous application, or capable of being controlled or mitigated through the conditions that remain attached to the planning approval.

## **3.0 RATIONALE**

### **3.1 Site and Surroundings**

- 3.1.1 The application site relates to Longshaw Infant School which is positioned at the end of the cul-de-sac on Crosby Road, within the Blackburn Urban boundary and on the border of the Inner Urban settlement boundary. The school grounds itself comprise of large linked building, a small front car park and several surrounding hard-surface and grassed play areas. The proposal site is positioned in the north-western part of the school which is currently subject to soft landscaping (grass) and has two oak trees present. The existing Longshaw Nursery School is situated over 100m away to the north of the Infant School.



3.1.2 Residential dwellings are located immediately east and north-east of the school on Crosby Road and Pilmuir Road and to the west on Peel Close. Beyond Peel Close sits a railway corridor which is largely surrounded by trees and scrub. To the north adjoining the grounds of the school is an area of open grassland which previously occupied Longshaw House, a home for older people. A large green area consisting of scattered trees, scrub and grassland is located to the south and separates Longshaw Infant School and Our Lady of Perpetual Succour Church and Primary School.



Figure 1: Google aerial view of the application site

## 3.2 Proposed Development

3.2.1 As detailed above, the application is submitted under Section 73 of the Town and Country Planning Act 1990. The current application seeks to amend condition 2 (approved drawings) of the full planning application to allow for alterations to the building and site layout changes as listed below;

- Reduction in the height of the building by 450mm from 6.2m originally to circa 5.75
- Replacement of bi-fold door within side (north) elevation to a window
- Installation of cowls to the roof
- Erection of two wrap-around small decking areas to rear and side elevations to provide ramped access to outdoor areas
- Formation of new Age 2 playground to the south-western corner of the site
- Removal of new site access / exit and utilise existing arrangements together with parking layout alterations

3.2.2 The figures below show the revised floor plan, elevations and site layout which demonstrate these alterations.

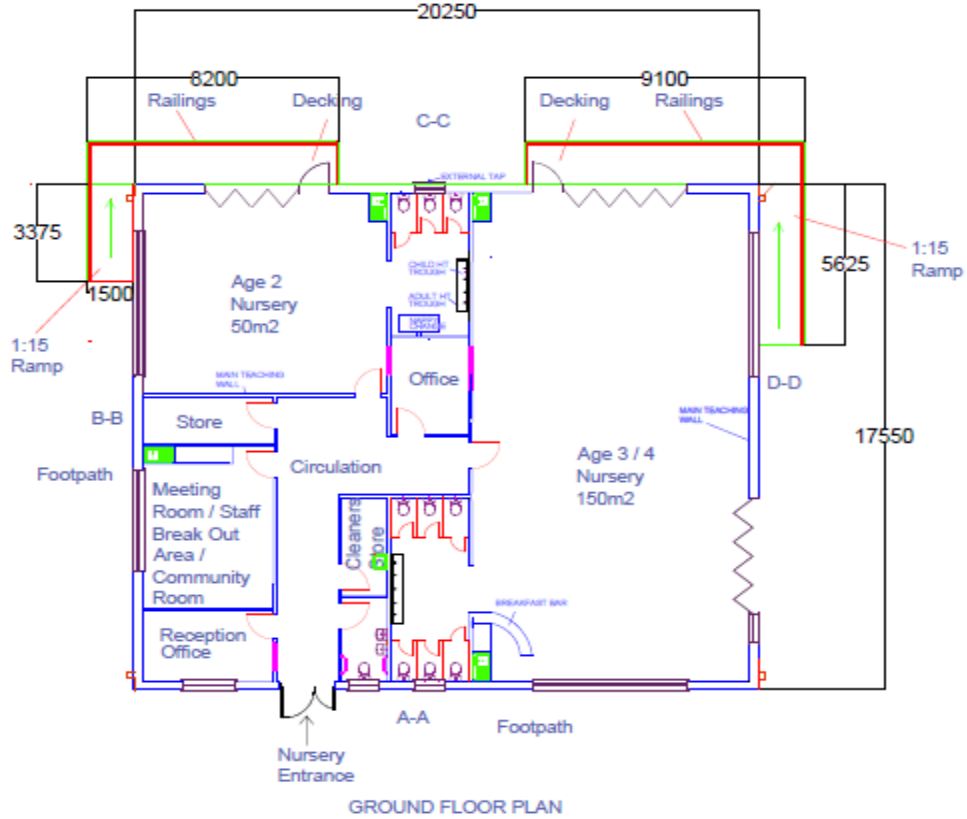


Figure 2: Proposed Floor Plan

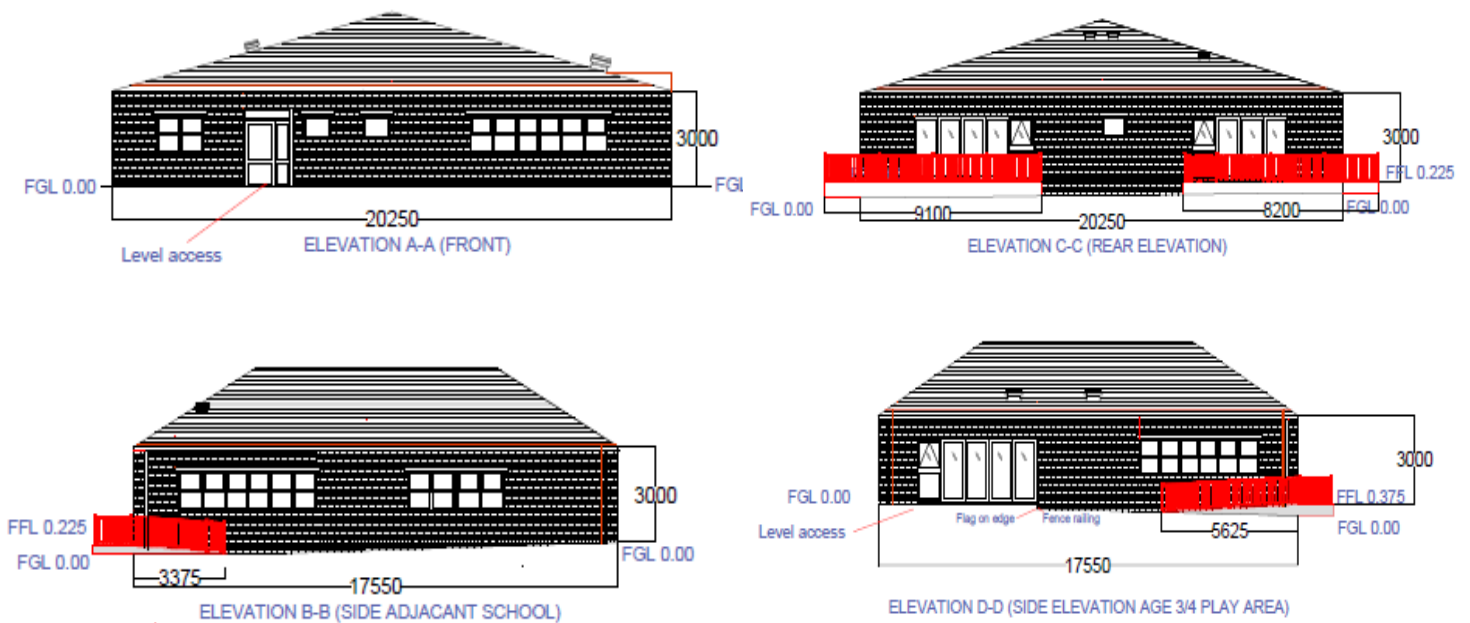


Figure 3: Proposed front (east) and side (south) elevations (left). Proposed rear (west) and side (north) elevations (right).



