

Public Document Pack

Planning and Highways Committee

Thursday, 16th February, 2023

6.30 pm

Meeting Room A, Blackburn Town Hall

AGENDA

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Date Published: Wednesday, 08 February 2023
Denise Park, Chief Executive

PLANNING AND HIGHWAYS COMMITTEE

Thursday, 19 January 2023

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

OFFICERS – Gavin Prescott, Shelagh Lyth, Jennifer Scott & Shannon Gardiner

RESOLUTIONS

63 **Welcome and Apologies**

The Chair welcomed everyone to the meeting.

Apologies were received from Cllr Samim Desai who was substituted by Cllr Jackie Floyd, Cllr Jacque Slater who was substituted by Cllr Neil Slater and Cllr Zamir Khan.

64 **Minutes of the Previous Meeting**

RESOLVED - That the minutes of the previous meeting held on 15th December 2022 be agreed and signed as a correct record.

65 **Declaration of Interest**

RESOLVED – A Declaration of Interest was received from Cllr Dave Smith in relation to Planning Application 10/22/1138 and that the applicant was an acquaintance.

A Declaration of Interest was received from Cllr Neil Slater in relation to Planning Application 10/22/1138 and that he was a candidate selected by himself as Chair of Darwen at the time.

66 **Committee Agenda**

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.

66.1 **Planning Application 10-22-0739**

Speakers – Cllr John Slater (Ward Councillor)
 Brain Sumner (On behalf of the applicant)

Applicant – Gryffin House Limited

Location and Proposed Development – 5 Moorcroft, Lower Darwen, BB3 0RY

Full Planning Application for: Change of use from a dwellinghouse (Use Class C3) to a residential institution (Use Class C2) to house up to four families - parent(s) and one child - for 12 weeks durations, to allow 'Residential Parenting Assessments'.

Decision under Town and Country Planning Acts and Regulations –

RESOLVED – Refused due to the following reasons:

Delegated authority is given to the Strategic Director of Growth and Development to refuse planning permission for the following reasons:

1. The development, by virtue of a significant increase in on-street activity and within the application site, would erode the quiet residential street character and fail to secure an acceptable level of amenity for nearby residents. Accordingly, the development would fail to make a positive contribution to the area, contrary to the requirements of Policy 8 of the Blackburn with Darwen Borough Local Plan Part 2 (2015) and The National Planning Policy Framework.

2. The development, by virtue of its failure to demonstrate a need arising from the requirements of people with a defined association with Blackburn With Darwen; its nature and scale failing to align with the Council's commissioning strategies; and an unwarranted increase in the level of demand for public support services, to the extent that those services would deteriorate for existing users, is contrary to the requirements of Policy 47 of the Blackburn with Darwen Borough Local Plan Part 2 (2015).

66.2 Planning Application 10-22-0891

Applicant – Mrs P Smith

Location and Proposed Development – Holly Cottage, 5 Victoria Terrace, Old School Lane, Tockholes, Darwen, BB3 0NG.

Full Planning Application for Erection of a Stable Block (private use) and a Ménage.

Decision under Town and Country Planning Acts and Regulations –

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

66.3 Planning Application 10-22-1002

Deferred

Applicant – Ms Gillian Lomax

Location and Proposed Development – Land adjoining Moorthorpe Cottage, Park Road, Darwen, BB3 2LQ.

Reserved Matters Application: Approval of Reserved Matters "appearance, landscaping and scale" pursuant to outline planning application 10/18/1153 "the erection of 9 dwellings".

Decision under Town and Country Planning Acts and Regulations –

RESOLVED – Members were advised that the application was withdrawn from the agenda pending further assessment of the proposed dwellings and their relationship with neighbouring properties. Any significant discrepancy with the layout fixed at outline stage will be addressed appropriately through an amendment and a further (14 day) re-consultation.

The application is **deferred** to 16th February Planning Committee.

66.4 Planning Application 10-22-1138

Due to Declaring an interest Cllrs Dave Smith and Neil Slater left the meeting and Cllr Akhtar Hussain Chaired the item.

Speaker – Mr Phil Wright (Applicant)

Applicant – Mr Phil Wright

Location and Proposed Development – Avalon, 69 Manor Road, Darwen, BB3 2SN

Full Planning Application for Proposed rear balcony and staircase.

Decision under Town and Country Planning Acts and Regulations –

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

67 Petition

Members were informed of the receipt of a petition objecting to a current planning application (ref. 10/22/1070) relating to a proposed change of use from a residential dwelling (Use Class C3) to a coffee shop (E, (b)) with the installation of a new shop front. The application premises is 117 Whalley Range, Blackburn, BB1 6EE and the application is submitted by AA Properties (Blackburn) Ltd.

The planning application – reference 10/22/1070 – was received by the Local Planning Authority (LPA) on 11th November 2022, and was subsequently registered on 6th December 2022, after previously being made invalid due to an incorrect location plan being submitted. 10 neighbourhood letters of consultation were sent out on the date of registration to local addresses near the application site. The statutory 21 day consultation period expired 29th December 2022.

The Petition was received by the LPA on 27th December 2022. The Petition objects to the application on the grounds of loss of amenity, odour, sound nuisance, parking issues and the principle of the development in which there are a number of vacant properties available for rent within walking distance of less than 50m. The petition contained 23 signatures, directly from nearby addresses on Whalley Range and Snow Street.

Members were advised that an assessment of the planning application is ongoing and that all material issues that must be considered in the decision making process will be addressed. Should the application be recommended for approval, it will be reported to the Planning and Highways Committee for determination. Alternatively, the application may be refused under delegated officer powers. The statutory 8 week determination date expires 31st January 2023.

RESOLVED - That the Petition be noted and that the lead petitioner be informed of any decision taken, including the outcome of the application.

Signed:

Date:

Chair of the meeting
at which the minutes were confirmed

DECLARATIONS OF INTEREST IN ITEMS ON THIS AGENDA

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

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

MEETING: **PLANNING AND HIGHWAYS COMMITTEE**

DATE:

AGENDA ITEM NO.:

DESCRIPTION (BRIEF):

NATURE OF INTEREST:

DISCLOSABLE PECUNIARY/OTHER (delete as appropriate)

SIGNED :

PRINT NAME:

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

Material Consideration

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

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

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

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

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

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

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

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

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

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

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

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

Reasons for Decision

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

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



BwD Council - Development Control

General Reporting

REPORT NAME: *Committee Agenda.*

REPORT OF THE STRATEGIC DIRECTOR OF GROWTH & DEVELOPMENT

LOCAL GOVERNMENT (ACCESS TO INFORMATION) ACT 1985 BACKGROUND PAPERS

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

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

PLANNING APPLICATIONS FOR DETERMINATION Date: 16/02/2023

Application No	Applicant	Site Address	Ward
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10/22/0412	Mr Peter Gilkes 44 Market Street Chorley PR7 2SE	Land to rear of 1-19 Colenso Road Blackburn BB1 8DR	Shear Brow & Corporation Park
Outline Planning Application for Proposed residential development for the erection of up to four dwellings			

RECOMMENDATION: Permits

10/22/0920	Chocoberry (Blackburn) 9 Ethel Road Leicester LE5 5NB	Units 1 & 2 Brookhouse Business Centre, Whalley Range Blackburn BB1 6BB	Bastwell & Daisyfield
Full Planning Application for Proposed Change of Use from Training Centre to Dessert Shop (Class E) including New Shop Fronts			

RECOMMENDATION: Permits

10/22/1002	Ms Gillian Lomax Moorthorpe Cottage Park Road Darwen BB3 2LQ	Land adjoining Moorthorpe Cottage Park Road Darwen BB3 2LQ	West Pennine Whitehall
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Reserved Matters Application for Approval of Reserved Matters "Appearance, landscaping and scale" pursuant to outline planning application 10/18/1153 "the erection of 9 dwellings"

RECOMMENDATION: Permits

Application No	Applicant	Site Address	Ward
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10/22/1004

Miss Sonia Ahmed
Brookhouse Business Centre
Units 7 and 7A
Whalley Range
Blackburn
BB1 6BB

Units 7 and 7A Brookhouse Business Centre
Whalley Range
Blackburn
BB1 6BB

Bastwell & Daisyfield

Full Planning Application (Retrospective) for Retrospective Application for Change of Use from Sui-Generis to Cafe (Class E) including New Glazing, Rear Extension and External Alteration, including new seating area to the side elevation

RECOMMENDATION: Permits

10/22/1006

Suez Recycling & Recovery UK Ltd
S U E Z, Lower Eccleshill Road
Lower Darwen
Darwen
BB3 0RP

Suez Recycling & Recovery Park
Lower Eccleshill Road
Darwen
BB3 0RP

Darwen East
West Pennine

Full Planning Application for Demolition of existing waste management operations, relocation of the waste transfer station and materials recycling facility and erection of anaerobic digestion facility

RECOMMENDATION: Permits

10/22/1067

Keepmoat Homes (North West 1)
Aviation House
2 Windward Drive
Estuary Park, Speke
Liverpool
L24 8QR

Land Bounded by Haslingden Road and
Fishmoor Reservoir
Haslingden Road
Blackburn

Blackburn South East

Variation/Removal of Condition/Minor Material Amendment for Removal of condition No. 27 "Off-Site Highways Works" pursuant to planning application 10/21/1426 "Hybrid planning application comprising - Full permission for the erection of 160 dwellings and 50 apartments in two blocks together with access roads and landscape treatment (Phase 1); and outline permission for the erection of 100 apartments in four blocks with all matters reserved except for access (Phase 2)

RECOMMENDATION: Permits

10/22/1185

The Department for Education
20 Great Smith Street
London
SW1P 3BT

Blackburn College
Blakey Moor
Blackburn
BB2 1LH

Blackburn Central

Variation/Removal of Condition/Minor Material Amendment for Variation of Condition 2 pursuant to planning application 10/22/0921 'Temporary siting of modular accommodation for education use during period of works for refurbishment of the Victoria Building' to amend layout and position of the cabins

RECOMMENDATION: Permits

10/22/1195

Mrs Jacqueline Slater
11 Minster Crescent
Darwen
BB3 3PY

11 Minster Crescent
Darwen
BB3 3PY

Darwen South

Full Planning Application for Proposed side / rear single storey extension following demolition of existing conservatory

RECOMMENDATION: Permits

10/22/1208

The Kay Group (UK) Ltd
Mr Cox
1st Floor,
Grimshaw Park Service Station
Grimshaw Park
Blackburn
BB2 3AG

Grimshaw Park Service Station
Grimshaw Park
Blackburn
BB2 3AG

Blackburn Central

Variation/Removal of Condition/Minor Material Amendment for Variation of Condition No.14 "land contamination" pursuant to planning application 10/20/0324 "Demolition and redevelopment of Petrol Filling Station and Head Office" - to enable prior demolition of building

RECOMMENDATION: Permits

REPORT OF THE STRATEGIC DIRECTOR

Plan No: 10/22/0412

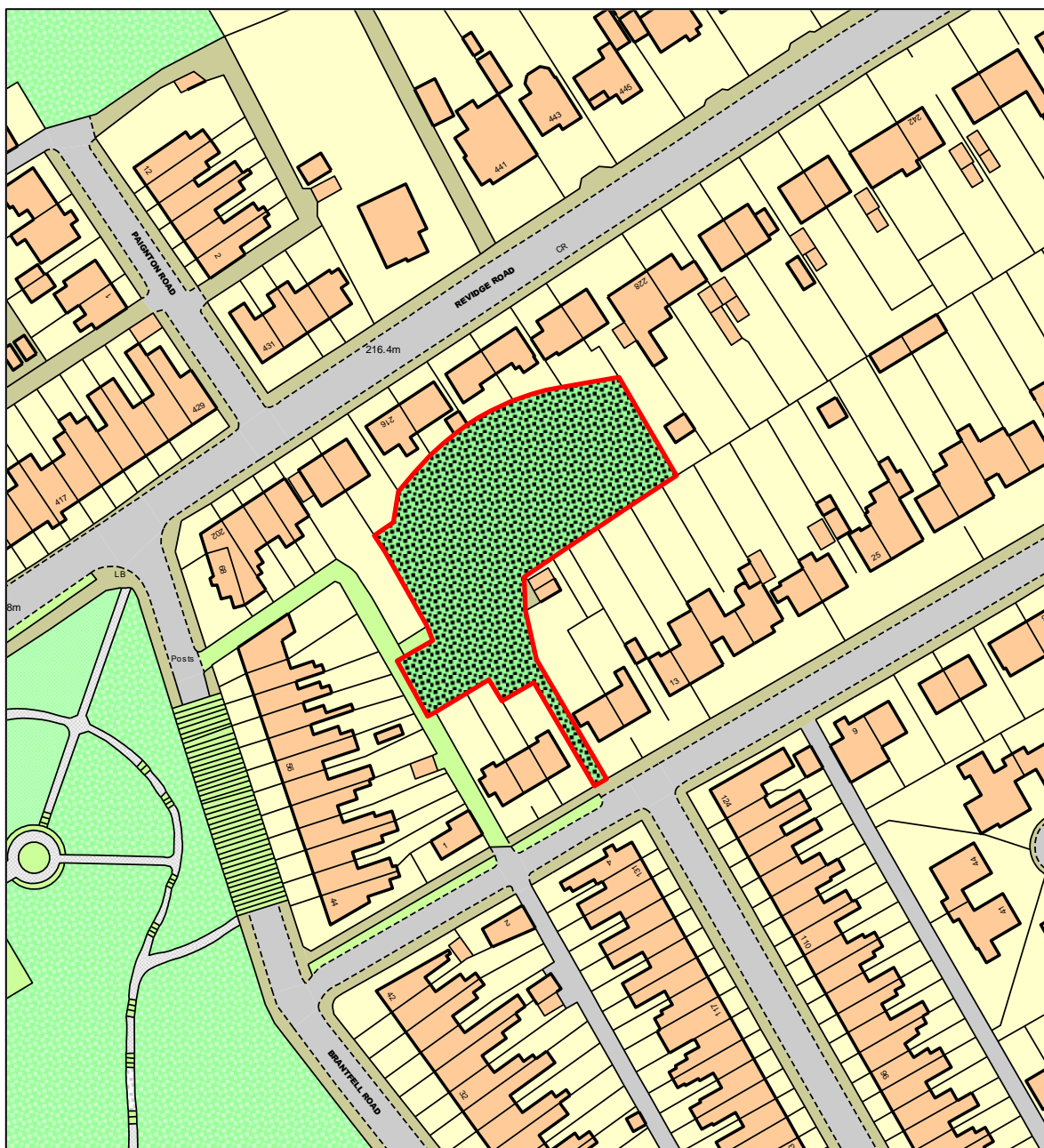
Proposed Development: Proposed residential development for the erection of up to four dwellings

Site Address: Land to rear of 1-19 Colenso Road, Blackburn, BB1 8DR

Applicant: Mr Peter Gilkes

Ward: Shear Brow & Corporation Park

**Councillor Hussain Akhtar
Councillor Suleman Khonat
Councillor Zainab Rawat**



1.0 SUMMARY OF RECOMMENDATION

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

2.0 KEY ISSUES/SUMMARY OF PLANNING BALANCE

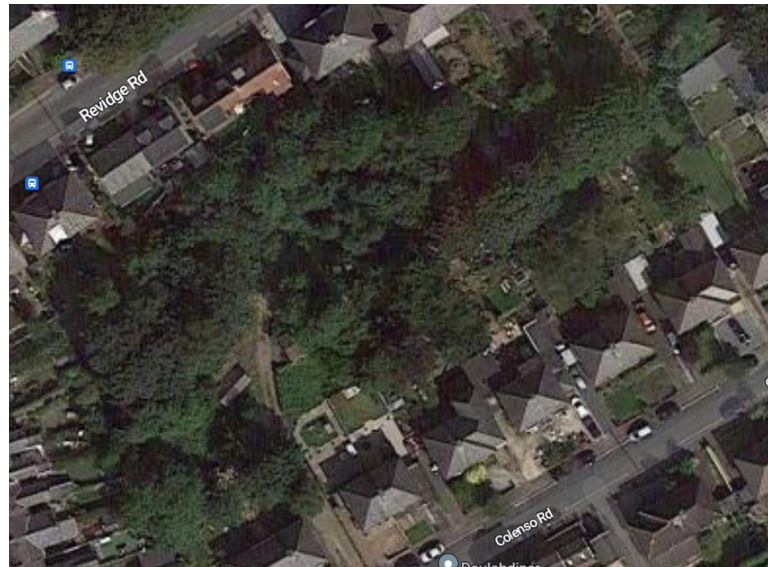
- 2.1 This application is presented to the Planning and Highways Committee, in accordance with the Council's scheme of delegation, and given that concerns have been raised by a Ward Councillor together with a number of residents.
- 2.2 The proposed development has been publicised through letters to residents of the nearest 43 adjacent properties, on 14th November 2022. In addition, a site notice was displayed at the existing access point, on 29th November 2022.
- 2.3 The Council's development plan supports new residential development and associated works, provided they constitute sustainable development and accord with the development plan when taken as a whole.
- 2.4 This application is an outline application with all matters reserved. An amended description has been secured during the course of the application and the development would involve the construction of **up to** four dwellings. An indicative site layout plan has been submitted showing four dwellings arranged around the plot. Access also appears to be shown from Colenso Road via the existing access point yet those arrangements are a reserved matter at this stage.
- 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 of development
 - Assessing impacts in the way of design and visual amenity
 - Safeguarded the residential amenities of the closest neighbours
 - Ensuring adverse impacts on the local highway network are avoided
 - Assessing potential impacts on protected trees
 - Assessing potential impacts on biodiversity
 - Finalising the foul and surface water drainage systems to be installed
 - Assessing impacts in the way of ground contamination
 - Ensuring potential impacts on air quality are appropriately minimised

3.0 RATIONALE

3.1 Site and Surroundings

3.1.1 The application site is garage site and access point located within the settlement of Blackburn. 8 garages are contained within, which are in varying states of disrepair. Vehicle access is currently gained from the south between 9 and 7 Colenso Road. Pedestrian access can also be gained between 1 and 3 Colenso Road. A number of protected trees are contained within the site, which are designated under the Tree Preservation Order Colenso Road/Revidge Road, Blackburn TPO 2002.

Figure One – Satellite image of the site



3.1.2 Including the existing access point, the site covers an area of circa 0.5 acres. The land has previously been worked for stone and land levels rise considerably towards the north and Revidge Road. Dwellings of varying ages and styles are positioned to all sides.

Figure Two – Location Plan showing the general extent of the site



3.2 Proposed Development

3.2.1 As detailed above, this application seeks outline consent for the erection of up to four dwellings, with all matters reserved. All of the garages would be demolished in order to facilitate the development. Figure Three below shows the indicative proposed site plan submitted. The footprints of four detached dwelling are shown staggering the east and west edges of the plot. A passing place is also detailed to the top of the existing access point.

Figure Three – Indicative proposed site plan



3.3 Case Officer Site Photos



3.4 Development Plan

3.4.1 Core Strategy Part 1 (2011):

- Policy CS5: Locations for New Housing
- Policy CS7: Types of Housing

3.4.2 Local Plan Part 2 (2015):

- Policy 1: The Urban Boundary
- Policy 7: Sustainable and Viable Development
- Policy 8: Development and People
- Policy 9: Development and the Environment
- Policy 10: Accessibility and Transport
- Policy 11: Design
- Policy 18: Housing Mix
- Policy 36: Climate Change

3.4.3 Housing and Economic Need Assessment (2018)

3.4.4 Residential Design Guide Supplementary Planning Document (2012)

3.4.5 Blackburn with Darwen Borough Council Parking Standards (2014)

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

3.4.6 Planning Advisory Note: Air Quality (2018)

4.0 **ASSESSMENT**

4.1 Principle of Development

4.1.1 As detailed above, the site is positioned within the defined urban boundary for Blackburn. Such locations are prioritised for development as part of Policy 1. Policy CS5 is also supportive of residential developments in such locations. The surrounding land uses are exclusively residential in their character. Services, facilities and regular public transport links are all within walking distance and the site is thus in a sustainable location for new housing development.

4.1.2 The submitted indicative site plan shows four detached dwellings. Moreover, the information detailed on the submitted application form states that 3 bedroom dwellings are proposed. Such house types are prioritised as part of Policies CS7 and 18 alongside the latest Housing and Economic Need Assessment. The principle of residential development is therefore acceptable, in accordance with Policies CS5, CS7, 1 and 18.

4.1.3 Comments have been provided by the BwD Housing Manager regarding the need to undertake market analysis. The Agent has confirmed that no such exercise has taken place and that the development is speculative at this stage. That said, such requirements do not form part of the requirements of the aforementioned housing policies and a lack of market analysis ultimately does not compromise the principle of residential development. It is likely that those exercises would be undertaken ahead of the reserved matters application with their findings used to influence the design and layout proposed at that stage.

4.1.4 In accordance with the presumption in favour of sustainable development detailed within 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 surrounding dwellings comprise of semi-detached and terraced properties, which are predominantly arranged in linear formations. 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. With regards to newbuild dwellings, those requirements are reiterated with the guidance contained within the Design SPD. The style and form of residential architecture must be influenced by the site's surroundings with designs complementing existing features in the locality. Concerns have been raised in public comments in relation to the height of the dwellings.

4.2.2 As detailed above, this application is for outline consent with all matters reserved. Although the surrounding dwellings are predominantly arranged in linear formations, this site is contained to all sides by built form and steep land levels. The submitted indicative site plan shows four dwellings staggering a small cul-de-sac, which does not specifically correlate with the urban grain of the immediate locality. However, such a development would not be harmful to the streetscene or visual amenity of the area when the contained nature of the site is taken into account.

4.2.3 All matters relating to the layout, scale and appearance of the development would be finalised at the reserved matters stage and a condition is recommended to control those details at that stage. Comments have been provided by the BwD Ecological and Arboricultural Advisors regarding the need to submit a landscaping scheme via condition. However, landscaping is also a reserved matter, which should be controlled as part of any subsequent applications. A condition is recommended to ensure all of those matters are controlled at that stage. Subject to compliance with that condition, the proposed development would be acceptable with reference to design and visual amenity, in accordance with Policy 11.

4.3 Residential Amenity

4.3.1 Dwellings surround to all sides and safeguarding the amenities of those neighbours is an important material planning consideration. Policy 8 states that all development proposals should 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. The Design SPD reaffirms those requirements with a range of standards and minimum separation distances to prevent any adverse impacts in that respect.

- 4.3.2 The Design SPD requires a minimum of 21m to be maintained between existing and proposed main habitable room windows. In addition, a minimum of 13.5m must be maintained between existing main habitable room windows and proposed dwellings with no such windows. An additional 3m should be applied to those distances where there are differences in levels, as is the case here in relation to the dwellings along Colenso Road and Revidge Road. Those distances are also applicable to proposed dwellings in order to ensure a satisfactory standard of amenity can be provided for their future occupants.
- 4.3.3 Concerns have been raised by the BwD Housing Manager regarding the potential for the dwellings on Revidge Road to overlook the proposed dwellings. In addition, Concerns have been raised in public comments in relation to the height of the dwellings. The submitted indicative site plan confirms that in excess of 15m could be maintained between the elevated properties on Revidge Road and the proposed dwellings. Subject to no main habitable room windows being installed within their gable elevations, which is typically the case for newbuild dwellings, no unacceptable levels of overbearingness or overlooking would occur from the properties on Revidge Road. The steep land levels between the site and those neighbouring dwellings would also assist with that relationship.
- 4.3.4 In relation to the dwellings along Colenso Road and Brantfell Road, the submitted indicative site plan confirms that adequate levels of separation could be maintained between those properties to ensure the proposed dwellings do not appear overbearing or cause any acceptable privacy losses for their occupants. The submitted indicative site plan also demonstrates that adequate separation could be provided between the proposed dwellings in order to ensure an appropriate standard of amenity is provided for any future occupants.
- 4.3.5 As detailed above, the layout of the development is to be clarified at the reserved matters stage, as is the quantum of dwellings. Such an approach ultimately provides assurances that adequate amenity standards can be maintained/provided through finalising the layout, scale and number of dwellings at that stage. On that basis, the indicative separation distances detailed on the submitted site plan are acceptable in order to clarify the principle of residential development for up to four dwellings at this site.
- 4.3.6 BwD Public Protection have reviewed the merits of the application and no objections have been raised from an amenity perspective. Development of the site for up to four dwellings would not intensify its usage to a point that would be harmful to the aural amenities of the immediate neighbours. Equally, there are no adjacent land uses that could potentially compromise the aural amenities of any future occupants.
- 4.3.7 A number of conditions have been advised relating to controlling sources of external lighting, the logistics of the construction phase, construction working hours, and any required pile-driving operations. It is recommended that all of those conditions are added in order to safeguard the amenities of the immediate neighbours from the construction and operational phases of the development.

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.

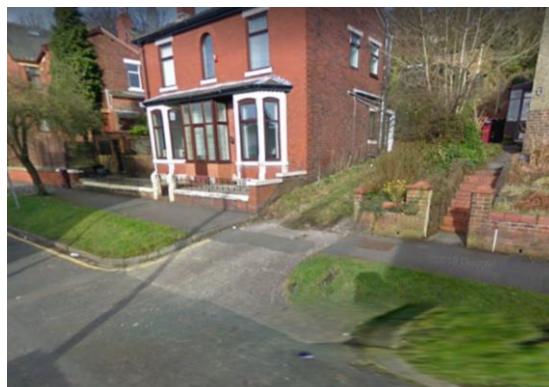
4.4 Highway Safety

4.4.1 The site is currently accessed via a single lane, unmade 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 BwD Parking Standards. Concerns have been raised on access grounds from the BwD Housing Manager, BwD Highways and BwD Cleansing. Concerns have also been raised in public comments regarding the potential for access to the rear of the dwellings along Colenso Road to be obstructed.

4.4.2 The development has been subject to pre-application discussions and initial reservations were raised regarding access arrangements through that process. However, it was subsequently agreed with the Agent that the site could accommodate up to three dwellings given its current use as a garage site. It is acknowledged that access arrangements are suboptimal for a housing development. However, the previous use of the site must be given a material level of weight in the assessment of this application as a garage site has some obvious traffic movements associated with it.

4.4.3 A need for two-way traffic movement has been identified in the comments provided by BwD Highways alongside a footway for pedestrian/cyclist movements. Although access is a reserved matter at this stage, the existing access point is the only realistic point of entry for vehicles. The majority of pedestrian/cyclist movements would also likely be gained from that point. The existing access point measures circa 3m in width and it is clear the request from BwD Highways cannot be provided. That said, they have acknowledged that sightlines are clear and short walls around 1m in height currently stagger the access point. Whilst vegetation in the front gardens of 7 and 9 Colenso Road could have the potential to reduce visibility in the future, reasonable visibility would always be maintained at the carriageway edge given the presence of a grass verge between the access point and carriageway edge, which is shown below in Figure Four.

Figure Four – Photo showing access arrangements



- 4.4.4 A number of wider comments have been provided by BwD Highways concerning matters outside of the access arrangements. There is no requirement to demonstrate parking provision at this stage as such matters would relate to the finalised layout and the quantum of dwellings proposed. Moreover, none of the existing garages are in use for permanent parking arrangements and they are used for storage alone. Therefore, there would be no displacement of parking provisions onto the public highway network caused by the development.
- 4.4.5 The site has ample land to provide a communal bin store close to the existing access point and a condition is recommended to control those details. The presentation and emptying of bins on collection days would ultimately be managed by future occupants and refuse crews and such arrangements are not untypical throughout the Borough. Refuse wagons could not physically enter the site yet such an outcome is not adequate grounds to resist the development as other methods of waste disposal could be secured.
- 4.4.6 It is also acknowledged that large emergency service vehicles such as fire engines could not enter the site. Lancashire Fire and Rescue has been formally consulted on the application and no comments have been provided. The Fire Safety Manager for Blackburn has also been approached directly but no comments have been provided by them. In the absence of any formal input from Lancashire Fire and Rescue, it would be unreasonable to resist the development on the grounds of access arrangements for emergency vehicles and difficulties in defending that position would likely arise in the event that such a refusal was advanced to the appeal stage.
- 4.4.7 The Agent has acknowledged that the development could not be adopted by the Highways Authority given the width of the existing access point. Any required resurfacing works, the level/gradient of the access road, and the provision of services could be readily clarified at the reserved matters stage when the access arrangements have been finalised. A number of the comments provided by BwD Highways relate to the internal layout of the development yet those matters should be clarified as part of any subsequent reserved matters applications. Such a process can also be used to ensure adequate access arrangements are maintained for the existing properties.
- 4.4.8 Finally, a further condition is recommended to control the logistics of the construction phase in order to minimise the potential for disruptions to occur from that phase for the local highways network. The recommended condition includes a number of bespoke requirements, which include how materials would be delivered to and transported around the site.
- 4.4.9 When those factors are considered alongside the existing use of the site and the fact that the quantum of dwellings could be subject to refinement at the reserved matters stage, where required, the proposals would not prejudice road safety or the safe, efficient and convenient movement of all highways users to a point where a refusal could be substantiated. For those reasons, and subject to conditions, the proposed development would be acceptable with reference to highway safety, in accordance with Policy 10.