Figure 4: Proposed Site Plan

3.2.3 The proposal also seeks to amend the original permission granted for the single storey nursery building (ref. 10/21/1210), by way of a variation to the following conditions (nos. 8 & 20). This is to reflect the new changes to the parking layout and to install the EV charging infrastructure prior to occupation of the use with a charge point brought forward at a later period;

*8. The development hereby approved shall not be brought into use unless and until, the car parking scheme as detailed on the approved Proposed Site Plan, 'Drawing No. 4279 / XA05 003, Rev C' has temporarily been constructed, and laid out. The final Bitumous Macadam hard surface with thermoplastic markings should then be constructed either in the February or Easter School Holidays 2023 unless otherwise agreed in writing by the Local Planning Authority.*

*REASON: To allow for vehicles visiting the site to be parked clear of the public highway, and to assimilate the new car parking areas in their surroundings in accordance with Policy 10 of the Blackburn with Darwen Borough Local Plan Part 2.*

20. *Prior to their installation, a scheme for the provision of an electric vehicle charging point within the site shall be submitted to and approved in writing by the Local Planning Authority. The scheme shall be implemented within the first six months of occupation and retained thereafter.*

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

- 3.2.4 It is also proposed to remove conditions No's. 7 & 9 on the original approval as they are no longer deemed relevant to the consent given amendment to the site access arrangement:

*7. Prior to occupation or use of the development, a scheme for the construction of the site access and off-site works of highway improvements shall be submitted to and approved in writing by the Local Planning Authority. The approved scheme shall be implemented prior to the occupation of the development.*

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

*9. Prior to occupation or use of the development hereby approved, a scheme detailing the closure of the existing access shall be submitted to and approved in writing by the Local Planning Authority. The scheme shall detail the existing access being physically and permanently closed; and the existing footway and kerbing of the former crossing being reinstated. The development shall be implemented in accordance with the approved details within 6 months of the formation of the new access or following the completion of the final hard surfaced car park.*

*REASON: To ensure the safe, efficient and convenient movement of all highway users in accordance with Policy 10/11/40 of the Blackburn with Darwen Borough Local Plan Part 2.*

### 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 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;

#### 3.4.3 Core Strategy

- Policy CS1 – A Targeted Growth Strategy
- Policy CS11 – Facilities and Services
- Policy CS16 – Form and Design of New Development

#### 3.4.4 Local Plan Part 2

- Policy – The Urban Boundary
- Policy 7 – Sustainable and Viable Development
- Policy 8 – Development and People
- Policy 9 – Development and the Environment

- Policy 10 – Accessibility and Transport
- Policy 11 – Design
- Policy 36 – Climate Change
- Policy 38 – Green Infrastructure

### **3.5 Other Material Planning Considerations**

#### **3.5.1 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 12: Achieving well-designed places
- Section 15: Conserving and enhancing the natural environment

### **4.0 ASSESSMENT**

4.1 When assessing this application there are a number of important material considerations that need to be taken into account. They are as follows:

- Principle of Development
- Residential Amenity
- Design/Visual Amenity
- Highways
- Environment
- Air Quality

#### **4.2 Principle of Development**

4.2.1 The principle of the development has already been established through the assessment and granting of planning permission under planning ref. 10/21/1210. Assessment of this application is strictly limited to the proposed amendments and re-wording / removal of conditions attached to the original planning approval.

#### **4.3 Residential Amenity**

4.3.1 Policy 8 requires development to contribute positively to the character of the area and to secure a satisfactory level of amenity and safety for occupants or users of the development itself and for surrounding uses; with reference to loss of light, privacy/overlooking, noise, nuisance, pollution, contamination, and the relationship between buildings.

4.3.2 The proposal to reduce the height of the building by approximately 450mm will result in an improvement to the living conditions of the properties directly to

the west on Peel Close. This is by virtue of appearing as a less dominant structure when viewed from the rear windows of these adjacent dwellings given the lowered height of the building from the original proposals. The other minor amendments for the door to window replacement, installation of cap cowl and proposed decking additions pose no undue concerns to neighbouring residential amenity.

- 4.3.3 A new playground area for 'Age 2 children' is proposed to be introduced adjacent to 61 and 63 Peel Close. Conditions on the original approval were added to mitigate potential noise concerns with the external play areas by virtue of installing an acoustic barrier on the boundary between those properties adjacent on Peel Close and to limit the number of children using the play areas at any one time.
- 4.3.4 The new play area will not lead to greater noise nuisance than that which could have been caused by the general outdoor playing activities from the previously positioned play area directly in front of the rear elevation of the building. Additional acoustic fencing, spanning 7.7m along the western boundary to the south will provide greater protection from any detrimental impacts from the 'Age 2' Play area. The height of the fencing is not considered to result in unduly harmful amenity affects to the neighbouring ground floor dwelling windows in terms of loss of light, dominance.
- 4.3.5 On balance, subject to compliance with the relevant conditions, the proposed development is not considered to be excessively detrimental upon surrounding amenity, and thus accords with Policy 8 of the Local Plan Part 2 (2015).

#### 4.4 Design/Visual Amenity

- 4.4.1 Policies CS16 and 11 require development proposals to represent a good standard of design through demonstrating an understanding of the sites wider context and making a positive contribution to visual amenity.
- 4.4.2 The proposed decking / ramped structures which are to be fixed to the rear and side elevations will be of UPVC composite construction with circa 1m high enclosing railings. Their design, positioning and size will not result in incongruous additions to the host building and are considered to give a contemporary appearance.
- 4.4.3 A previous bi-fold door within the side (north) elevation serving the 'age 3/4 room' is to be replaced with a window which reflects the fenestration details at the opposite side and front elevation. Several cap cowl are to be added to the roof which are very limited in size and cause no adverse visual impacts.
- 4.4.4 The additional acoustic fencing will follow the same profile and height as the existing arrangements, thereby ensuring visual coherence. Furthermore, boundary treatment details to the northern boundary and within the site and soft / hard landscaping are appropriate from a visual / design perspective.

4.4.5 On that basis, the proposed amendments to the building and site layout alterations will not impact upon visual amenity, in accordance with the requirements of LPP2, Policy 11.

#### 4.5 Highways

4.5.1 Policy 10 requires that road safety and the safe and efficient and convenient movement of all highway users is not prejudiced and that appropriate provision is made for off street servicing and parking in accordance with the Council's adopted standards.

4.5.2 The original proposal included a new entry and egress point to the car park for both the school and nursery uses towards the north-eastern corner. Full details of the new access and off-site highways works were included at condition No.7 The previous plans also sought closure of the existing access opening following occupation of the nursery use, in which a scheme detailing its closing secured by condition No.9.

4.5.3 However, the revised proposal demonstrates that the new proposed access is to be removed and the existing access arrangements to the current and extended car park utilised. There is no loss of parking provision on the revised site layout compared to that with the extant planning approval.

4.5.4 The Council's highways team have offered no objection to the scheme. The layout ensures appropriate vehicular manoeuvrability from allocated spaces and these spaces are broadly in accordance with the requisite parking dimension standards. Pedestrian access from Crosby Road to the nursery building will continue to be via a new footpath to the north as originally proposed, and therefore does not involve people arriving by foot to enter the car park minimising any highways safety concerns.

4.5.5 Accordingly, the proposed access and parking layout amendments are found to be in accordance with the requirements of Policy 10 and The Framework.

#### 4.6 Environment

4.6.1 Policy 9 requires that development will not have an unacceptable impact on environmental assets or interests, including but limited to climate change (including flood risk), green infrastructure, habitats, species, water quality and resources, trees and the efficient use of land.

##### **Trees:**

4.6.2 Point 11 of Policy 9 states that development proposals should incorporate existing trees into the design and layout. Within close proximity to the proposed rear elevation of the building are two large common oak trees which as part of the previous application, although not protected by a TPO were deemed worthy of retention given visual and ecological value. The building was founded to not cause any detrimental impacts to these aforementioned trees. This proposal seeks amendments by virtue of installing two small decking areas to the rear elevations to accommodate for the land level



difference between the ground and floor level of the building. These structures are situated within the root protection areas of both of the trees.

- 4.6.3 The Council's Tree Officer has reviewed the proposals to install the decking / ramp structures concluding the long term health of the two oak trees will not be threatened given the minor amount of root severance and disruption required to undertake the works.
- 4.6.4 Furthermore, the original site layout included a play area for children under the canopies of the two trees which would have included ground landscaping to include mulch to prevent impacts. However, given concerns around young children potentially eating the mulch, a new play area has been formed away from these trees and will therefore ensure greater protection to the longevity of them given minimal disturbance to ground in these areas.
- 4.6.5 For these reasons, the proposed amendments would be acceptable with reference to trees, thus complying with the requirements of Policy 9.

#### 4.7 Air Quality

- 4.7.1 Policy 36 requires development proposals to minimise contributions to carbon emissions and climate change, both directly from the development and indirectly arising from factors such as travel to and from the development.
- 4.7.2 In response to such matters, BwD Public Protection initially advised that an electric vehicle charging point should be provided within the existing car park. This was secured via an appropriately worded condition (no.20). A subsequent EV charging scheme was then agreed through the discharge of condition application process (ref. 10/22/0727).
- 4.7.3 However, given financial constraints in delivering the nursery build an EV charge point at present cannot be budgeted for. As such, it has been agreed that a reasonable approach is for the EV infrastructure (duct, duct box and traffic island) installed prior to occupation of development, and when finances are recouped following several years of the nursery operations the previously approved EV scheme point can then be introduced in the designated parking bays demonstrated on the proposed site plan.