4.5 Arboricultural Assessments

- 4.5.1 As detailed above, a number of mature trees intersperse the site that are protected by a Tree Preservation Order. Policy 9 states that development will be permitted where, following implementation of any required mitigation, there is no unacceptable impact on environmental assets or interests, including trees. In response to those requirements, an Arboricultural Implications Assessment has been provided.
- 4.5.2 The BwD Arboricultural Advisor has reviewed the submitted assessment and the merits of the development as a whole. No objections have been raised yet a number of recommendations have been made that should be applied to the finalised layout. Those recommendations concern the retention of T4 (Silver Birch) and T6 (Hawthorn), which are noted as being in a good condition within the submitted assessment.
- 4.5.3 Retention of those trees alongside any required protection measures for retained trees will be clarified at the reserved matters stage. As proposed, the development is thus acceptable with reference to arboricultural assessments, in accordance with the relevant requirements of Policy 9.

4.6 Ecological Assessments

- 4.6.1 The site is currently covered in vegetation of varying levels of maturity and it has a certain level of ecological value. Further requirements within Policy 9 state that development will be permitted where, following implementation of any required mitigation, there is no unacceptable impact on environmental assets or interests, including habitats and species. In response to those requirements, a Survey & Assessment in Respect of Bat Species and Nesting Birds has been provided.
- 4.6.2 The BwD Ecological Advisor has reviewed the submitted assessment and the merits of the development as a whole. No objections have been raised yet a number of conditions have been advised in order to minimise harm to habitats and species. Those conditions involve controlling the timing of demolition works, the location of any required external lighting, and the provision ecological enhancement measures. It is recommended that all of those conditions are added. A further condition has been advised regarding a landscaping scheme. However, and as detailed above, such provisions should be controlled as a reserved matter and applied to the finalised layout.
- 4.6.3 In addition, a number of informative notes have also been advised regarding the discovery of bats during redevelopment works, the need to time scrub clearance works outside of the main bird breeding season and the need to prevent the spread of invasive plant species. Those should also be added to any approvals issued. Subject to those conditions and legal obligations being complied with, the proposed development would be acceptable with reference to ecological assessments, in accordance with the relevant requirements of Policy 9.

4.7 Drainage Assessments

- 4.7.1 The submitted application form states that surface waters would be drained via a mains sewer. Further requirements within Policy 9 concern the provision of adequate drainage systems. Concerns have been raised in public comments in relation to surface water drainage. Both BwD Drainage and United Utilities have reviewed the merits of the application and no objections have been raised.
- 4.7.2 Two conditions have been advised regarding the provision and maintenance of sustainable drainage systems, which are recommended to be added. Subject to compliance with those conditions, the proposed development would be acceptable with reference to drainage assessments, in accordance with the relevant requirements of Policy 9.

4.8 Land Contamination

- 4.8.1 The potential for land contamination should be comprehensively assessed given the sensitive nature of the proposed end use. With reference to potentially contaminated land, further requirements within Policy 8 state that all development proposals should secure effective remediation. BwD Public Protection have reviewed the merits of the application and no objections have been raised on land contamination grounds.
- 4.8.2 They have advised that the three standard conditions should be added to any approvals issued in order to control any potential impacts in that respect, which are recommended to be added. 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.

4.9 Air Quality

- 4.9.1 Sustainable development is encouraged through the planning system and reductions in detrimental impacts on air quality form a key part of those objectives. Policy 36 requires all development proposals to demonstrate how they have been designed to minimise contributions to carbon emissions and climate change. In response to those requirements, conditions have been advised by BwD Public Protection to ensure air quality mitigation measures are applied in the form of installing electric vehicle charging points and efficient gas boilers.
- 4.9.2 The installation of electric vehicle charging points are now covered at the Building Regulations stage for all residential developments. However, a condition is recommended to ensure efficient gas boilers are installed, where relevant. Subject to compliance with that condition, the proposed development would be acceptable with reference to air quality, in accordance with Policy 36.

4.10 Wider Considerations

- 4.10.1 Further concerns have been raised in public comments regarding potential damage to boundary walls and land stability issues to be caused for

neighbouring properties. Any damage caused to property during construction works would be a civil matter and the implementation of a Construction Method Statement, which has been conditioned, would minimise the potential for such an outcome. Potential land stability issues concern the construction phase of the development, which would be subject to robust controls through Building Regulations approval.

4.10.2 Finally, development of the site for dwellings would not cause a significant increase in vermin levels, subject to good waste management procedures being utilised, which has also been conditioned. Those comments therefore have no material influence on the assessment of this application.

4.11 Summary

4.11.1 This application seeks outline consent for the development of up to four dwelling, with all matters reserved. 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.

4.11.2 Section 38 of the Planning and Compulsory Purchase Act 2004 requires applications to be determined in accordance with the development plan, unless material considerations indicate otherwise. Subject to appropriate conditions, the proposal would be acceptable in principle and with reference to design and visual amenity, residential amenity, highway safety, arboricultural assessments, ecological assessments, drainage assessments, land contamination, and air quality.

4.11.3 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 planning permission, subject to the following conditions;

5.1 An application for approval of the Reserved Matters (namely the layout, appearance, scale and landscaping of the development) shall be submitted in writing to the Local Planning Authority before the expiration of three years from the date of this permission and the development hereby permitted must be begun two years from the date of approval of the last of the reserved matters to be approved.

REASON: This condition is required to be imposed by the provisions of Article 3 (1) of the Town and Country Planning (General Development Procedure) (England) Order 2015 and Section 92 of the Town and Country Planning Act 1990 as amended by Section 51 of the Planning and Compulsory Purchase Act 2004.

- 5.2 No development shall commence on site unless and until, details of the layout, appearance, scale and landscaping (hereinafter called the 'Reserved Matters') have been submitted to and approved in writing by the Local Planning Authority. The development shall thereafter be carried out in strict accordance with the approved details.

REASON: In order to comply with the requirements of Section 92 of the Town & Country Planning Act 1990.

- 5.3 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).

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

- 5.4 Prior to their installation, details overviewing the types, positions and heights of any required new external light 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, unless otherwise agreed in writing.

REASON: In order to minimise the potential for light pollution to occur for neighbours and disturbance for bats, in the interests of residential amenity and biodiversity, 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).

- 5.5 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 statement shall provide for but not be exclusively limited to the following;

- a) The parking of vehicles of site operatives and visitors;
- b) Details of the sizes and types of vehicles to be visiting the site;
- c) Details of the sizes and types of any plant to be used;
- d) The loading and unloading of plant and construction materials;
- e) The storage of plant and construction materials;
- f) Wheel washing facilities;
- g) Measures to control noise and vibrations from construction works, where relevant;
- h) Measures to control dust from construction works, where relevant;
- i) A scheme for the recycling/disposing of waste, and;
- j) Details of the type, position and height of any required external lighting.

The development shall thereafter be implemented in strict accordance with all of the measures detailed within the approved Construction Method Statement, unless otherwise agreed in writing.

REASON: In order to control the logistics of the construction phase, in the interests of residential amenity and minimising disruptions on the local highway network, 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).

- 5.6 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 pollution 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).

- 5.7 Should any pile-driving works be required to construct the dwellings 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, unless otherwise agreed in writing.

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).

- 5.8 No development shall commence on site unless and until, a scheme for the storage and presentation of domestic waste has first been submitted to and approved in writing by the Local Planning Authority. The development shall thereafter proceed in strict accordance with the approved scheme and any measures installed shall thereafter remain in perpetuity with the development.

REASON: In order to ensure adequate waste management procedures are put in place in support of the development, 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).

- 5.9 Should any demolition works associated with the development hereby approved not have been completed by the 01st April 2024, updated ecological surveys must be submitted to and approved in writing by the Local Planning Authority. Any further surveys shall include a full assessment of any changes in circumstances and the development must thereafter be implemented in strict accordance with any new mitigation and/or licences that may be required as a result of the updated surveys.

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

- 5.10 No development shall commence on site unless and until, a scheme for the provision of ecological enhancement measures has first been submitted to and approved in writing by the Local Planning Authority. The development shall thereafter proceed in strict accordance with the approved scheme and any measures installed shall thereafter remain in perpetuity with the development.

REASON: In order to ensure ecological enhancement measures are provided in support of the development, in the interests of biodiversity, 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).

- 5.11 No development shall commence on site unless and until, a Foul and Surface Water Drainage Strategy has first been submitted to and approved in writing by the Local Planning Authority. The strategy shall include but not be exclusively limited to the following;

- a) Foul and surface waters draining on separate systems, where achievable;
- b) 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;
- c) 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);
- d) Levels of the proposed drainage systems including proposed ground and finished floor levels in AOD;
- e) Incorporate mitigation measures to manage the risk of sewer surcharge where applicable; and
- f) A timetable for its implementation.

The development hereby approved shall not be brought into use unless and until the agreed scheme has been implemented in its entirety.

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

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).

5.12 Where relevant, none of the dwellings hereby approved shall be occupied 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 sustainable drainage management and maintenance plan shall include as a minimum:

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

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

REASON: In order to ensure that management arrangements are put in place for the sustainable drainage systems, to manage the risk of flooding and pollution during the lifetime of the 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).

5.13 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) Two copies of a comprehensive desk study report, including a preliminary conceptual site model in text, plan and cross-section form. Where necessary, detailed proposals for subsequent site investigation should also be included, clearly based on the conceptual site model, and;
- b) Two copies of the findings of the approved site investigation work (where necessary), including an appropriate assessment of risks to both human health and the wider environment, from contaminants in, on or under the land (including ground gas). If unacceptable risks are identified, a remedial options appraisal and detailed remediation scheme should be presented, along with an updated conceptual site model.

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: 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).

- 5.14 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: 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).

- 5.15 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).

- 5.16 Any gas fired domestic heating boilers installed as part of the development here bay approved shall not emit more than 40mg NO_x/kWh.

REASON: In order to ensure impacts on air quality are appropriately minimised, in the interests of sustainable development, 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).

6.0 PLANNING HISTORY

6.1 No relevant planning history.

7.0 CONSULTATIONS

7.1 BwD Housing Manager – The site whilst being in an established housing area is surrounded on three sides by backs of properties with properties on Brantfell Rd at an elevation, which would look down on the proposed homes.

The site is not ideal for quality new homes and is likely to be unattractive to new buyers. Furthermore, highways and planning are likely to have some concerns due to the narrow access into the site and separation distances from existing properties.

Has the developer undertaken any soft market testing, market demand analysis to gauge how much interest there may be in properties on this site? We would like to have a copy of any market intelligence, which could provide support for such a development.

This information is required to determine if the application meet the Council's strategic need and aspiration prior to gaining support from Housing Growth.

7.2 BwD Public Protection – No objections. Should this application be approved, conditions should be imposed to control land contamination, air quality mitigation measures, sources of external lighting, construction working hours, construction dust and any required pile-driving operations. Such conditions are necessary in order to safeguard the amenities of neighbours and ensure air quality mitigation measures are provided in support of the development.

7.3 BwD Highways – Further to Pre-Enquiry Advice Ref ENQ/21/09638 dated 21/10/2021 the applicant has submitted an outline planning application for the construction of up to four three bedroom detached houses on land to the rear of Colenso Road. The site is approximately 0.23 Hectares, overgrown and wooded with the remains of eleven garages, six of which are standing, two are derelict, and of the remaining three only the floor slabs remain.

The site is enclosed by the rear gardens of the residential properties along Colenso Road, Revidge Road and Brantfell Road, and can only be accessed from Colenso Road by a steep, narrow single track between No.7 and No.9 Colenso Road. No detailed plans have been provided with the application. The submission details have been reviewed, and a site investigation has been undertaken. The following comments relate to highway matters in accordance with Policy 10.

The applicant had requested pre-application advice for the development of five detached, four bedroom dwellings. The following highway concerns would need to be addressed:

For the number of houses proposed, a minimum of 2way movement is needed; No area to safeguard pedestrian from vehicles, as they travel from the highway to the properties is achievable; Sightlines although clear, could become restricted by frontage boundary treatment of the houses sited adjacent to the track; Access Road is inadequate to support the development; No off street parking arrangements submitted; The Council's Cleansing team have also objected to the proposal given the fact a refuse collection vehicle is unlikely to be able to access and manoeuvre out of the site, and ;Each property would have to take their bins to Colenso Road for collection, which may cause implications for access and blocking pavements.

The current outline application has reduced the number of proposed dwellings to four, three bedroom detached houses and provided for a passing bay at the top of the shared access with No.7 Colenso Road to facilitate single way movement, but no plans detailing the proposed access road, cul-de-sac, driveway accesses and layouts of the proposed dwellings.

(Proposed Access off Colenso Road) The proposed access cannot be upgraded to adoptable highway standards and would therefore remain a private street maintainable at the expense of the owners of the proposed dwellings. The access between No. 7 and No. 9 Colenso Road would need to be reconstructed by the applicant, given its poor condition, and the likelihood of suffering further deterioration during construction.

The protection and possible diversion of existing drains, sewers and services must be considered as the gradient of the access track would need to be reduced to improve the forward visibility of road users emerging from the development, with particular emphasis on pedestrians using the footway alongside Colenso Road.

(Further Comments) The boundary wall supporting the access would need to be rebuilt and edge protection provided; The proposed cul-de-sac road would need to be at least 4.8m wide; A swept path analysis would be required to demonstrate how the vehicles can safely manoeuvre in and out of the properties and the access track; The car parking spaces would need to be at least 2.5m wide by 5.5m in length; The existing gate at the top of the driveway would need to be removed; Proposals for how and where the refuse would be placed for collection by the Council's Refuse collection vehicle would need to be presented.

(Conclusion) We would not support the current proposal as it would cause a safety hazard, and be to the detriment of all highway users, contrary to policy 10 of the Local Plan Part 2.

(Further Observations) (Vehicle Movements) The Agent is incorrect in asserting that the development would result in a reduction in the number of vehicle movements arising from the site being used wholly for garage purposes. It is likely that the remaining garages that are in used are primarily for storage rather than in daily use for garaging vehicles, if it were the case and the garages are constant use by the residents then arguably there is a loss of garaging amenity

for the local residents on Colenso Road, which results in additional on street parking.

It is more likely that the garages are not in use and allowed to deteriorate to strengthen the case for alternative development. We would also need to consider that delivery vans would be using the access – not just private cars, the steepness of the access would need to be regraded.

(Reduction in the Number of Proposed Dwellings) The problems with the existing access would be present whether there were 3 or 4 dwellings on the site.

(Access for Refuse Collection and Emergency Services) The Fire Brigade would struggle to access the development not just the refuse collection services.

7.4 BwD Arboricultural Advisor – Due to the sites hillside location and elevation of the site, much tree cover is highly visible in the vicinity and wider townscape and makes a valuable contribution to the amenity of the area.

I have inspected the site and considered the contents of AIA and cross referenced the TPO trees with the submitted tree data. The AIA does not refer to the TPO. There are six individual trees and one group listed above the TPO – TPO T4 Birch. Survey T9 C grade. Fell for development; TPO T5 and T6 Hawthorns are not listed in the survey T6 is present and T5 not been identified on the site; G.1 5 X Ash Survey G4. C2 grade - retain and protect, and; TPO trees identified as T8 and T9 Swedish Whitebeams are not present.

Much of the site is covered in lower value trees which have developed and grown as natural regeneration. There are several trees, which are classified as moderate in the survey and can be retained and protected.

Illustrative layout shows dwelling positions. It appears T4 Birch would be removed to accommodate the illustrative layout. Potentially there is scope to accommodate and incorporate TPO T4 Birch into a development layout. However, if this tree were to cause a notable design layout restriction then removal with compensatory planting can be accommodated within the site.

(Conclusions) The scale of the proposed development and the sites special qualities can allow for the retention of trees, with potential for a substantial amount of supplementary planting. A sympathetic revised layout would enable the retention of suitable trees which would not lead to any notable loss of visual amenity.

(Recommendations) A future full application should seek to incorporate the retention of T4 and T6 into revised layout, including those trees identified for retention in the current application. The submission of detailed landscape proposals would be appropriate with a full application.

- 7.5 BwD Ecological Advisor – I have considered the submitted documents – Survey & Assessment in Respect of Bat Species and Nesting Birds (Echo Calls Bat Surveys, 13 July 2022). The Report appears to have used reasonable effort to inspect the structure both internally and externally for the presence of bats and assessed the likelihood that bats would use the structure at other times for roosting.
- 7.6 The building inspection found no evidence of recent or historic usage of bats. It was concluded that the structures have moderate potential to support bats at other times and consequently two further activity surveys were required. The trees were assessed as supporting negligible potential to support bats – no further action was required on the trees.

The activity surveys were conducted in appropriate conditions using an appropriate number of personnel. Bats were active foraging and feeding in the area, indicating that the survey timing was appropriate. No bats were observed entering or exiting the buildings. There is currently no known reason to contradict the findings of the survey. The application can be forwarded for determination in respect of biodiversity with the following recommendations.

As identified in the Report bats and their roosts – even when unoccupied – are protected at all times even when disturbance occurs as the result of an otherwise lawful activity such as a planning permission. I would suggest that the applicant's attention is drawn to the legislation via an informative attached to any permission if granted. If bats are found or suspected at any time, work should cease until advice has been sought and implemented from the licenced ecologist.

Best practice (Collins et al 2016) indicates that bat surveys are time limited for 1 – 2 years as the condition of buildings can change over time. If demolition has not occurred by March 2024 an updated survey should be submitted assessing any change in the building's condition and if alterations to the proposed measures are needed. This can be secured via condition.

The Report recommends that work should commence on demolition as soon as is feasibly possible during the winter months. The Report indicates that there was no evidence of historic bird breeding within the buildings, but nesting activity is highly likely in the vicinity. It is probable that there will be some vegetation clearance to accommodate the proposal. All nesting birds are protected (Wildlife & Countryside Act 1981). An informative should be used to draw the applicant's attention to the protected status of birds and that vegetation clearance including shrubs and undergrowth (eg bramble) should avoid the breeding season March – August inclusive, unless it can be demonstrated that no bird nesting activity was present.

Design of the external lighting scheme should be secured, particularly along the northern boundaries where trees will be retained on the quarry face and elsewhere. In line with the NPPF (July 2021 para 185 c)) we recommend that applicants follow the Institute of Lighting Professionals guidance (01/21 obtrusive lighting and 08/18 wildlife sensitive lighting). This should include all

elements of the proposal such as highways lighting, pedestrian/cycleway access and external domestic/security lighting as appropriate. This should be secured by condition.

The site photos included evidence that rhododendron was present on the site. Rhododendron is listed on Schedule 9 (Wildlife & Countryside Act 1981) as an Invasive Non-Native Species (INNS) and it is an offence to cause this species to spread in the wild. I would recommend that disposal of cut material is burnt on site or disposed of to landfill. Any retained stumps should be treated to prevent regrowth or ground out. As the invasion is small I am content that this matter can be covered by an informative to the applicant.

The NPPF (July 2021 para 174d), 179b) and 180d)) guides decision takers to achieve biodiversity enhancement. The Report suggests that a bat and bird box could be used in this instance. Details of specification and location of a biodiversity enhancement scheme should be provided to the Planning Authority and subsequently implemented. This can be achieved via a condition on any permission if granted. I would suggest that this includes the specification and erection of 2 x bat boxes and 1 x bird box.

- 7.7 BwD Drainage – No objections. Should this application be approved, a condition should be imposed to control foul and surface water drainage. Such a condition is necessary in order to ensure that the development is not at risk of flooding, does not increase flood risk elsewhere, and that adequate measures are put in place for the disposal of foul and surface water.
- 7.8 BwD Cleansing – Access for the bin trucks would be my issue. If the access is too narrow, bins will have to be collected from Colenso Road, with residents dragging their bins to this location, but where can they leave them without blocking the road and pavements on bin day. It doesn't look as if any thought has been given to waste collection.
- 7.9 BwD Property Services – No objections.
- 7.10 United Utilities – No objections. We request an appropriate drainage condition is attached to any subsequent approval to control foul and surface waters. Furthermore, a condition should be added regarding the submission of a sustainable drainage management and maintenance plan for the lifetime of the development.
- 7.11 Lancashire Fire and Rescue
- 7.12 Ward Cllrs – The issues in the area have been parking and access.
- 7.13 Summary of Public Representations
- No details regarding heights of the dwellings has been submitted
 - Access to adjacent properties may be restricted
 - Drainage details should be carefully considered in order to avoid flooding
 - Construction traffic may damage walls enclosing the access point

- Land stability issues may be caused by the development
- The development may cause a vermin outbreak

8.0 CONTACT OFFICER: Christian Barton – Planning Officer

9.0 DATE PREPARED: 6th February 2023

10.0 SUMMARY OF REPRESENTATIONS

Councillor Suleman Khonat, - received 14th November 2022

Hi Chris,

Hope you are well. The issues in the area have been parking and access. I would appreciate if you could keep me informed on this application and progress, please.

My appreciation in advance.

Kindest regards,

Cllr Suleman Khonat JP
Mayor of Blackburn with Darwen Borough Council

Councillor representing Shear Brow and Corporation Park ward.

Objection 1 – Mr T Bashford, 218 Revidge Road, Blackburn, Rec 28.11.2022

Mr Trevor Bashford

218 revidge road Blackburn BB18DJ

I am writing with reference to the planning application for Colenso road which will be near or possibly adjoining my property I would like more information on this planning as the information is very limited and I need to know

1 how high will the property be.

2 what plans will be in place for possible land slide at the back of my property.

3 what plans are in place for possible subsidence to my property from machinery that will be used to drill.

4 what plans are in place for possible vermin outbreak ie rats.

So until I have answers to these questions I object to the planning of 4 houses been built and would like to attend the council meetings in regards to this matter.

Regards

Mr T Bashford

Objection 2 – Mr Ismeil Patel, 216 Revidge Road, Blackburn, Rec 01.12.2022

Ref 10/22/0412

Mr Ismeil Patel

216 revenge Road

Bb1 8dj

I require more information on the above planning as to

1 how high will the building be

2 what plans are in place to avoid landside to my property

3 what guarantees will I be given for further subsidence to my property

As I don't have any information on these questions I am therefore against the planning application and would appreciate any feedback as soon as possible

Regards

Mr ismial Patel

Objection 3 – Mr Ayaz Hussain, 9 Colenso Road, Blkburn Rec 05.12.2022

Dear Christian Barton

I am the owner Mr Ayaz Hussain of 9 Colenso Road Blackburn, BB1 8DR.

I have responding to your letter dated 14th November 2022 with the reference number 10/22/0412.

I would like to raise the following concerns that may effect my property and I am making my position clear in this response, that i would like these concerns addressed and responded to prior to any planning permission granted.

I would like reassurance and written confirmation that the right of access to the rear of my property to be available at all times to myself during and after any work as been commenced as at present I have this access available to my property.

When/if the work commences I am concerned that there could be damage to the side walls of my property boundary if there are large vehicles coming up or down as the passage is very tight, we have had similar issues in the past, any damage to my property

I am also highlighting that the new drainage should not impact my property in any way

I look forward to your response at your earliest convenience.

Thanks in advance

Ayaz Hussain.

Proposed development: Full Planning Application for Proposed Change of Use from Training Centre to Dessert Shop (Class E) including New Shop Fronts

Site address:

**Units 1 & 2 Brookhouse Business Centre,
Whalley Range
Blackburn
BB1 6BB**

Applicant: Chocoberry (Blackburn)

Ward: Bastwell & Daisyfield

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



1. SUMMARY OF RECOMMENDATION

- 1.1 The proposed development is recommended to be **approved** subject to the conditions detailed in Section 5.

2 KEY ISSUES

- 2.1 This application seeks permission for a change of use of Units 1 and 2 of the former Brookhouse Business Centre, from training centre (formerly Use Class D1, and now Class F1), to a dessert parlour (now Use Class E). The site lies within the Whalley Range District Centre, in secondary retail frontage, within the Inner Urban Area of Blackburn in relative close proximity to the Town Centre, and a Coal Low Risk area.
- 2.2 The single storey commercial unit is in an accessible and highly sustainable location, and has the added benefit of a large shared car park to the rear of the unit, which is owned by the owner of the former Brookhouse Business Centre site (not the applicant). The majority of units in the wider Whalley Range District Centre do not have any off street parking, and parking is known to be a problem in the Whalley Range area. A number of objections have been raised by local residents, including a petition, citing highway safety/parking and amenity concerns. The Highways Authority has also objected to the proposal. These are discussed in the main body of this report.
- 2.3 Notwithstanding the above, there would be recognised social, environmental and economic benefits arising from the proposal, which play a part in weighing up the planning balance. Factors weighing in favour of the application include the District Centre location of the former Brookhouse Business Centre; its former B1 (Light industry / offices) use; recent changes to the Use Classes Order which introduce more flexibility for town centre uses (& the creation of a new Use Class E); the additional benefit of a shared rear car park; and recent approvals and appeal decisions for similar uses in the immediate area. On balance, the scheme is considered acceptable for the reasons set out in this report.
- 2.4 Should members approve this application, conditions can also be attached to ensure a degree of control over the use of the application site. Presently there are no conditions attached to the previous planning approval for the former Brookhouse Business Centre site.
- 2.5 This application is presented to the Planning and Highways Committee due to the number of objections received, including a petition from local residents, and the objection from the Highways Authority. Members should note that an application relating to a retrospective café at Units 7 and 7A Brookhouse Business Centre is also presented to this committee meeting for the same reason(s) – see application reference number 10/22/1004.
- 2.8 The key issues to be addressed in determining this application are;

- Principle of Development (including legislation, policy, site history, and health);
- Highways issues, access, parking, and servicing;
- Design and visual amenity;
- Residential amenity;
- Other matters, including land ownership;
- Planning balance, including recent appeal decisions in the area.

3 RATIONALE

3.1 Site and Surroundings

3.1.1 The application site lies within a commercialised setting, with a range of shops and local services present. The wider surrounding area is mixed, with some residential dwellings also in the vicinity. The application site comprises an existing single storey commercial unit, which is just one of a number of units within the former Brookhouse Business Centre, within the Inner Urban Area of Blackburn, on the south/eastern side of Whalley Range, in a Coal Low Risk area.

3.1.2 Units 1 and 2 also sit wholly within the Whalley Range District Centre, as identified in the current Local Plan Proposals Map (below). The frontage adjoining Whalley Range also sits within identified secondary retail frontage on the Proposals Map. This can be seen in the images below.

Location Plan:



Local Plan Proposals Map:



3.1.3 The units are sited on the corner of Whalley Range and the entrance road to the shared rear car park, part of the former Brookhouse Business Centre. The only building it directly adjoins is a vacant commercial unit to the south-west.

3.2 Proposed Development

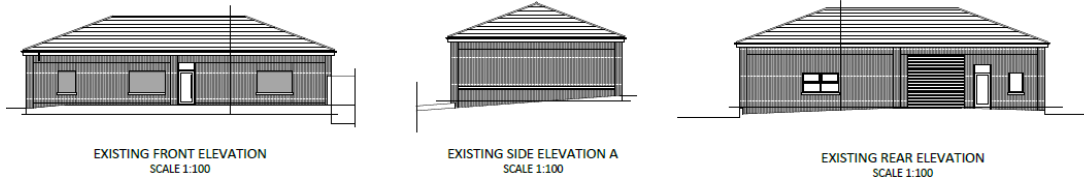
3.2.1 The proposal seeks a Change of Use from former Training Centre, to Dessert Shop (Class E) including New Shop Fronts at Units 1 & 2.

3.2.2 The proposed changes to the elevations reflect the use applied for, essentially introducing more glazing to create a more open and active frontage. Pedestrian access into the building, apart from an emergency access/egress,

will be taken from the shared car park, to the rear. Glazing will be introduced on the Whalley Range frontage but the only access from there will be emergency access and egress. The existing and proposed elevations can be seen below:

Existing elevations:

EXISTING GROUND FLOOR PLAN.
SCALE 1:50



Proposed elevations

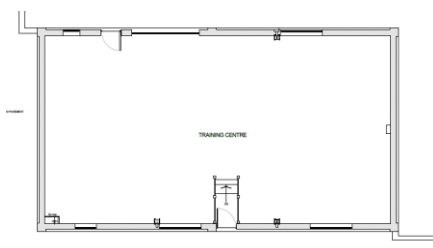
PROPOSED GROUND FLOOR PLAN.
SCALE 1:50



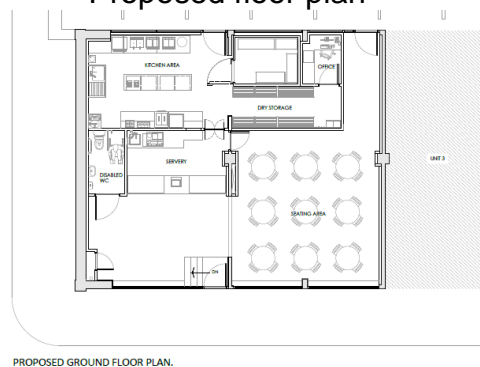
3.2.3 Note that the unit on the right side of the front elevation (demarcated by the vertical line) / left side of the rear elevation is the adjoining vacant unit, which does not form part of this application.