#### 4.8 Summary

- 4.8.1 This application involves minor amendments to the nursery building and site layout including a new play area as well as revised parking and access arrangements approved under application 10/21/1210. Taking into account the above assessments, the amendments are founded to be acceptable on all relevant planning grounds.
- 4.8.2 It is recommended that conditions 8 and 20 are varied to accord with the amended parking layout and EV charging scheme. Condition's 7 and 9 are proposed to be removed as no longer relevant to this consent.

4.8.3 In considering the proposal, a wide range of material considerations have been taken into account and it is considered the proposal meets the relevant policy requirements with the Blackburn with Darwen Development Plan and the National Planning Policy Framework.

## **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 the original planning permission i.e. 18<sup>th</sup> February 2022.

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. 4279 / XA05 002, Rev D – Location Plan;
- Drawing No. 4279 / XA05 003, Rev C – Proposed Site Plan; and
- Drawing No. 4279/ XA05 004 – Proposed Plan, Roof Plan & Elevations

as detailed in the minor material amendment received 19/07/2023 including drawings numbered:

- Drawing No. 4279 / XA05 002, Rev D – Location Plan;
- Drawing No. 4279 / XA05 - XXX, Rev F – General Arrangement Site Plan inc Landscaping;
- Drawing No. 4279 / XA05 - 020, Rev A – Elevations showing decking & ramps and railings; and
- Drawing No. 4279 / XA05 – 005 – External Windows & Doors;

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

3. Prior to commencement of above ground works hereby approved, and notwithstanding the submitted details, written and illustrative details of the external walling, roofing, window and door materials shall be submitted to and approved in writing by the Local Planning Authority. The development shall be implemented in strict accordance with the approved details.

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

4. No above ground works shall take place until a scheme for the disposal of foul and surface water from the site has been submitted to and approved in writing

by the Local Planning Authority. Unless otherwise agreed in writing with the Local Planning Authority, the scheme shall include:

- (i) An investigation of the hierarchy of drainage options in the National Planning Practice Guidance (or any subsequent amendment thereof). Any investigations undertaken shall include evidence of an assessment of ground conditions and the potential for infiltration of surface water;
- (ii) separate systems for the disposal of foul and surface water;
- (iii) details of the rate of surface water discharge from the site to any soakaway, watercourse or sewer, including provisions to ensure that the post-development discharge rate does not exceed the pre-development rate (incorporating a climate change allowance of 40%);
- (iv) details of any necessary flow attenuation measures, including the use of SUDS where appropriate;
- (v) details of how the scheme will be maintained and managed after completion; and
- (vi) a timetable for implementation, including details of any phased delivery.

The duly approved scheme shall be implemented before above groundworks are commenced, or within any other timescale first agreed in writing with the Local Planning Authority.

REASON: To ensure that the development is not at risk of flooding and does not increase flood risk elsewhere, and that adequate measures are put in place for the disposal of foul and surface water in accordance with the requirements of Policy 9 - Blackburn with Darwen Borough Local Plan Part 2 (2015), and the National Planning Policy Framework.

5. Prior to the occupation of the development hereby approved, two copies of a comprehensive Validation Report shall be submitted to and approved in writing by the Local Planning Authority. The Validation Report shall demonstrate effective remediation in accordance with the agreed remediation scheme and updated CSM. All the installed remediation must be retained for the duration of the approved use, and where necessary, the Local Planning Authority should be periodically informed in writing of any ongoing monitoring and decisions based thereon.

REASON: To ensure that all reasonable steps have been taken to identify contamination at the site, that the risks it presents have been appropriately assessed, and that the site can be made 'suitable for use', as such, does not pose a risk to future users of the site or the wider environment in accordance with Policy 8 of the adopted Blackburn with Darwen Borough Local Plan Part.

6. Prior to commencement of the development hereby approved, and notwithstanding the submitted details, a Construction and Environmental Method Statement shall be submitted to and approved in writing by the Local Planning Authority. The approved Statement shall be strictly adhered to throughout the construction period. The Statement shall provide for:

- i) the management of construction traffic;

- ii) the parking of vehicles of site operatives and visitors;
- iii) loading and unloading of plant and materials;
- iv) storage of plant and materials used in constructing the development;
- v) wheel washing facilities, including a method statement outlining how the developer intends to use and manage the facility. The approved wheel wash shall be put in place at all vehicle access points onto the public highway when work commences and shall remain in operation throughout the period of development;
- vi) measures to control the emission of dust, dirt and vibration; and
- vii) a scheme for recycling/disposing of waste resulting from demolition and construction works.

REASON: In order to guard against disruption to highway users; to avoid hazardous deposits of debris onto the highway and to protect the amenity of the occupiers of the adjacent properties, in accordance with Policies 8, 9 and 10 of the Blackburn with Darwen Borough Local Plan Part 2.

7. The development hereby approved shall not be brought into use unless and until, the car parking scheme as detailed on the approved Proposed Site Plan, 'Drawing No. 4279 / XA05 005 - XXX, Rev F' has been completed and laid out, and shall be retained as such thereafter.

REASON: To allow for vehicles visiting the site to be parked clear of the public highway, and to assimilate the new car parking areas in their surroundings in accordance with Policy 10 of the Blackburn with Darwen Borough Local Plan Part 2.

8. Following six months of occupation of the development hereby approved, a Green Travel Plan shall be submitted to and approved in writing by the Local Planning Authority. The Green Travel Plan shall identify measures that the occupiers will adopt to promote sustainable transport for staff, visitors, and deliveries and shall include details of how the proposed measures are to be implemented and monitored. The scheme shall be implemented in accordance with the approved details.

REASON: In the interests of sustainable transport objectives and in accordance with Policy 10 of the Local Plan Part 2, Site Allocations and Development Management Policies (Adopted 2015).

9. Construction and / or demolition works shall not be permitted outside the following hours:

Monday to Friday 8:00 to 18:00  
Saturday 9:00 to 13:00

Construction and demolition works shall not be permitted on Sundays or Bank or Public Holidays.

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.

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

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

11. A scheme for a noise barrier on the western boundary of the 'Play' areas shall be submitted by the developer. The scheme shall be agreed in writing by the Planning Authority, implemented prior to commencement of the approved use, and retained thereafter.

REASON: To prevent a loss of amenity at neighbouring residential premises caused by noise, in accordance with Policy 8 of the Blackburn with Darwen Borough Local Plan Part 2.

12. No more than 30 children at any one time shall use the outdoor areas labelled 'Play' on 'Drawing No. 4279 / XA05 003, Rev C – Proposed Site Plan'.

REASON: To prevent a loss of amenity at neighbouring residential premises caused by noise, in accordance with Policy 8 of the Local Plan Part 2.

13. Prior to commencement of above ground works hereby approved, and notwithstanding the submitted details, a scheme of boundary treatment(s) shall be submitted to and approved in writing by the Local Planning Authority. The scheme shall provide for the precise location, height and construction materials of all boundaries. The approved scheme of boundary treatment(s) shall be implemented prior to first occupation of the development and retained thereafter.

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

14. The use hereby permitted shall not operate outside the hours of 08:00 to 17:00 Monday to Friday. It shall not operate at all on Saturdays and Sundays.

REASON: To ensure appropriate hours of use to minimise noise disturbance and 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.

15. Prior to occupation or use of the building, a scheme for cycle storage provision and powered two-wheeler parking which includes details on the number, type of stands, location and shelter shall be submitted to and approved by the Local Planning Authority. The facilities shall be retained at all times thereafter.

REASON: To ease the pressure on off-street parking arrangements at the site and encourage other modes of transport, in accordance with Policy 10 of the Blackburn with Darwen Borough Local Plan Part 2.

16. The development shall be carried out in strict accordance with the submitted Arboricultural Impact Assessment Overview, Rev B and Draft Tree Protection Scheme/Arboricultural Method Statement as prepared by Bowland Tree Consultancy Ltd, dated January 2022. Specified tree protection measures shall be adhered to throughout the period of construction. Prior to the installation of new boundary treatment to further enclose the site, an add on Arboricultural Method Statement report should be submitted to the Local Planning Authority which covers details regarding construction activities and measures to avoid disturbance to the trees with any new fencing.

REASON: Trees represent a public benefit by way of visual amenity and should therefore be protected at all times, in accordance with Policies 9 and 40 of the Blackburn with Darwen Borough Local Plan Part 2.

17. Should the proposal involve outdoor floodlighting, a scheme detailing the types, positions and heights shall be submitted to and approved in writing by the Local Planning Authority before the development commences. The floodlights shall be installed in accordance with the agreed scheme and retained for the duration of the approved use.