3.2.4 The existing floor plan (on the left) and the proposed floor plans (on the right) can also be seen below (the rear of the units are at the top of the plans, where the building would be accessed from):

Existing floor plan



Proposed floor plan

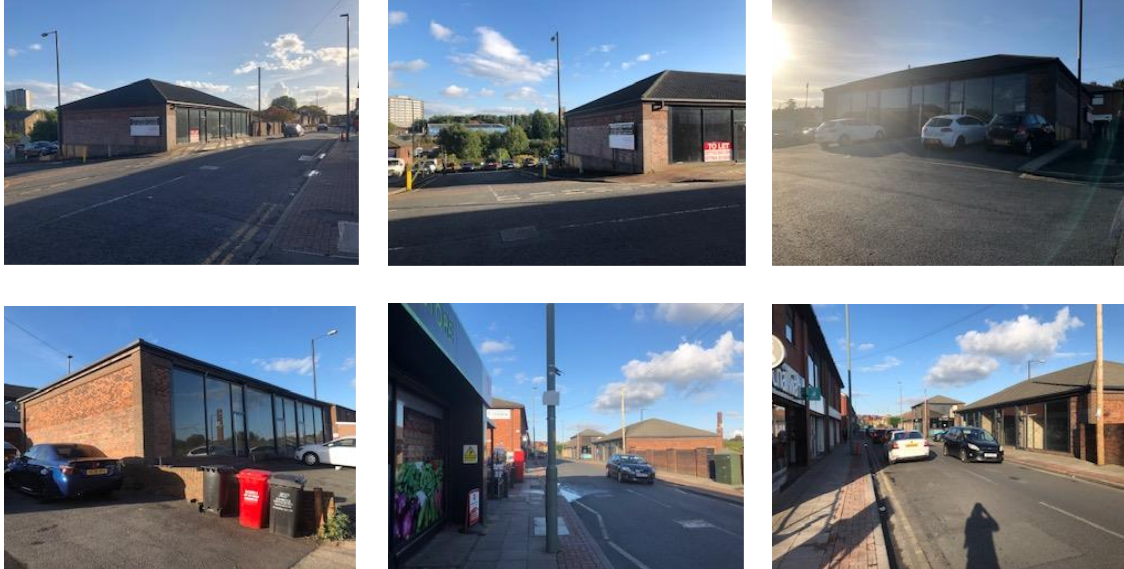


3.2.4 The Floorspace area for each unit is 122 sqm each unit (244 sqm in total). It is estimated that the business will employ circa 4 full time staff and 2 part time staff.

3.2.5 Hours of operation applied for are 09:00hrs to 23:00hrs Mon-Fri, and 10:00hrs to 23:00hrs Sat, Sun and Bank Holidays.

3.2.6 The existing parking arrangements are to remain. The rear car park is shared by all the users of the units within the former Brookhouse Business Centre. There is no definitive parking allocation for the individual units.

3.3 Site Photos



3.4 Planning history

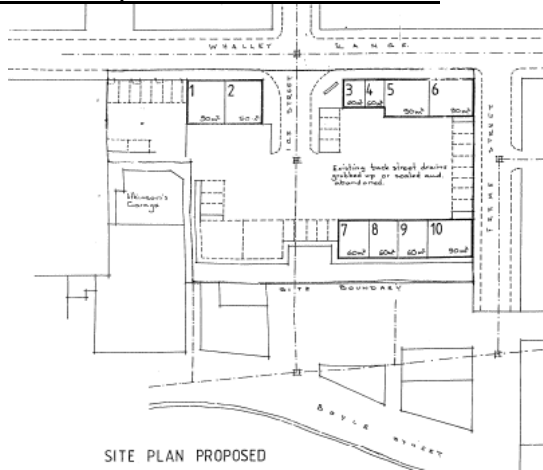
3.4.1 Historic planning records demonstrate that the Brookhouse Business Centre, of which Units 1 & 2 form part, was granted planning permission in 1992, under planning ref 10.92/0889, for Training Workshop & Office Units. This permission is known to have been implemented.

- **10.92/0889** - Proposed Training Workshop & Office Units – Brookhouse Business Centre - Approved 25/08/92.

3.4.2 The above approval for the Brookhouse Business Centre was subject to a standard 5 year condition for commencement, and a materials condition. There were no other conditions attached. The current proposal for Units 1 & 2 only include two thirds of the area shown in the approved site plan for 10.92/0889, below. It is therefore anticipated that another application is likely to follow in due course for the other unit, although no details of this have been offered at this time.

3.4.3 The Site Plan for Brookhouse Business Centre, as approved under 10.92/0889, is shown below (note: the left half of Unit 1 is not included in this current application for Units 1 and 2, and is presently a vacant shell):

Approved site plan under 10.92/0889:



3.5 Supporting documents

3.5.1 The following documents were submitted in support of this application:

- Planning, Design and Access Statement;
- Waste and recycling Statement;
- Counter comments in support of the application, submitted by the applicant in response to the Highway Authority objection.

3.6 Development Plan

3.6.1 Blackburn with Darwen Core Strategy

- Policy CS1: Targeted Growth Strategy
- Policy CS16: Form and Design of New Development

3.6.2 Local Plan Part 2 (adopted 2015):

- Policy 1: The Urban Boundary
- Policy 2: The Inner Urban Area
- 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 27: District Centres – a Framework for Their Development
- Policy 29: Assessing Applications for Main Town Centre Uses
- Policy 31: Development in Defined Shopping Frontages
- Policy 33: Health

3.6.3 **Other material considerations**

- BwD adopted Parking Standards
- Borough wide Design Guide SPD
- Planning for Health SPD
- Shopfront Design and Security SPG
- National Planning Policy Framework

4.0 ASSESSMENT

4.1 Principle of Development (including legislation, policy, site history, and health)

Legislative context

- 4.1.1 The Town and Country Planning (Use Classes) (Amendment) (England) Regulations 2020 were introduced on 1st September 2020, making significant changes to the previous system of Use Classes, and permitted changes of use under the Town and Country Planning (General Permitted Development) (England) Order 2015 (as amended).
- 4.1.2 The introduction of these changes was to provide greater flexibility between certain uses and provides a more agile planning framework so that high streets and commercial uses can respond to changes in the commercial market. This was introduced by the government as a response to the Covid19 pandemic.
- 4.1.3 Schedule 2 of these regulations created a new broad 'Commercial, Business and Service' use class (Class E), which incorporated a number of previous Use Classes into a single use class (as summarised, below):



Site history context

- 4.1.4 The original planning approval for the whole Brookhouse Business Centre was for Training Workshop & Office Units. The applicant initially suggested that an application for a change of use to Class E for Units 1 & 2 did not require planning permission because the whole site benefitted from a Class B1 use (Office/Light Industry), which has now been subsumed into Class E.
- 4.1.5 However, officers advised the applicant that Units 1 and 2 were last used as a training workshop, which if in use today, would fall under the new Use Class F1. Therefore officers advised that an application for a change of use was required. Although not entirely in agreement, the applicant agreed to submit an application to regularise the use proposed. If approved, this will also allow the Council to retain a degree of control over the site with the imposition of planning conditions.

Policy context

- 4.1.6 Policies 1 and 2 of the Local Plan identify the inner urban area as the preferred location for new development.
- 4.1.7 The application site also lies wholly within the Whalley Range District Centre. Policy 27 of the Local Plan supports development where it encourages mixed uses, and where it responds to the scale and function of the centre. Proposals involving conversion and adaptation of premises or involving changes of use should take place within existing buildings and frontages in order to consolidate and strengthen the vitality of the centre. They should retain or provide shop fronts in order to maintain active frontages and retain the character and vitality of the centre.

Policy 27. District Centres – a Framework for Their Development

1. Within and adjacent to the District Centres as shown on the Adopted Policies Map, and listed in the table below, development will be supported where it encourages mixed uses, and where it responds to the scale and function of the centre in question. Proposals which fulfil these requirements will be permitted in the following circumstances:
 - i) New build proposals should be proportionate to the scale and function of the centre. New retail, leisure, office and service use developments should demonstrate that they cater for local needs, and should be accompanied by an impact assessment if they involve the creation of new floorspace above the thresholds set out in Policy 29. The assessment should consider the impact of the proposal on existing, committed and planned public and private investment in the centre and other nearby centres.
 - ii) Proposals involving conversion and adaptation of premises or involving changes of use should take place within existing buildings and frontages in order to consolidate and strengthen the vitality of the centre. They should retain or provide shop fronts in order to maintain active frontages and retain the character and vitality of the centre.

- 4.1.8 The proposed development encourages mixed uses and responds to the scale and function of the centre. As a change of use of existing premises, criteria 1 ii) of Policy 27 applies. The proposal would introduce a more active frontage, and have a positive impact on the character and vitality of the centre.
- 4.19 The pre-amble to Policy 27 states that District Centres principally provide for local needs shopping. The Core Strategy further promotes a concept of multi-functional district centres which are also the focus for local services as well as retailing. District centres have faced particular challenges in adapting to changing retail patterns. The Core Strategy identifies the Whalley Range area as having the potential to perform an enhanced function as a destination, as well as a local shopping centre. Within the Whalley Range District Centre there are streets which form the main shopping area of the centre, and others which perform a wider function in addition to retail. The Council wishes to consolidate this pattern of development.
- 4.1.10 Policy 27 goes on to apply additional policy considerations for the management of the district centres, as shown below.

2. Within the Whalley Range District Centre (reference 27/5) as shown on the Adopted Policies Map and the Whalley Range Inset Map, the following additional policy considerations will apply:
- i) Within the Primary Shopping Frontages as defined on the Whalley Range Inset Map, proposals for the change of use of ground floor/pedestrian level premises, to uses falling within Use Classes A2, A3 or A5, will be permitted provided that the proposal would not, in isolation or in combination with other completed or committed development, undermine the function of those frontages as a main retail area.
 - ii) Within the Secondary Shopping Frontages as defined on the Whalley Range Inset Map, proposals for service uses falling within Use Classes A2, A3 or A5 will be permitted provided it would not, in isolation or in combination with other completed or committed development, have an unacceptable impact on the level of shopping provision or lead to a change in the character of the street.
 - iii) Exceptions to Criteria i) and ii) may be made where the number of empty units within a frontage block/group of shops is high and the trend in vacancy levels is prolonged.

4.1.11 The site lies within a defined secondary shopping frontage, therefore criteria 2 ii) of Policy 27 applies. The proposal would not have an unacceptable impact on the level of shopping provision or lead to a change in the character of the street. Therefore there is no conflict with Policy 27.

4.1.12 Furthermore, criteria iii) of Policy 27 refers to the benefits of ensuring vacancy levels are high. The proposal would ensure the premises are brought into active use, which would have wider social, environmental, and economic benefits, and are a material consideration.

4.1.13 Subject to being satisfactory in all other respects, the proposal is considered acceptable in principle, and in accordance with Policies 1, 2, and 27 of the Local Plan.

Health

4.1.14 Policy 33 of the Local Plan states that where a form of development has the potential to impact on public health, with particular reference to obesity and related disorders, and illnesses associated with alcohol or smoking, the Council will require the developer to demonstrate how public health issues have been taken into account in formulating the development proposal and how any impacts are to be mitigated.

4.1.15 The proposal is for dessert parlour, which could potentially impact upon public health. However, the associated Health SPD, which is underpinned by Policy 33, identifies specific types of uses that are most likely to have adverse impacts on health. The Health SPD makes particular reference to hot food takeaways and shisha cafes. Dessert parlours are not specifically referenced. On balance, the wider benefits arising from the proposal are considered to outweigh any potential health impacts.

4.2 Highways issues, Access, Parking, and Servicing

4.2.1 Policy 10 outlines a general requirement for all development proposals to not prejudice road safety, or the safe and convenient movement of all highway users. Parking should also be provided in accordance with the BwD Parking Standards. In addition to avoiding unacceptable impacts on highway safety, the Framework also seeks to ensure that the cumulative impact of development on the highway network is not severe.

- 4.2.2 The Highway Authority raised an objection to this application on the basis that no parking is offered to support the increase in vehicle movements (compared to the previous training centre use), and that the proposal would be detrimental to highway safety, contrary to Policy 10 of the Local Plan.
- 4.2.3 However, there are several mitigating factors. Fundamentally, the application site is located within a District Centre in a highly sustainable and accessible location. The District Centre designation recognises not only the sustainable location but also the potential for linked trips. Many trips to the centre will be multi-purpose, and trips to the dessert parlour will therefore not create substantial new parking demand as a standalone destination in its own right, but will largely be used by people who are already in the area, either visiting other shops in the District Centre, and/or who live locally and will arrive on foot.
- 4.2.4 Furthermore, the majority of businesses on Whalley Range do not have any off street parking. The shared car parking area to the rear takes parking pressure off Whalley Range. If the units in the former Brookhouse Business Centre fell into vacancy, the car park could be permanently closed for example, and this would be to the detriment of the wider District Centre.
- 4.2.5 Units 1 and 2 already benefit from a commercial use, and recent changes to the Use Classes Order (introducing a much broader Class E use) mean that most conversions involving town centre uses do not even require planning permission. Although the proposal would see a shortfall in the amount of parking that is required to accord with the Council's adopted parking standards, the applicant argues, with some justification, that the standards are several years old, with particular regard given to the recent legislative changes to the Use Classes Order. Rigid application of the 2014 Parking Standards is therefore, in this instance, not considered appropriate.
- 4.2.6 The Highways authority also referenced illegal parking on Whalley Range, and a need to keep the area clear from intensive movements, for safety reasons. Vehicles are known to be parking on the double yellow lines to the front of the premises along Whalley Range, and parking in the adjacent streets is also known to be saturated. However, pavement parking is not enforceable by Local Authorities. It is classed as an obstruction of the highway and this is currently only enforceable by the Police. It is further noted that recent appeal decisions in the vicinity that were allowed by the Planning Inspector, have also referenced vehicles parking on yellow lines as being a traffic enforcement issue rather than a planning matter. The restrictions across the whole of Whalley Range from Barbara Castle Way to Whalley New Road are under review and should any changes be required, this will go out to consultation before a change to, or implementation of, a Traffic Regulation Order is made.
- 4.2.7 Fundamentally, the site lies within a District Centre, in a highly sustainable location. Some people will arrive on foot, others will already be visiting other facilities in the area, thereby not increasing demand to the same extent.

Furthermore, the submitted drawings show that the main access to the premises will be via the car park, with the access on the frontage to Whalley Range only be used for emergency purposes. This is considered to be material as it will encourage users arriving by car to park on the car park to the rear. A condition will be also be imposed relating to the access to the premises (see Condition no.6, paragraph 5.1). Providing on-site parking within District Centres is not a prerequisite of Policy 27, which sets out a framework for development in District Centres.

- 4.2.8 In conclusion, proposals should only be refused on highways grounds where there is a demonstrable unacceptable detrimental impact on highway safety, and/or the cumulative impact of development on the highway network is severe. In this case it is not considered that these thresholds are met.
- 4.2.9 On balance, the site lies within a District Centre in a highly sustainable location, and the impact on highway safety as a result of this application in isolation is not considered to be unacceptable, and the cumulative impact of development on the highway network is not considered to be severe.
- 4.2.10 It is therefore considered that the proposal is acceptable on highways grounds, in accordance with Policy 10 of the Local Plan, and the NPPF.

Waste

- 4.2.11 The applicant asserts that waste will be stored in the waste collection area on site and collected via a commercial refuse collection service, so not requiring full access by waste vehicles. A local 'Waste management' company will pick up mainly cardboard and plastic packaging waste three times a week. A system will be implemented whereby all the cardboard is 'flattened' and stored in the store area and the rear door opened to allow waste to be loaded on a medium sized panel van.
- 4.2.12 The Council's Cleansing team raised no objections to the proposal. However, a condition can be attached to secure a scheme for a waste bin at the premises.
- 4.2.13 From an enforcement point of view any waste and litter that accumulates on the car park will be the responsibility of the land owner. The Environmental Crime Team can issue letters and notices asking/telling them to clean their land, otherwise fixed penalties can be issued, or even court action can be taken.

4.3 Design and Visual Amenity

- 4.3.1 In general terms, Core Strategy Policy CS16 require and Local Plan 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.
- 4.3.2 The alterations essentially involve the introduction of more glazing into the elevations. There is no change to the floor space or size, scale and massing

of the building. The materials would comprise modern aluminium powder coated shop front and doors, in Anthracite/Black. The amount of glazing and the materials to be used are considered acceptable, and the alterations would introduce new life into the building, which is presently more industrial in appearance.

- 4.3.6 The proposed alterations would result in modern elevations that are more in keeping with the function, character and vitality of the Whalley Range District Centre. It is therefore considered that the proposal would have a positive impact on the existing building, and would not have any detrimental impact on the mixed character of the wider area / street scene, thereby meeting the requirements of Policy 11 of the Local Plan and Policy CS16 of the Core Strategy.

4.4 Residential Amenity

- 4.4.1 Policy 8 of the Local Plan 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 relationship between buildings. Also that it will, in isolation and in conjunction with other planned or committed development, contribute positively to the overall physical, social, environmental and economic character of the area in which the development is sited.
- 4.4.2 The site lies within a designated District Centre on a busy road, where a degree of noise and disturbance is to be expected. No residential premises directly adjoin the site, and staff and visitors to the building would come and go from the rear car park, apart from in emergencies. As well as focussing comings and goings to the rear, this will also assist in terms of increasing natural surveillance to the car park at the rear, bringing further benefits in terms of reducing potential crime and antisocial behaviour.
- 4.4.3 The Council's Public Protection team raised no objections to the proposal, subject to appropriate conditions and informatives. However, the Public Protection Officer requested a condition restricting hours of use to 20:00 hours. This is considered unduly restrictive in a District Centre location, and could potentially be harmful to the viability of the business.
- 4.4.4 Similar approvals in the area, including appeal decisions, have allowed nearby businesses to open much later than this. For example, Le Glacier, at 51-53 Whalley Range closeby, was granted planning permission to open until 23:00 hours (this was even extended to 00:15 hours, on a 12 month trial basis, at a subsequent appeal). This, and other examples of relevant appeal decisions, are referenced later in this report.
- 4.4.4 Therefore, the hours applied for (23:00 hours) by the applicant are not considered unreasonable, and would be similar to other businesses in the area. A condition can therefore be attached to this effect, which is considered reasonable.

4.4.4 Other matters within the jurisdiction of Public Protection, such as any dumping of waste, vermin, and/or statutory noise nuisance are being investigated under separate powers / legislation.

4.4.5 From a planning perspective, the proposal is therefore considered to have an acceptable impact in terms of residential amenity, subject to conditions, and accords with Policy 8 of the Local Plan.

4.5 Other matters, including land ownership

Land ownership

4.5.1 Land ownership was queried with the applicant during assessment of the application. A revised location plan was provided, to show the red edge around the application site and access to Whalley Range and the shared parking area. However, for clarity, the applicant does not own the shared car park or access, but will have access rights. For this reason it has not been possible, and the applicant has not been willing, to agree to a condition requiring a management plan for the shared car park including the other units within the former Brookhouse Business Centre.

4.5.2 The applicant has served a Certificate B on the owner of the site, in compliance with Article 14 - Town and Country Planning (Development Management Procedure) (England) Order 2015 (as amended).

Other matters

4.5.3 Various matters raised by local residents include statutory noise nuisance and environmental concerns, and alleged breaches of operating hours of nearby businesses. Noise nuisance and environmental impacts are being considered under separate legislation by the Council's Public Protection team. Alleged breaches of planning control in the area by existing businesses are also being investigated by the Planning Enforcement team. Illegal parking is a matter for the Police. None of these issues relate specifically to planning issues at the application premises.

4.5.4 Notwithstanding this, given the ongoing issues in the area, a management plan condition for the shared car park was suggested to the applicant, whereby a comprehensive access, parking and waste strategy / management plan for the operation of the whole site, including control of the car park and the car park access / barrier, would be attached by condition. However, the applicant was unwilling to agree to such a condition, which is considered unreasonable given the applicant does not own the car park, or the access to the car park, and does not have exclusive access to it.

4.6 Planning balance, including recent appeal decisions in the area

4.6.1 Relevant appeal decisions

4.6.2 There are a number of recent appeal decisions in the local area which give weight in favour of approving this application. These include:

- 10/16/1299 – Le Glacier, 51-53 Whalley Range (Removal of conditions 1 and 3 of previously approved planning application 10/15/1402) - Appeal Allowed 30th June 2016 (12 month temporary trial).

4.6.3 Key points taken from the above appeal decision 10/16/1299:

- Hours condition previously approved under 10/15/1402 (limiting opening hours to 23:00 hours) extended to 00:15 hours on a 12 month trial basis.
- Quote from Inspector, at Paragraph 15: *“I note the comments made about people parking on the double yellow lines and blocking the road. I have no photographic or video evidence to show that this was entirely associated with the appeal premises, or in any event, if this now occurs routinely. In any event, there are separate enforcement powers available to deal with unauthorised parking on the highway.”*
- Quote from Inspector, at Paragraph 16 of Inspector’s report: *“..it must be recognised that the appeal property falls within a District Centre and fronts a relatively busy main road. Hence it is reasonable to expect that levels of noise and activity would be higher than in areas which are more residential”.*
- Quote from Inspector, at Paragraph 19: *“Despite the fact that the site is within a District Centre there are nonetheless residential properties very close by. It is therefore important that the occupiers of such properties are afforded reasonable levels of peace and quiet during times when they wish to sleep.”*

- 10/15/0241 – 47a Whalley Range - Demolition of garage and erection of two storey retail building with shop front and roller shutters - Appeal Allowed 16th November 2015.

4.6.4 Key points taken from the above appeal decision 10/15/0241:

- Quote from Inspector, at Paragraph 5 of Inspector’s report: *“.. there are parking restrictions all along Whalley Range and almost none of the other small shop units in the vicinity has off-street parking”.*
- Quote from Inspector, at Paragraph 7: *“This is a highly accessible retail centyre, principally serving the local community. As such it seems to me that the proposed use is unlikely to give rise to significant additional demand for parking”.*
- Quote from Inspector, at Paragraph 9: *“I conclude that, although the proposal would not accord with Local Plan policies.. which, among other things, require appropriate provision for off street servicing and parking, the lack of such facilities would not have an unacceptable impact on highway safety and the free flow of traffic.”*

- 10/09/0752 – 23 Whalley Range – Change of use of ground floor to hot food takeaway – Appeal Allowed 1st February 2010.

4.6.5 Key points taken from the above appeal decision 10/09/0752:

- Hours condition: 07:30 hours – 23:00 hours Monday-Sunday;
- Quote from Inspector, at Paragraph 7 of Inspector’s report: *“Although yellow lines may from time to time be ignored by motorists, I do not believe that the consequences would be significant, and could, in any event, be addressed by enforcement of the regulations. Any parking generated by a new hot food*

takeaway would be a marginal addition to that which already takes place. Parking in the evening would be at a time when the demand is less than at other times during the day.”

4.6.6 Planning balance

4.6.7 The objection from the Highways Authority is acknowledged, and has been given due consideration in reaching this recommendation. So too have the comments from the Public Protection team, who suggested restricting hours of use to 20:00 hours.

4.6.8 However, on balance, it is considered that the benefits of the proposal outweigh the concerns identified, including any potential impacts on health, and the planning balance suggests the application should be approved, subject to the conditions referred to in this report.

4.6.9 Examples of the aforementioned benefits include bringing a former commercial building back into active use; the continued use of the shared car park to the rear; the wider economic benefits / job creation it would bring to the local area; the visual and social benefits; improving the range and choice of local facilities and services; and making a positive contribution to the vitality of the District Centre.

4.6.10 The application involves the change of use from one commercial use to another. In general terms, the Government is keen to support greater flexibility between town centre uses, evidenced by the introduction of the new Use Class E. Indeed, the applicant disputed whether planning permission was even required for the use now proposed. Most town centre uses would not need to apply for planning permission under the recent Use Class changes. Notwithstanding this, by approving this application, a degree of control can be achieved, with appropriate conditions attached to limit highway/amenity impacts. As things stand, there are no restrictive conditions attached to the former Brookhouse Business Centre.

4.6.11 Another factor to be considered is, should this application be refused, what would the building be used for. It would be likely that the building would fall vacant, and investment in the application site / former Brookhouse Business Centre / wider area would be stunted. Significant weight is given to the wider economic benefits of the proposal, and if the unit were to fall vacant and/or other units did likewise, the car park would also be likely to close, having an even greater detrimental effect on parking availability in the area. A Class E use within a District Centre is an appropriate use in this location / context.

4.6.12 Fundamentally, the location within the District Centre is a key consideration, and the proposal is acceptable in principle. There is no requirement under Policy 27 of the Local Plan to provide any off street parking within a District Centre. The recent changes to the Use Classes Order, introducing the new Class E and its greater flexibility between uses, were introduced far more recently than the Parking Standards which were adopted in 2014. It is

therefore considered that only limited weight can be given to the parking standards in this context. Furthermore there is a shared car park to the rear, which is far in excess of what most other businesses have on Whalley Range, and this helps to ease the impact on Whalley Range and surrounding streets. Recent appeal decisions have allowed similar uses in the area, and Inspectors have been clear that illegal parking should be dealt with under separate powers / legislation.

4.6.13 All things considered, on balance, it considered that the development should be approved, subject to conditions.

5 RECOMMENDATION:

5.1 APPROVE subject to the following CONDITIONS:

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

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

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

Project no. 054 / WSA / 2022, Dwg no. 3: Location Plan, received 7/12/23.

PROJECT NO : 054 / WSA / 2022, Dwg no. 02: Proposed Floor Plans and Elevations.

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

3. The use hereby permitted shall not take place outside the hours of 09:00hrs to 23:00hrs Mon-Fri, and 10:00hrs to 23:00hrs Sat, Sun and Bank Holidays.

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

4. The external construction materials shall be as stated on the application form and approved drawings and they shall not be varied without the prior written consent of the Local Planning Authority.

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

5. Prior to the use hereby permitted first commencing, a scheme for the installation of a litter / waste bin, shall be submitted to and approved in writing by the Local Planning Authority. The approved scheme shall be fully

implemented in accordance with the approved details prior to commencement of the approved use, and shall be permanently retained thereafter.

REASON: To ensure adequate facilities are provided at the site, to reduce litter, in accordance with Policy 9 of the Blackburn with Darwen Borough Council Local Plan Part 2.

6. Access to and from the premises shall be from the rear of the premises, adjoining the shared rear car park. Access to/from the front of the premises, adjoining the Whalley Range footway, shall only be used in the event of an emergency.

REASON: To discourage visitors to the premises from parking illegally on Whalley Range, in the interests of traffic and highway safety and the free flow of traffic, in accordance with Policy 10 of the Blackburn with Darwen Borough Council Local Plan Part 2.

7. The application premises shall only be used for the purposes included within Class E (b) of The Town and Country Planning (Use Classes) Order 1987 (as amended), and for no other purpose, including any other purpose in Class E of the Town and Country Planning (Use Classes) (Amendment) (England) Regulations 2020.

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

6 CONSULTATIONS

6.1 Highways

6.1.1 OBJECTION:

6.1.2 The application seeks consent for Proposed Change of Use from Training Centre to Dessert Shop (Class E) including New Shop Fronts.

In accordance with adopted parking standards. The area for public use is used to equate the required parking allowance to support the business. This exercise has been undertaken and the total area 36sqm, this is then measured against a requirement of 1 car space per 7sqm, which provides a required allowance of 5 spaces.

The proposal would clearly generate an increase in parking numbers, from the outgoing use.

There is a car park to the rear of the units which serves all the units within the business park. With all the units requiring supportive parking, we are concerned that the provision required for this use alone cannot be safely and adequately accommodated within the applicant's ownership.

On recent site visits it has been noted that vehicles are parking on the double yellow lines to the front of the premises along Whalley Range.