REASON: To minimise potential loss of amenity due to intrusive light pollution affecting residents living in the vicinity, in accordance with Policy 8 of the adopted Blackburn with Darwen Borough Council Local Plan Part 2.

18. The development hereby approved shall be carried out in accordance with the agreed Electric Vehicle charging scheme as shown on proposed site plan, ref. 4279/XA05-XXX, Rev F and the submitted 'Electric Vehicular Charge Point Technical Specification' received 4th September 2023. The EV charge point shall then be installed within five years of this date of decision in accordance with the approved detail, and retained thereafter.

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

## 6.0 PLANNING HISTORY

### Longshaw Infant School

- 10/92/1826 – Alterations and erection of additional classrooms, resource area and staff room. Approved, 06/01/1993.
- 10/94/0457 – Provision of pitched roof to school buildings. Approved, 13/05/1994.
- 10/07/0456 - Replacement of existing fencing with new palisade fencing to entire boundary. Approved, 29/06/2007.
- 10/21/1210 - Erection of Single Storey Nursery Building. Approved, 18/02/2022.
- 10/23/0199 - Installation of two pieces of external play equipments to new nursery play areas. Approved, 25/07/2023.

### Longshaw Nursery School

- 10/00/0640 - Conversion of flat roof to a 15 degree pitch with profile steel sheet. Approved, 23/11/2000.
- 10/07/0492 – Replacement of boundary fencing. Approved, 28/06/2007.
- 10/08/0037 – Erection of play equipment. Approved, 14/02/2008.
- 10/08/0174 - Children's steel embankment slide. Approved, 23/04/2008.

## 7.0 CONSULTATIONS

### 7.1 Statutory Consultation

### 7.2 Highways Comments

PROW – no implications

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

The application received is for Variation/Removal of Condition/Minor Material Amendment for Variation of Conditions 2 (approved drawings), 8 (parking), 20 (EV charging) and removal of conditions 7 (site access) and 9 (closure of existing access) pursuant to application 10/21/1202 "Erection of single storey nursery building" - Reduction in height of building, replace side bi-fold door with a window, install cowls to roof, formation of new play area, parking layout changes and erection of decking / ramped access to rear and side elevations

#### **Condition 8 – car parking**

The changes submitted are deemed acceptable  
We therefore support the changes proposed.

#### **Condition 20 – EV charging**

Further to the narrative received from the agent on the 19th July 2023.

It is accepted that on the proviso that the infrastructure to support electric vehicle bays are installed, we would support the variation as requested.

**Removal of condition 7 (Site Access) & 9 (Closure of site access)**

This is acceptable.

7.3 Public Protection

With reference to the above application I have no objections on environmental health grounds given the minor nature of the proposed changes.

I would like to remind the applicant of the requirement to install the acoustic barrier the specification of which needs to be agreed in advance, as required by condition 13 of the original application 10/21/1210.

7.4 Tree Officer

**Assessment:**

I have considered the proposal to install decking/ramp structures on the north, west and south, west corners of the building in relation to two maturing, high value Oak trees.

The proposed decking would encroach into the root protection areas (RPA) of both trees.

It is estimated the encroachment into the RPA for T2 would be around 10% and for T3 less than 5%

Construction will require excavations for several posts for each of decking/ramps.

The amount of root severance and disruption to the rooting environment would not be significant. The excavations would not lead to any undue threat to the health of the trees. Both trees have good vigor and have the capacity to tolerate the associated disturbance in the rooting area.

**Conclusions:**

Construction of the proposed decking/ramps will not threaten the long term health of the two Oak trees.

7.5 Lancashire Fire and Rescue

The proposed Planning Application has been noted and the Fire Authority gives its advice in respect of access for fire appliances and water supplies for firefighting purposes to the site.

The following recommendations are made to make the applicant aware of conditions which will have to be satisfied on a subsequent Building Regulation



application. The conditions may affect the elevation of the building and access to them. These recommendations must be included if this application passes to another party prior to Building Regulation submission.

## ACCESS - DOCUMENT B, PART B5

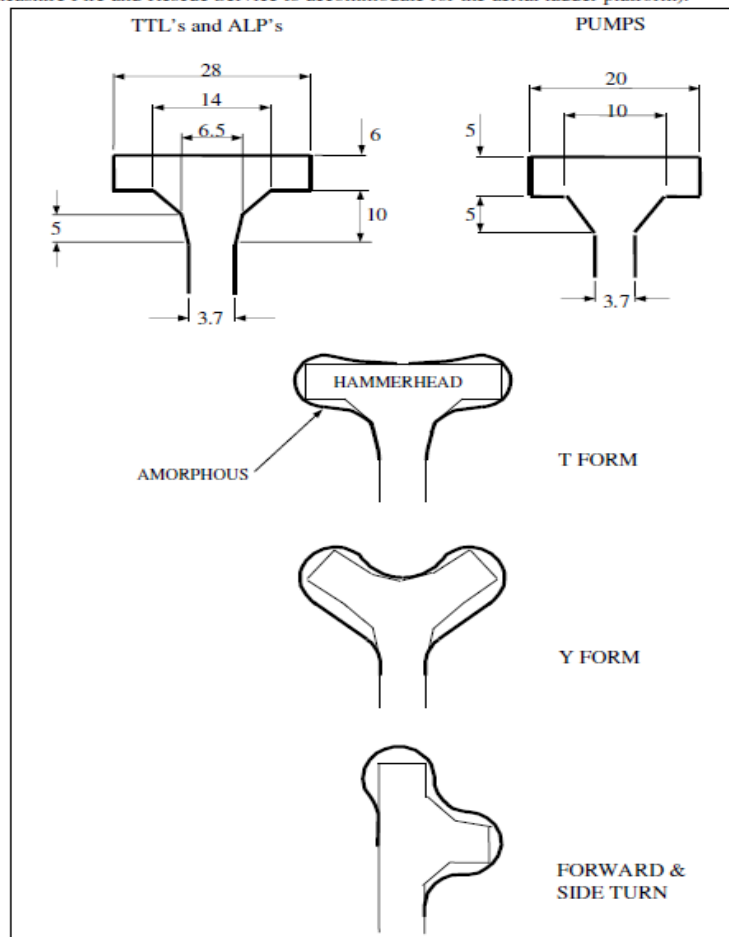
It should be ensured that the scheme fully meets all the requirements of Building Regulations Approved Document B, Part B5 'Access and facilities for the Fire Service'.

### LANCASHIRE FIRE AND RESCUE SERVICE SAFETY SERVICES DEPARTMENT

#### NOTE FOR GUIDANCE N° 14

#### TURNING FACILITIES FOR FIRE SERVICE VEHICLES

The following diagrams show typical turning heads in accordance with table 21, note 1 and paragraph 17.11 of Building Regulations approved document B, part B5 (as amended by Lancashire Fire and Rescue Service to accommodate for the aerial ladder platform).



**EXTRACT FROM BUILDING REGULATIONS APPROVED DOCUMENT B**  
(as amended by Lancashire Fire and Rescue Service to accommodate for the aerial ladder platform)

Appliance Type	Minimum width of road between kerbs (m)	Minimum width of gateways (m)	Minimum turning circle between kerbs (m)	Minimum turning circle between walls (m)	Minimum clearance height (m)	Minimum carrying capacity (tonnes)
Pump	3.7	3.7	16.8	19.2	3.7	12.5
High Reach	3.7	3.7	29.0	29.0	4.0	26

Notes:

1. Fire appliances are not standardised. Some fire services have appliances of greater weight or different size. In consultation with the Fire Authority, Building Control Authorities and Approved Inspectors may adopt other dimensions in such circumstances.
2. Because the weight of high reach appliances is distributed over a number of axles, it is considered that their infrequent use of a carriageway or route designed to 12.5 tonnes should not cause damage. It would therefore be reasonable to design the roadbase to 12.5 tonnes, although structures such as bridges should have the full **26 tonnes** capacity.

## B5 WATER PROVISION

It should be ensured that the proposal is provided with suitable provision of Fire Fighting water. Any provisions should comply with National Guidance, details of which can be found: <https://www.water.org.uk/guidance/national-guidance-document-on-the-provision-of-water-for-firefighting-3rd-edition-jan-2007/>

Guidelines on flow requirements for firefighting (taken from the National Guidance document on the provision of water for firefighting):

Type of building	Minimum main size (mm)	Minimum flow (litres per min)	Ideal flow (litres per min)	Maximum distances between hydrants (m)
Semi-detached house	90	480	1200	150
Detached house	90	480	1200	150
Multi occupied house	100	1200	2100	150
Transportation	100	1500	2100	90
Industry – Up to 2.5 Acres	150	2100	4500	70
Industry - 2.5 Acres to 5 Acres	150	3000	4500	70
Industry – Over 5 Acres	150	4500	4500	70
Shops/Offices/Recreation/Tourism	150	1200	4500	70
Village Halls	100	900	1200	100
Primary Schools	100	1200	2100	100
Secondary School/College	150	2100	4500	70
Hospitals	150	2100	4500	70

The Local Authority Building Control / Approved Inspector and Fire Service should be consulted at the earliest opportunity where more specific advice can be offered.

### 7.6 Public Consultation

Neighbourhood consultation letters were sent out on 16<sup>th</sup> August, to 41 properties surrounding the application site. In addition, a site notice was displayed at the corner of Crosby Road and Peel Close. In response to the

public consultation, no representations were received in response.

**8.0 CONTACT OFFICER: Jamie Edwards, Planning Officer**

**9.0 DATE PREPARED: 25 August 2023**

**ORIGINATING DIVISION:** HIGHWAYS AND TRANSPORTATION

**REPORT TO:** BLACKBURN WITH DARWEN BOROUGH COUNCIL  
PLANNING AND HIGHWAYS COMMITTEE

**DATE:** 14<sup>th</sup> September 2023

**TITLE:** Definitive Map Modification Order for Public  
Footpath 253 Darwen

**WARD:** Darwen East      **COUNCILLORS:** Katrina Fielding  
Matt Gibson  
Martin McCaughran

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## 1.0 PURPOSE OF THE REPORT

The purpose of the report is to seek committee approval for a Definitive Map Modification Order (DMMO) for Public Footpath 253 Darwen.

## 2.0 BACKGROUND AND DETAILS

In 2021 the council dealt with a Stage 1 complaint regarding public rights of way and planning issues around developments along Commercial Road, Darwen.

The complaint centred round whether the route of Public Footpath 253 Darwen had been considered fully whilst granting planning permission for certain of the developments. In addition the actual route of the public right of way shown on the Definitive Map and other contemporary documents was brought into question.

There are two versions of the definitive map sheet for this area drawn on different OS base maps. Both maps showed FP 253 Darwen along the same general route but poor draughtsmanship on one of the copies appeared to show the route encroaching into the curtilage of the Anchor Bank property. The OS base plan of this copy also showed a footpath along the eventual line of Commercial Road rather than on the definitive line of the footpath along the western side of the boundary wall of Darwen Sewage Treatment Works. These discrepancies formed the basis for much of the Stage 1 complaint.

In addition to the above, FP 253 Darwen has been the subject of two diversion orders over the years; one in the late 90's to accommodate the building of the M65 and one in 2006 for security reasons at Crown Paints.

A DMMO is required to consolidate these diversions into the Definitive Map and Statement and to remove any lingering confusion with regard to the two definitive map records thus providing clarity of the records going forward.

Under the Council's Constitution this Committee has '*The power to create, divert, stop up, extinguish and reclassify footpaths and bridleways and the power to make orders and enter agreements in relation to the same*'

The Committee therefore has to consider whether, or not, to promote the Definitive Map Modification Order. In order to assist members in making this decision, officers have prepared a detailed report with the necessary information to enable an informed decision to be made.

### **3.0 LEGAL**

The relevant legislation is the Wildlife and Countryside Act 1981, Section 53(3)(a)(i).

### **4.0 IMPLICATIONS**

<b>Customer</b>	None
<b>Financial</b>	Advertising costs will be met from the PROW budget.
<b>Anti-poverty</b>	None
<b>Crime and Disorder</b>	None

### **5.0 RECOMMENDATION**

It is the officer's recommendation that the legislative criteria have been met and that the committee should resolve to Promote the Order as outlined in Paragraph 6.1(a)&(b) of the attached report and authorise the Director of HR Legal & Governance to progress the necessary legal order.

<b>6.0 BACKGROUND PAPERS:</b>	Attached detailed report Order Plan
<b>7.0 CONTACT OFFICERS:</b>	George Bell
<b>8.0 DATE PREPARED:</b>	13 <sup>th</sup> July 2023

## Wildlife and Countryside Act 1981 Section 53(3)(a)(i)

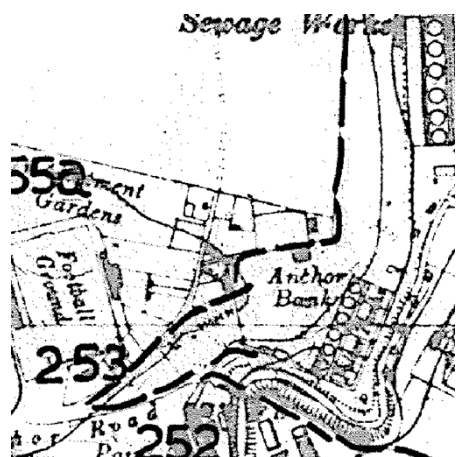
### Definitive Map Modification Order for Public Footpath 253 Darwen

#### 1. Introduction

- 1.1 This report seeks to assist the members of Planning and Highways Committee in their determination of a request from officers to make a Definitive Map Modification Order (DMMO) to amend the Definitive Map and Statement of Public Footpath 235 Darwen under Section 53(3)(a)(i) of the Wildlife and Countryside Act 1981.

#### 2. Background

- 2.1 The Council is the Highway & Surveying Authority for the area within which the public footpath proposed for modification lies.
- 2.2 In 2021 the council dealt with a Stage 1 complaint regarding public rights of way and planning issues around developments along Commercial Road, Darwen.
- 2.3 The complaint centred round whether the route of Public Footpath 253 Darwen had been considered fully whilst granting planning permission for certain of the developments. In addition the actual route of the public right of way shown on the Definitive Map and other contemporary documents was brought into question.
- 2.4 There are two versions of the definitive map sheet for this area drawn on different OS base maps. Both maps showed FP 253 Darwen along the same general route but poor draughtsmanship on one of the copies appeared to show the route encroaching into the curtilage of the Anchor Bank property. The basis for much of the Stage 1 complaint was that the public footpath had never entered into the Anchor Bank property grounds.
- 2.5 The definitive map sheet which shows that FP 235 Darwen may encroach into the grounds of Anchor Bank was drawn on an OS base plan which showed a footpath along the eventual line of Commercial Road but with no record of a footpath on the actual definitive line along the western side of the boundary wall of Darwen Sewage Treatment Works.
- 2.6 On this base plan it is unclear which side of the northern boundary wall of Anchor Bank or the western boundary wall of the sewage works that FP 253 Darwen is shown to be running:



In addition it appears to show the line of the footpath crossing into Anchor Bank at its entrance.

2.7 This OS base plan, shown below without the definitive footpaths, was

*Made and published by the Director General of the ORDNANCE SURVEY, CHESINGTON, SURREY, 1956.  
Reprinted with minor changes 1966.*

i.e. although reprinted in the year the Definitive Map was produced the bulk of the information on it was from some ten years previous.



2.8 In contrast to the above, the OS base plan used in the 'second copy' of the definitive map clearly shows that line of the footpath has been moved from the line of Commercial Road to along the definitive line.



2.9 This OS base plan, shown below without the definitive footpaths, was published in 1972, however the survey diagram for the sheet shows that this area of the plan was based on the OS 1:1250 sheet dated 1954-66 (see highlighted below) which is in line with the publication of the Definitive Map in 1966.



**SURVEY DIAGRAM**

1968	1961	1954	1954-66	1954
1968	1968	1954-69	1960-68	1954-68
1968	1968	1954-68	1954-70	1954-68
1968	1968	1968	1954-70	1963-70
1968	1968	1968	1968	1954-68

The figures shown are the dates of the 1:1250 and 1:2500 scale surveys used in compiling this map. Subsequent changes from unpublished 1:1250 and 1:2500 revision data have been incorporated. Cladding surveyed 1970. Boundaries revised to 1-10-72.

This clearly shows the line of the footpath to be to the North of Acorn Bank's boundary and to the West of the Sewage Works boundary.

- 2.10 Whilst the initial base plan used for the Definitive Map correctly shows the definitive line of the footpath, the absence of any indication of a path on this definitive line together with the base plan still showing the original line of the path running in a northerly direction from the end of Anchor Road (along the line of what is now Commercial Road) was the cause of some confusion. The redrawing of the map on the second more up to date base plan goes a long way to clearing up this confusion and confirms that the path had been diverted along its present route before the publication of the Definitive Map.
- 2.11 In addition to the above, FP 253 Darwen has been the subject of two diversion orders over the years; one in the late 90's to accommodate the building of the M65 and one in 2006 for security reasons at Crown Paints.
- 2.12 Whilst both of these orders were confirmed, there is no record of DMMO's for either diversion in order to update both the Definitive Map & Statement.
- 2.13 This report seeks to address those matters being put before members of the Committee, namely the request from officers for the Definitive Map Modification Order to amend the Definitive Map and Statement for Public Footpath 235 Darwen as detailed below in this report.