I would reiterate the car parking within the Brookhouse Business Centre was always for the use of the tenants of the units and not for other businesses along Whalley Range. Before being sold the business centre tenants were largely small business/office spaces. The introduction of a food retail attracts a total different demographic and also larger number of customers more so when taking into account the opening hours which run from early morning though to late night.

The use will in our opinion monopolise (if not already) all the parking spaces available which should be shared with all tenants.

The property is located on the fringe of the Whalley Range Bazaar Area. The existing parking in the adjacent streets is fully saturated. It is recognised that the site is sustainable, however not all visitors will be from the immediate area, as the bazaar does attract visitors from a wider area and also from outside the borough.

There are ongoing issues with the highway network in the immediate locality, this has culminated in joint departmental investigations being undertaken, involving the Police, Neighbourhood Teams, traffic and parking. Attached emails* represent their concern on both inherent parking and congestion on Whalley Range close to this site.

In addition to the above, there is a priority give way positioned right outside/close to the property. This also highlights the need to keep the area clear from intensive movements, for safety reasons.

To conclude we recommend refusal of the application:

- no parking is offered to support the increase in vehicle movements
- detrimental to highway safety
- contrary to policy 10 of the Local Plan Part 2

6.1.3 *Attached email (as referred to above): Community safety Team:

I can say from a Community Safety point of view that yes we have had a number of historical complaints within this vicinity particularly Whalley Range and notably very nearby concerning another late night refreshment premises last December 2021, which brought complaints of parking issues, Anti-social driving and noise nuisance. This resulted in a multi-agency targeted operation involving the local Police a number of enforcement operations were carried out to try and rectify the issues under the Operation Unity banner. The Police will have a wealth of information themselves relating to this area as these premises were not the only complaints they received, and traffic issues within this area will prove a stretch on their resources. Prior to the Operation Unity interventions around October 2021, a number of Councillors had also highlighted specific problems on Whalley Range with a lack of parking provision and inconsiderate driving.

Any further new premises that attracts further vehicular traffic to this vicinity will only add to the already existing issues we have and will likely fuel more complaints (which it has already done so) and potentially have a detrimental effect on safety and residents quality of life.

6.1.4 *Attached email (as referred to above): Parking Services Team

Operation Unity is a ongoing multi-agency partnership between the Police, Community Safety, Road Safety, Highways, Public Health, Parking Services, Environment Teams, Licensing, local councillors and the Fire Service, created with a view to tackling ASB, noise, littering, parking etc across the borough.

We undertook 5 night-time enforcement sessions, between December 2021 and March 2022. On Whalley Range alone, 108 vehicles were observed in contravention and 42 PCNs were issued. Unfortunately, the lack of available CEOs, coupled with observation times for the current restrictions, hampered the issuing all 108 observed. It is noted that parking enforcement does cause additional dangers on the highway in this area, especially when motorists attempt to move their vehicles before receiving a PCN/FPN, often at speed or over pavements, with no regard for pedestrian/other motorists safety.

Enforcement of Whalley Range is a 24/7 issue in regards to Parking, Traffic management etc. I also believe that motorists stop reporting when they perceive that nothing is being done, there are lots of comments online about this being a 'no-go' area for the Council, however in the last 12 months, we have visited Whalley Range on 225 occasions, observed 262 vehicles in contravention and issued 102 PCNs (42 of these after 6pm over 5 nights). We are aware of the parking issues and we manage this as best we can, with the resources available.

I have no doubt that residents are happy that there is a bustling Whalley Range Bazaar during the day, but not when it impedes on their evenings/weekends. However, without Operation Unity/Police support, I cannot guarantee that parking enforcement after 6pm can be routinely provided and yet most of the complaints are ASB after 6pm as per the email from the residents below. I have a finite number of CEOs that patrol the whole borough and cannot be in this specific location, 24/7, so my view is that we must stop adding to the historic ASB issues, by allowing venues such as this to operate into the late evening, especially when we cannot provide the services required, at the times required, to manage the enforcement of such.

I am also in support of the comments made by Simon from a Highways/Traffic perspective.

6.1.5 *Attached email (as referred to above): Highways Authority Network Manager

I have serious concerns with regards this and the negative impact it will have on the traffic volumes, anti-social parking (that is already evidenced). We have undertaken multiple joint operations on Whalley Range with concerning results (Andy and Lisa-Marie can fill you on the results).

We have had 5 slight and 1 serious accidents in the last 3 years, around the locus of this application and the increased vehicle movements and lack of sufficient parking will only compound the risks to all road users. We need to reduce the risks to residents and road users and not increase them by allowing the retrospective application to be passed.

6.1.6 Counter comments by the applicant (in response to the Highways objection):

- *Whalley Range is a District Centre. Policy 27 does not require individual businesses to make provision for car parking. This is a highly sustainable location, easily accessible on foot.*
- *The District Centre designation recognises not only the sustainable location but also the potential for linked trip. Many trips to the centre will be multi- purpose.*
- *The Council's car parking 'standards' were adopted in 2014 and are out of date following the revision of the Use Classes Order in 2020. The former 'A' Classes 1,2 and 3 have been subsumed into Class E. As the premises could in the future move between any of the Class E uses without the need*

for planning permission, there is no justification for using the former A3 standard.

- *It is notable that the Council's new Local Plan 2021-2037 states at para. 4.142 that. "The Council's latest car parking standards were adopted in 2014. The Council is commencing a review of car parking standards to include clearer guidelines on minimum/maximum car parking provision (including both vehicle and cycling provision)". The Council itself therefore recognises that the 2014 standards are not fit for purpose.*
- *The Brookhouse Business Centre car park actually takes parking pressure off Whalley Range. It is very unusual, compared with other businesses on Whalley Range, in that it has its own on-site parking. The businesses operating from the different individual units use the car park at different times of the day. For example, the workshops will use it during the day and the proposed restaurant café would use it predominantly at evenings and weekends.*
- *Para 111 of NPPF states that development should only be prevented or refused on highways grounds if there would be an unacceptable impact on highway safety, or the residual cumulative impacts on the road network would be severe. Highways have not provided any evidence that this single application would result in either of these situations.*
- *Parking 'requirements' cannot be imposed in the absence of a policy basis which would justify them.*

[On the requirement to meet parking standards] -

This takes no account of the site's location in a District Centre with access to sustainable forms of transport. As stated above, it is not appropriate to use the former A3 standard to determine a parking 'requirement'.

[On generating an increase in parking numbers, from the outgoing use]

- This is not necessarily the case. A high proportion of the patrons of the café/restaurant will arrive on foot. There will also be a high proportion of linked trips, taking in other activities in the District Centre.

[On car parking / illegal parking on Whalley Range] –

The Business Centre was formerly owned by the Council and the car parking provision is the same as at that time, apart from the fact that the whole complex being under private ownership gives more flexibility in the spatial arrangement of parking, for example, parking in areas of the site not designated as marked bays. Businesses are not allocated designated spaces but naturally tend to use those closest to their particular unit. Each business within the Business Centre has a key to the barrier at the entrance to the site. The first person to arrive in the morning will unlock the barrier and the last person out at night will lock it again. The café/restaurant are likely to be the last business out at night. Because the car park serves all the businesses within the centre, and they all have the right to use it as part of their tenancy agreement, the barrier would never be permanently closed. The car park comprises a large area of land with more than sufficient capacity for all the units in the Business Centre. Space is available outside the marked bays. Car parking use varies by the type of business, some of the smaller businesses only use one or two spaces. It also varies throughout the day/week. For example, a car repair business will need parking during the day but a café/restaurant will be predominantly evening/weekend focused.

Units 7 and 7a have 7 parking spaces immediately outside the units and Units 1 and 2 (ice cream parlour – not referred to in this Highways document) have 4. In addition there is access to other spaces within the Business Centre site which are not used by other businesses either on a permanent basis or at certain times of the day/week.

If vehicles park on double yellow lines within the Whalley Range District Centre there is a legal remedy available. The fact that illegal parking takes place “along Whalley Range” is not a planning consideration in the determination of this planning application.

[On existing parking saturation in the area] –

The site is covered by Policy 27 which has no requirement for on-site parking. However, unlike the majority of businesses on Whalley Range, this site is able to provide parking. There is, though, no requirement for this development to make up for deficiencies elsewhere in Whalley Range.

[On highway safety / creation of intensive movements] –

There is absolutely no basis for suggesting that the application proposal would create “intensive” movements. Even if the calculation that the development would need 19 car parking spaces is accepted (which it is not), 19 cars all arriving and departing at different times could by no means be called “intensive” in the context of the Whalley Range District Centre and, therefore, the implication that there are highway safety issues associated with the proposed development is wrong.

[Conclusion] –

Policy 10 does not solely focus on parking. Sub section 3 of the policy is as follows:

3. Development will be permitted provided it has been demonstrated that:

- i) road safety and the safe, efficient and convenient movement of all highway users (including bus passengers, refuse collection vehicles, the emergency services, cyclists and pedestrians) is not prejudiced;
- ii) appropriate provision is made for vehicular access, off-street servicing and parking in accordance with the Council’s adopted standards;
- iii) access by public transport is catered for either by providing for bus access into the site where appropriate, or by ensuring that safe and convenient access exists to the nearest public facility;
- iv) measures are included to encourage access on foot and by bicycle;
- v) the development does not directly affect any public right of way, unless the right of way is maintained or the proposal provides for its replacement by an equally attractive, safe and convenient route; and
- vi) the needs of disabled people are fully provided for, including those reliant on community transport services.

The application proposal accords with this policy because:

- it will not interfere with the safe, efficient and convenient movement of highway users;
- appropriate provision is made for access, off-street servicing and parking;
- there is good access by public transport;
- the site is in a District Centre with many complementary uses grouped together, encouraging access by foot or bicycle.

6.2 Public Protection

6.2.1 No objections, subject to conditions:

Condition – Hours of Use Restriction

The approved use shall be restricted to the following times:

Monday to Friday: 09:00 – 20:00 hours

Saturdays/Sundays: 10:00 – 20:00 hours

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

Reason

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

Floodlighting

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

Condition – Floodlighting (as appropriate)

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

Reason

To minimise potential loss of amenity due to intrusive light pollution affecting residents.

Condition – Air Quality (Small Commercial Development)

Prior to commencement of the development hereby approved, a scheme for the provision of charging points for low emissions vehicles shall be submitted to and approved in writing by the Local Planning Authority. The scheme shall be implemented prior to commencement of the proposed use 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.

6.3 Cleansing

6.3.1 No objections.

7 Publicity

7.1 The proposed development has been publicised through letters to 34 properties and businesses in the immediate area, and a site notice was displayed on 26th October 2022.

7.2 As a result of this, 8 objections was received, including a petition signed by 17 signatories received on the 29th January 2023.

7.3 The following is a summary of the objections raised:

- Principle – No need or demand, over saturation of dessert shops, Tip the balance of business/residential to business, Dessert shops are unhealthy, Cumulative impacts of this and other businesses.
- Residential amenity - Noise and disturbance, anti social behaviour. If approved, restrictive hours conditions should be applied, and gate to car park should be closed at 8pm. Various existing business breach their permitted hours of use. Others are opening without permission. Litter and waste is frequently left in the car park. Vermin infestation. “Gentrification” of the neighbourhood.
- Highway safety, Traffic and congestion, illegal parking on Whalley Range footway, damage to the footway. There are no parking enforcement officers, no double red lines and nothing is policed due to ‘funding’. Infrastructure already overwhelmed.

7.4 The above matters have all been addressed, directly or indirectly, in the main body of this report.

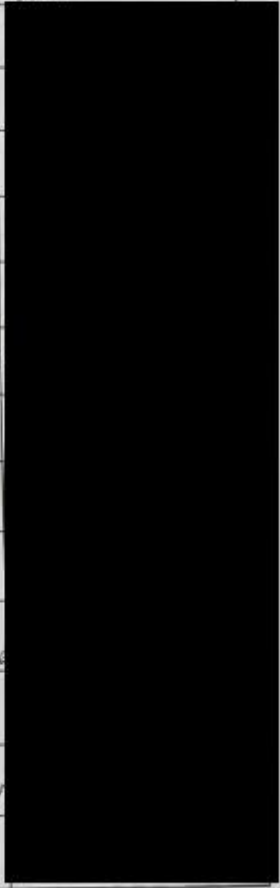
7.5 The neighbour objections /petition is appended to this report, at Paragraph 10.

8 CONTACT OFFICER: Tom Wiggans – Planning Officer

9 DATE PREPARED: 03rd February 2023

10 SUMMARY OF REPRESENTATIONS

This is a petition against the exponential rise of dessert and tea shops and businesses in Blackburn and especially the Whalley Range area. This onslaught of the rise of businesses opening without proper planning permission is very alarming and amounts to a gentrification of our community and neighbourhood. We demand a moratorium on any new business outlets as they are bringing in high levels of traffic and noise as well as litter and vermin infestations into our neighbourhood. The current infrastructure is already overwhelmed and cannot support anymore businesses without thought for parking, litter and other hazards that are imported into the area.

Name	Address	Signature
ASIF IQBAL	140, WHALLEY RANGE	
M. SHEWAN	10 BROOKHOUSE GARDEN	
H Khond	6 Brookhouse Gardens	
Abid	144 W Range	
GHAIB	146 Whalley Range	
IRFAN	150 WHALLEY RANGE	
MUSA I. PATEL	152 WHALLEY RANGE	
SAB MOHAMMED	5 BROOKHOUSE GARDENS	
ACIF PATIL	2 Brookhouse Gardens	
Mohammed AYAZ	105 WHALLEY RANGE	
Samim Patel	7 Brookhouse Gardens	
AZAC IQBAL	9-11 Brookhouse Gardens	
M-farooq	1-Brookhouse Gardens-	

Name	Address	Signature
Rubina Yesmin	8 Brook House Gardens	[Redacted]
Abubakar Siddique	5 Brook House Gardens	
EMALD KWAN	109 WHALLEY RANGE	
MUHAMMAD SIDDIQUE	12 Brook House Gardens	

Objection 1 – Asif Iqbal, Rec 07.10.2022

Dear Sir/ Madam

Please accept this email as a objection to the above proposed planning application. We have enough dessert shops on Whalley Range and the surrounding area and do not require any more. These dessert shops are the most unhealthiest food outlets from within the catering sector, and as a responsible council you should limit acutely such premises. These dessert bars are literally vendors of poison, on the one hand the public is told to not indulge in the consumption of sugar and on the other hand there is a conveyer belt of sweet providers propping up all over the area how does this make any sense? The impact from increased traffic noise and congestion on what is already a road that is brimming over its tenable capacity is ludicrous, Whalley Range neither has the infrastructure or the surrounding environment to cope with the negative impact from traffic that these dessert bars will attract. Proposals such as this will create a big burden on our neighbourhood and will disproportionately tip the business/ residential balance in favour of businesses and therefore destroy the soul of the community. I trust you will weigh up carefully this objection and refuse the planning permission.