It seeks to advise members of the Committee of the outcome of an assessment against the relevant legislative criteria, thus enabling them to consider whether, or not to promote the Order requested.

### 3. Legislative Criteria

- 3.1 Section 53 of the Wildlife and Countryside Act 1981 imposes a duty on the surveying authority to keep the definitive map and statement under continuous review. The section sets out 'events' which would require the surveying authority to promote a DMMO.
- 3.2 One such event is set out in Section 53(3)(a)(i) of the Act:  
*'.....the coming into operation of any enactment or instrument, or any other event, .....'*  
whereby  
*'..... a highway shown or required to be shown in the map and statement has been authorised to be stopped up, diverted, widened or extended....'*
- 3.3 As per paragraph 2.11 above, FP 253 Darwen has been the subject of two diversion orders over the years; one in the late 90's to accommodate the building of the M65 and one in 2006 for security reasons at Crown Paints. These constitute an 'event' under Section 53(3)(a)(i) of the Act
- 3.4 Under Section 53(2)(b) of the Act *'...the surveying authority shall...'* - *'....as soon as reasonably practicable after the occurrence, on or after that date, of any of those events, by order make such modifications to the map and statement as appear to them to be requisite in consequence of the occurrence of that event....'*
- 3.5 A Definitive Map Modification Order promoted under these criteria seeks to amend the particulars contained in the map or statement without changing the recorded status of the way.



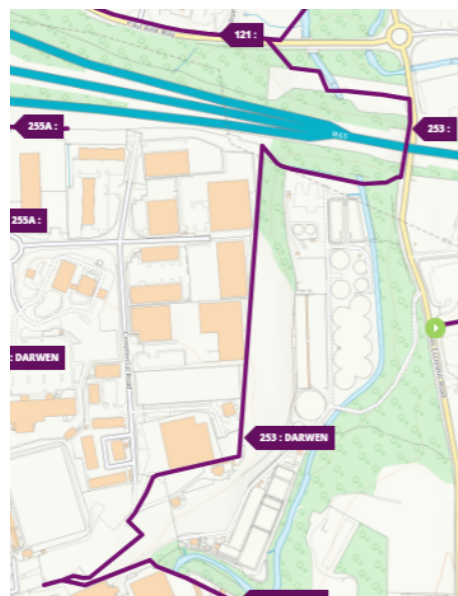
#### 4. Assessment against the Legislative Criteria

- 4.1 Below is an extract from the Definitive Map showing FP253 Darwen running from Anchor Road in the south in a generally northerly direction via the northern boundary of Acorn Bank through to what was then the administrative boundary between Darwen and Blackburn.



As was appeared to be the norm when the map was published, the associated public rights of way definitive statement for the footpath is brief - *'Anchor Road via Anchor Bank to Boundary'*

- 4.2 Below is an extract from the council's current digital records showing FP253 Darwen running on the same route for the majority of its length but with the two confirmed diversion order routes clearly visible at the southern and northern ends of the footpath.



- 4.3 Considering the above it may be reasonable to conclude that the Definitive Map and Statement for FP 235 Darwen requires modification to better represent the route and extent of the path correctly.
- 4.4 Should the Committee be minded to approve the request for a DMMO then in addition to noting the route change on the Definitive Map, in order to correctly describe FP 235 Darwen, the existing definitive statement:

- Anchor Road via Anchor Bank to Boundary

needs modifying by the order to

- From Anchor Road in a generally north easterly direction circumventing a secure car park for a distance of 230 metres then in an easterly direction along and to the north of the boundary wall of Acorn Bank for a distance of 105 metres and then in a northerly direction along and to the west of the boundary wall of the sewage works for a distance of 375 metres then in an easterly direction for 182 metres to meet with Lower Eccleshill Road then in a northerly direction along Lower Eccleshill Road for 95 metres before heading in a generally westerly direction for 203 metres to meet with Paul Rink Way, a total distance of 1,190 metres.

## **5. Consultations**

- 5.1 No consultation has been undertaken with regard to this proposal.

## **6. Decision Required**

- 6.1 If, having considered all of the relevant information, Committee is minded to approve the request from officers to make a Definitive Map Modification Order (DMMO) to amend the Definitive Map and Statement of Public Footpath 235 Darwen under Section 53(3)(a)(i) of the Wildlife and Countryside Act 1981, they should resolve that:

- a) A Definitive Map Modification Order (DMMO) to amend the Definitive Map and Statement of Public Footpath 235 Darwen as outlined in paragraphs 4.2 and 4.4 is made under Section 53(3)(a)(i) of the Wildlife and Countryside Act 1981

- b) if no objections are duly lodged, the Authority confirm the Orders;

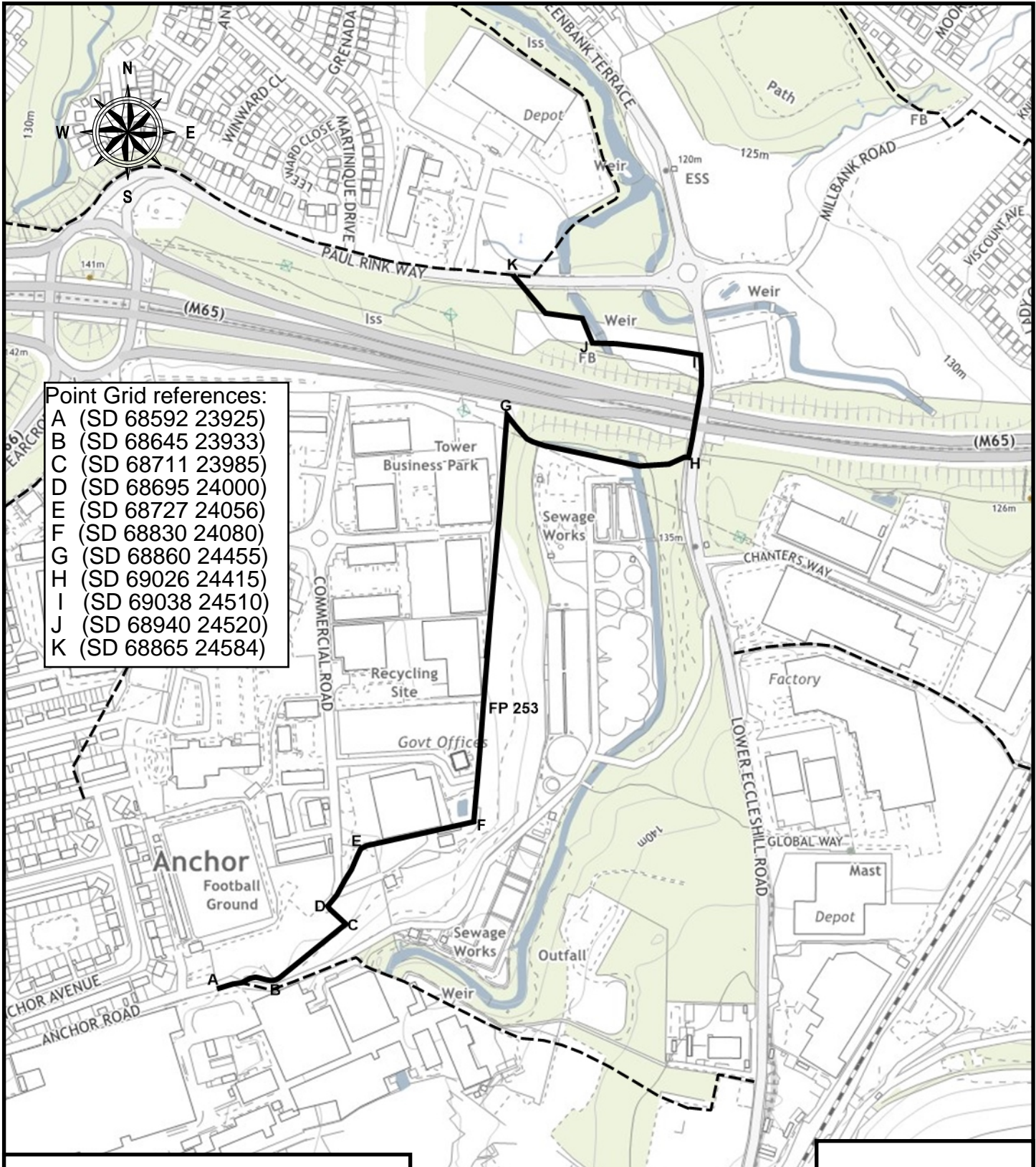
or

- c) if objections are duly lodged, and not subsequently withdrawn, the Orders be passed to the Secretary of State for confirmation.

- 6.2 If, having considered all of the relevant information, the Committee is minded to refuse the request, officers should be advised of the reasons for the decision in order that any further action can be considered.

## **7. Recommendation**

- 7.1 Whilst the Authority (Planning and Highways Committee) must make its own decision whether or not to promote the requested Order, it is the view of officers that the legislative tests appear to be satisfied, and therefore the Order may be promoted and 'made'.

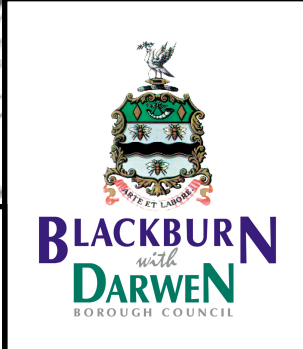
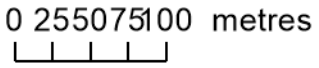


Point Grid references:

A	(SD 68592 23925)
B	(SD 68645 23933)
C	(SD 68711 23985)
D	(SD 68695 24000)
E	(SD 68727 24056)
F	(SD 68830 24080)
G	(SD 68860 24455)
H	(SD 69026 24415)
I	(SD 69038 24510)
J	(SD 68940 24520)
K	(SD 68865 24584)

**Key:**

- Existing Public Footpaths
- Footpath subject to DMMO



**The Borough of Blackburn with Darwen  
FP253 Darwen  
Definitive Map Modification Order 2023**

The Public Rights of Way information shown on this plan should be used as guidance only. Rights of Way information should be verified by consulting the Definitive Map (the legal record) which can be inspected by appointment during normal office hours by contacting [Public.RightofWay@blackburn.gov.uk](mailto:Public.RightofWay@blackburn.gov.uk)

**ORIGINATING DIVISION:** HIGHWAYS AND TRANSPORTATION

**REPORT TO:** BLACKBURN WITH DARWEN BOROUGH COUNCIL  
PLANNING AND HIGHWAYS COMMITTEE

**DATE:** 14<sup>th</sup> September 2023

**TITLE:** Diversion of Public Footpaths 80, 51 & 52 Blackburn

**WARD:** Little Harwood and Whitebirk      **COUNCILLORS:** Mustafa Desai  
Sonia Khan  
Abdul Patel

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## 1.0 PURPOSE OF THE REPORT

The purpose of the report is to seek committee approval for a public path order under the Town & Country Planning Act 1990, Section 257 to divert Public Footpaths 80, 51 & 52 Blackburn.

## 2.0 BACKGROUND AND DETAILS

On the 27<sup>th</sup> May 2022, the Council granted planning permission for the construction of a new 120,000 sq ft B2 / B8 warehouse unit with associated external works, car parking and service yards; construction of new dock leveller extension bays to existing warehouse building; change of use of existing 10,550 sq ft production building to form retail unit; construction of access road; and reconfiguration of existing access road on land to South East Lower Philips Road Whitebirk Industrial Estate Blackburn BB1 5UD. (Application 10/21/1345)

Three Public Footpaths are affected by the proposals and in order that the development can be implemented as per the planning approval, it is necessary that they are diverted. In this respect, early in the planning process, 7<sup>th</sup> December 2018, the Council received an application from the developer to divert the footpaths affected.

The council's public rights of way team have subsequently worked with the developer as to how to best incorporate the necessary diversions within his proposals.

Under the Council's Constitution this Committee has '*The power to create, divert, stop up, extinguish and reclassify footpaths and bridleways and the power to make orders and enter agreements in relation to the same*'

The Committee therefore has to consider whether, or not, to promote the Order requested by the applicant. In order to assist members in making this decision, officers have prepared a detailed report with the necessary information to enable an informed decision to be made.

## 3.0 LEGAL

The relevant legislation is the Town & Country Planning Act 1990, Section 257.

#### 4.0 IMPLICATIONS

<b>Customer</b>	None
<b>Financial</b>	the Applicants will meet the cost of the diversions.
<b>Anti-poverty</b>	None
<b>Crime and Disorder</b>	None

#### 5.0 RECOMMENDATION

It is the officer's recommendation that the legislative criteria have been met and that the committee should resolve to Promote the Order as outlined in Paragraph 6.1(a)&(b) of the attached report and authorise the Director of HR Legal & Governance to progress the necessary legal order.

**6.0 BACKGROUND PAPERS:** Attached detailed report

**7.0 CONTACT OFFICERS:** George Bell

**8.0 DATE PREPARED:** 17<sup>h</sup> August 2023

## **Town and Country Planning Act 1990, Section 257**

## **Wildlife and Countryside Act 1981 Section 53A**

## **Application for Public Path Diversion Order**

## **Diversion of Public Footpaths 80, 51 & 52 Blackburn**

### **1. Introduction**

- 1.1 This report seeks to assist the members of Planning and Highways Committee in their determination of an application to divert public footpaths 80, 51 & 52 Blackburn under Section 257 of the Town and Country Planning Act 1990.

### **2. Background**

- 2.1 The Council is both the Planning Authority and the Highway & Surveying Authority for the area within which the public footpath proposed for diversion lies.
- 2.2 The Council granted planning permission in 2022 for the construction of a new 120,000 sq ft B2 / B8 warehouse unit with associated external works, car parking and service yards; construction of new dock leveller extension bays to existing warehouse building; change of use of existing 10,550 sq ft production building to form retail unit; construction of access road; and reconfiguration of existing access road on land to South East Lower Philips Road Whitebirk Industrial Estate Blackburn BB1 5UD. (Application 10/21/1345)
- 2.3 In conjunction with the planning application the Council also received an application requesting the diversion of Public Footpaths 80, 51 & 52 Blackburn from the developer dated 7th December 2018.
- 2.4 This report seeks to address those matters being put before members of the Committee, namely the application for the public path order to divert the paths as shown on the plan attached to this report.

It seeks to advise members of the Committee of the outcome of non-statutory consultations, and an assessment against the relevant legislative criteria, thus enabling them to consider whether, or not to promote the Order requested.

- 2.5 At present FP 80 Blackburn leaves Lower Philips Road at Point A (SD 70119 29885) on the attached plan, along an industrial access road to Point B (SD 70276 29800) and then through a development site to Point C (SD 70344 29817) where it joins FP 52 Blackburn. FP 52 then continues through the development site via Points D (SD 70317 29903) & E (SD 70489 29973) to Point F (SD 70524 30006) and then beyond to the borough boundary. FP51 Blackburn, which is routed down Lower Philips Road from Philips Road, leaves Lower Philips Road at Point G (SD 70310 30097) to go through the industrial site to join FP 52 at Point E.
- 2.6 The proposed diversion aims to close the sections of FP's 51, 52 & 80 which currently run through the both existing industrial developments and the area of proposed industrial development. It is proposed that FP's 51 & 80 will continue along Lower Philips Road from Points G & A respectively to join the new alignment of FP 52 at Point H (SD 70315 30071). FP 52 will commence at Point H from Lower Philips Road and be routed along the new access road to the site and then along a safe route between developments to Point F where it will continue along its original route to the borough boundary..

- 2.7 The proposed diversions do not increase the lengths of any of the routes and it is considered that the routes will not be inconvenient to the user overall.

### **3. Legislative Criteria**

- 3.1 Paragraph 7.2 of 'Rights of Way Circular 01/09 - Guidance for Local Authorities', published by Defra (Department for Environment, Food and Rural Affairs), re-confirms that:

*'The effect of development on a public right of way is a material consideration in the determination of applications for planning permission and local planning authorities should ensure that the potential consequences are taken into account whenever such applications are considered.'*

- 3.2 The Town and Country Planning (General Development Procedure) Order 1995 (S.I. 1995/419) provides that development affecting a public right of way must be advertised in a local newspaper and by posting a notice on the site, as part of the planning application process. This is entirely separate from any notices and advertisements required when making and confirming a subsequent extinguishment or diversion order.
- 3.3 Section 257 of the Town and Country Planning Act 1990 Act gives local planning authorities the power to make orders to extinguish or divert footpaths, bridleways or restricted byways where it is necessary to enable development for which planning permission has been granted.
- 3.4 The Wildlife and Countryside Act 1981 Section 53A gives the local Surveying Authority the powers to add additional rights to the definitive map and statement.

### **4. Assessment against the Legislative Criteria**

- 4.1 With regard to the construction of a new 120,000 sq ft B2 / B8 warehouse unit with associated external works, the decision whether or not to promote a Public Path Diversion Order is discretionary and does not follow on automatically from the granting of planning permission. There may however be a reasonable expectation, on the part of applicants, that if the Planning Authority has granted planning permission, having considered the impact that the development will have on rights of way across the site as part of that process, they will subsequently be supportive of an application to divert the paths concerned.
- 4.2 The effect of the proposed development on the public right of way is a material consideration in the determination of the planning application, and therefore should have been considered as part of this process. It is however possible that such matters, so far as they relate to the proposed diversion, may be re-opened, should any Order be subject to duly lodged objections as part of the statutory process.
- 4.3 Under Section 257 of the 1990 Act, for the purposes of determining the applications for the Public Path Diversion Orders the Authority must be satisfied that:
- a) there is a valid planning consent in place; and
  - b) in order to enable the approved development to take place, it is necessary to divert the public right of way.
- 4.4 With regard to the first of the criteria, as indicated above, planning consent has been granted by the Planning Authority.

- 4.5 An assessment of the plans for the proposed development reveals that the current Definitive Map alignment of the paths will be, in part built over – see Plan 1 at end of report.
- 4.6 As a result, it may be reasonable to conclude that the diversion of the footpaths are necessary in order to enable the approved development to take place.

## **5. Consultations**

- 5.1 Non-statutory consultations have been undertaken with all user/interest groups and three objections were received in respect of the proposals.
- 5.2 The first objection related to the proposed route of FP 80 along an already adopted highway with the objector suggesting that a route to the south of the development between the proposed warehouse and the Leeds Liverpool Canal would be preferable.
- 5.3 Whilst officers agreed that an option which would allow the path to take a route to the south of the main development site and hence adjacent to the canal for a longer length would have been preferable, they drew the objectors attention to the element of the planning application whereby there were new Dock Leveller Extensions to existing production buildings, submitted as part of the overall planning application for the site.

The option suggested by the objector necessitated keeping the section of FP 80 along the access road between the new deck leveller extensions meaning that walkers would need to traverse an area where there were frequent vehicle movements of large articulated vehicles on either side of the access road.

- 5.4 The objector agreed with the officer's view that this wouldn't be an acceptable safe route through for walkers and subsequently withdrew their objection.
- 5.5 The second objection received related to issues with levels, gradient and surface of the proposed diversion route through the site. When it was explained that these issues would be resolved during the construction of the site, this objector also withdrew their objection.
- 5.6 The final objection came from Cadent Gas who have gas mains throughout the site. Whilst this objection has not yet been withdrawn, the developer will be in full discussion and liaison with Cadent Gas regarding their apparatus and how it will be affected during the construction of the development site and will be able to resolve any issues arising at that time.

## **6. Decision Required**

- 6.1 If, having considered all of the relevant information, Committee is minded to approve the application to divert the public footpaths shown on the plan, they should resolve that:
  - a) a Public Path Diversion Order be made pursuant to Section 257 of the Town and Country Planning Act 1990 to divert Public Footpath Numbers 80, 51 & 52 Blackburn as shown on the attached plan.
  - b) if no objections are duly lodged, the Authority confirm the Orders;or
  - c) if objections are duly lodged, and not subsequently withdrawn, the Orders be passed to the Secretary of State for confirmation.



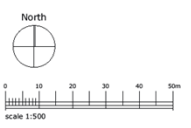
6.2 If, having considered all of the relevant information, the Committee is minded to refuse the application, the applicant should be advised of this decision, and that there are no rights of appeal.

## **7. Recommendation**

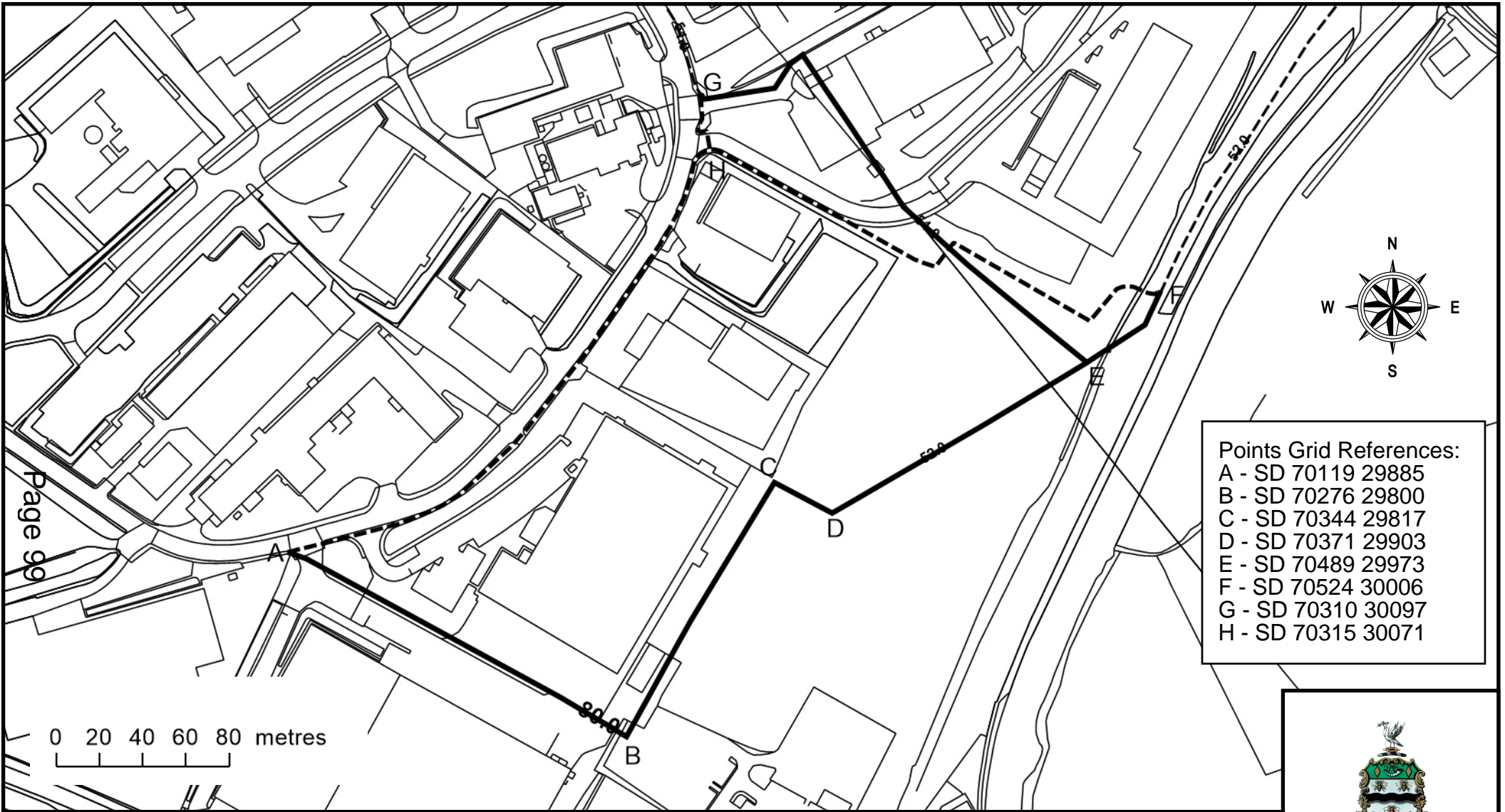
7.1 Whilst the Authority (Planning and Highways Committee) must make its own decision whether or not to promote the requested Order, it is the view of officers that the legislative tests appear to be satisfied, and therefore the Order may be promoted and 'made'.



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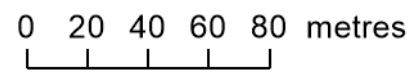


**campbell driver partnership**  
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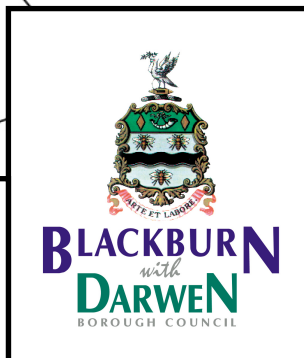
Page 99

Points Grid References:  
 A - SD 70119 29885  
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 D - SD 70371 29903  
 E - SD 70489 29973  
 F - SD 70524 30006  
 G - SD 70310 30097  
 H - SD 70315 30071



- Key:
- Existing Public Footpaths
  - Proposed Diversion
  - Footpath to be stopped up

**The Borough of Blackburn with Darwen  
 FP's 51, 52 & 80 Blackburn  
 Diversion Order 2023**



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