Yours Sincerely

Asif Iqbal

Objection 2 – Attia Hussain, 6 Hodder Place, Blackburn, Rec 18.10.2022

Hello

I am writing on behalf of my parents of 6 Hodder Place in response to planning permission requested for yet another dessert place in Blackburn.

They strongly oppose this application on the basis of the absolute misery caused by traffic, noise and anti social behaviour of other cafes close by.

It has been intolerable enough with Chai Wala and now there is another chai place directly opposite. Does the council not give any consideration to the social and environmental impact of having these businesses open so close to residential homes??

My longstanding complaints about chai wala have never been fully addressed and now there's another chai place which has seen traffic increase twice fold as well the poor parking, poor driving and noise issues. To then have another dessert place is just asking for further noise and traffic issues as well as resulting distress for residents.

I hope that concerns about further businesses being opened in this area are taken seriously as so far it doesn't seem they are.

Regards

Attia Hussain

Objection 3 – Arif Babu, 2 Brookhouse Gardens, Blackburn, Rec 19.10.22

Dear Tom Wiggins & Martin Kelly

I Arif Babu resident of 2 Brookhouse Gardens BB1 6PJ Blackburn object proposed change of use from training centre to Dessert shop including new shop fronts as this will increase further flow of traffics congestion blocking community footpath walkway environment overflow waste and most importantly environment noise and pollution.

We are continually in communication with environmental departments at the council with overflowing of waste in our gardens from the unauthorised opening of Mii Chaai and police with nuisance cars park at business centre and on public footpath on Whalley range.

Please have a look at video to support my objections to the above, increase of cars, cars blocking public walk footpath, increase of environment noises & pollution.

Council has already had to implement bollards of current dessert place La Glacier to stop cars blocking public footpath walkway.

Disturbance to our whole family lifestyle from babies continually being startled from there sleeps overs increased car noises.



Video_1.mov



Video.MOV

Objection 4 – Mohammed Patel, 7 Brookhouse Gardens, Blackburn, Rec 31.10.2022

Dear Council,

This is an email with regards to the planning permission application, 10/22/0920.

The proposal is to make a Dessert shop on Whalley Range.

Firstly, I would have had no issues with this proposal, however, there is no need to have yet another dessert shop in this area.

We already have 5+ dessert shops on Whalley Range which is excessive. Recently, Kandy Krush has also opened on Whalley Range which is a stone throw away from La Glacier.

Furthermore, Whalley Range is a nightmare area to drive through due to the car parking situation. We have had this issue for years. I have wrote to the council many times and got absolutely no

where. Responses are always the same, 'funding issues'. Chaiwala has already caused chaos in the area. Litter and car parking bottlenecks are causing safety issues.

We now have another tea business Mi Chaii opposite Chaiwala. No planning permission was sent to the neighbours for this. We can already see the effects of this business in the area. Cars are blocking up the give-way, causing major frustration and safety hazards. Cars are often mounting the curbs causing obstructions to pedestrians.

On top of all the havoc and chaos thats already on Whalley Range, another dessert parlour will make things much much worse.

We have no parking enforcement officers, no double red lines and nothing is policed due to 'funding'. It is getting completely out of hand and someone needs to put a stop to it!

Many people are moving out of the area and the Whalley Range mayhem is one of the reasons.

To conclude, there is no need or demand for this business in the area. The area is extremely congested and causing much frustration to locals. The council cannot deal with the current situation on Whalley Range so there should not be another business adding to the mayhem.

Kind regards,
Mohammed Patel

Objection 5 – Asif Iqbal, Rec 15.11.2022

Dear Sir/ Madam

Please accept this email as an objection to the above proposed planning application. We have enough dessert shops on Whalley Range and the surrounding area and do not require any more. These dessert shops are the unhealthiest food outlets from within the catering sector, and as a responsible council you should limit acutely such premises. These dessert bars are literally vendors of poison, on the one hand the public is told to not indulge in the consumption of sugar and on the other hand there is a conveyer belt of sweet providers propping up all over the area how does this make any sense? The impact from increased traffic noise and congestion on what is already a road that is brimming over its tenable capacity is ludicrous, Whalley Range neither has the infrastructure or the surrounding environment to cope with the negative impact from traffic that these dessert bars will attract. Proposals such as this will create a big burden on our neighbourhood and will disproportionately tip the business/ residential balance in favour of businesses and therefore destroy the soul of the community.

I would like to support this objection by citing elements from Blackburn with Darwen Core Strategy document 2011, Under part 4 - Targeted Growth Spatial Interventions page 103 states:"retailing will be permitted, provided it is demonstrated that there will be no unacceptable impact vitality and viability within other centres, on traffic generation, or on amenity." Further in this section on page 104 item 9.14 it states: "Recently the Whalley Range and Victoria Street area in Blackburn has begun to develop a specialism in fashion and to attract an element of "destination" shopping as a result. This is encouraged providing it does not adversely affect trade in the Town Centres themselves and providing local infrastructure and surrounding uses can accommodate it."

I would further like to cite Blackburn with Darwen Local Plan Part 2, 2015 document as a further basis for my objection. Chapter 5, Public Facilities page 101 Health - items 5.31 and 5.32 and page 102 policy 33, items 1 and 2. These specific sections quoted should provide the council justification to reject the planning application due to the detrimental effects on health in the community.

I trust you will weigh up carefully this objection and refuse the planning permission for this application.

Yours Sincerely

Asif Iqbal

2nd Objection – Mohammed Patel, 7 Brookhouse Gardens, Blackburn, Rec 16.11.2022

These are some pictures highlighting my concerns.

I have provided pictures of the car park which is already full. This means it does not have anymore capacity to support any more businesses.

Regards, Mohammed











Objection 6 – Arif Babu, 7 Brookhouse Gardens, Blackburn, Rec 16.11.2022

Dear Planning & Tom Wiggans

I Arif Babu resident at 2 Brookhouse Gardens Blackburn BB1 6PJ again object change and development of Planning ref no 10/22/0920 my further reasons are as follows.

Main road for residents of Brookhouse Gardens Whalley range road will be further congested with customers attending Desert Shop, there will be further generated traffic if the planning is approved, It has been viewed evidently increase of vehicle congestion on whalley Range Road and eventually this will lead customers to park in residential areas.

Ongoing impact business Mii Chai attendees customers vehicles are parking outside of Mii Chaai as well as out side of unit 1 & 2 on Whalley Range Road and on public footpath, this has caused multiple damage to the public footpath outside of these units which the council will have to repair.

I humbly ask for all representatives of planning prior to 18th November 2022 to inspect and confirm damage of footpath outside unit 1 & 2.

I also attach short clip to view vehicles parking outside of unit 1 & 2.
please reject planning as it will have further damage impact on Whalley Range Road.

Respectably Blackburn with Darwen Core Strategy local development framework states as follows:
adversely affect! It is clear the surrounding can not accommodate as there are living residents to the

surrounding.

I look forward for planning rejection of 10/22/0920.



Video.MOV

Kind regards.

Arif Bapu.

Objection 7 – Mohammed Patel, 7 Brookhouse Gardens, Blackburn, Rec 17.11.22

Dear Council,

This is an email with regards to the second letter that was sent on the 4th Nov 2022 due to an amendment.

My stance is still the same as my original response which is outlined below.

I strongly oppose the planning permission.

Despite having 'car parking' and 'waste' plans, it simply will not work without causing chaos in the area.

Currently, on a daily occurrence I observe an individual walking outside of KQF, Chaiwala and Mi Chaii picking up litter at 6:30am.

This should not have to be the case; it is not his job.

Furthermore, there is no sense of policing in the area resulting in a complete loss of control regarding the car parking.

Kind regards,
Mohammed Patel

REPORT OF THE STRATEGIC DIRECTOR

Plan No: 10/22/1002

Proposed development: Reserved Matters Application: Approval of Reserved Matters "appearance, landscaping and scale" pursuant to outline planning application 10/18/1153 "the erection of 9 dwellings".

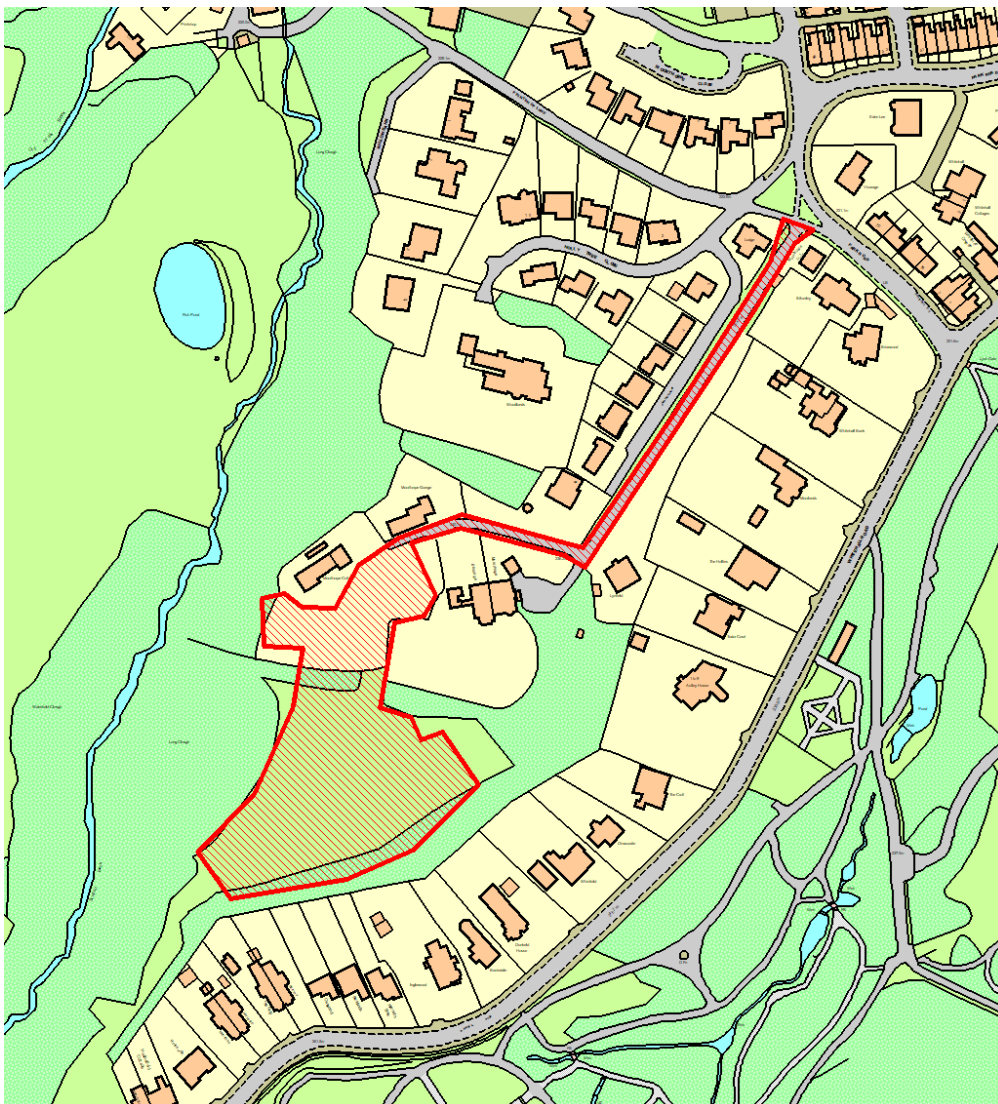
Site address:

**Land adjoining Moorthorpe Cottage
Park Road
Darwen
BB3 2LQ**

Applicant: Ms Gillian Lomax

Ward: West Pennine

**Councillor Jean Rigby
Councillor Julie Slater
Councillor Neil Slater**



1.0 SUMMARY OF RECOMMENDATION

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

2.0 KEY ISSUES/SUMMARY OF PLANNING BALANCE

- 2.1 This planning application is submitted in the form of a Reserved Matters (RM) proposal to consider the **appearance, landscaping and scale**, of the development pursuant to the grant of outline planning permission for the erection of 9 dwellings, with all matters reserved except for access and layout (ref. 10/18/1153).
- 2.2 The application is reported to Committee in accordance with the Council's adopted scheme of delegation. This follows refusal of the Outline application by Committee, in June 2016; a decision which was subsequently overturned on appeal, in June 2020, which resulted in the grant of conditional outline planning permission and costs of £7,520.58 awarded against the Council because it acted unreasonably in refusing the application. The Inspectors report is appended to this report (Appendix A). The application was deferred at January's meeting to allow further consideration of the proposed house types, their position and plot boundaries. An amended layout has since been submitted which is considered to appropriately address discrepancies with the layout approved at outline stage.
- 2.3 Assessment of the application finds that the proposal will deliver a high quality bespoke housing development which will widen the choice of family housing in the Borough. It supports the Borough's planning strategy for housing growth as set out in the Core Strategy, through delivery of housing at a site for which the principle of housing led development is established via the site's inclusion in the Council's Brownfield Register. The proposal is also satisfactory from a technical point of view, with all issues having been addressed through the application, or capable of being controlled or mitigated through planning conditions.
- 2.4 Conditions attached to the outline permission, pertaining to a range of technical matters, will be considered under a separate discharge of condition process, to be submitted at the appropriate time.
- 2.5 As with the outline application, Members are advised that significant public objection has been received against this RM proposal. Objections are summarised as follows:
- The principle of housing of a greenfield site;
 - Development is not 'small scale residential';
 - Impact on wildlife / ecology / biodiversity;
 - Loss of trees;
 - Discrepancy between layout approved at outline stage and that submitted with this RM application;
 - Traffic generation;

- Design / Character & appearance;
- Loss of privacy; and
- Brownfield sites should be prioritised.

2.6 Members are advised that the outline permission establishes the principle of housing led development at the site, for 9 dwellings with detached garages, in accordance with the site specific policy requirement of a 'small scale' residential, together with access arrangements (from the private access road off Park Road) and the layout. The outline permission also accounts for all environmental impacts (loss of trees, ecology, biodiversity and drainage) and traffic generation / highway impacts. This application is strictly limited to consideration of the remaining RM – ie. appearance, landscaping and scale.

3.0 RATIONALE

3.1 Site and Surroundings

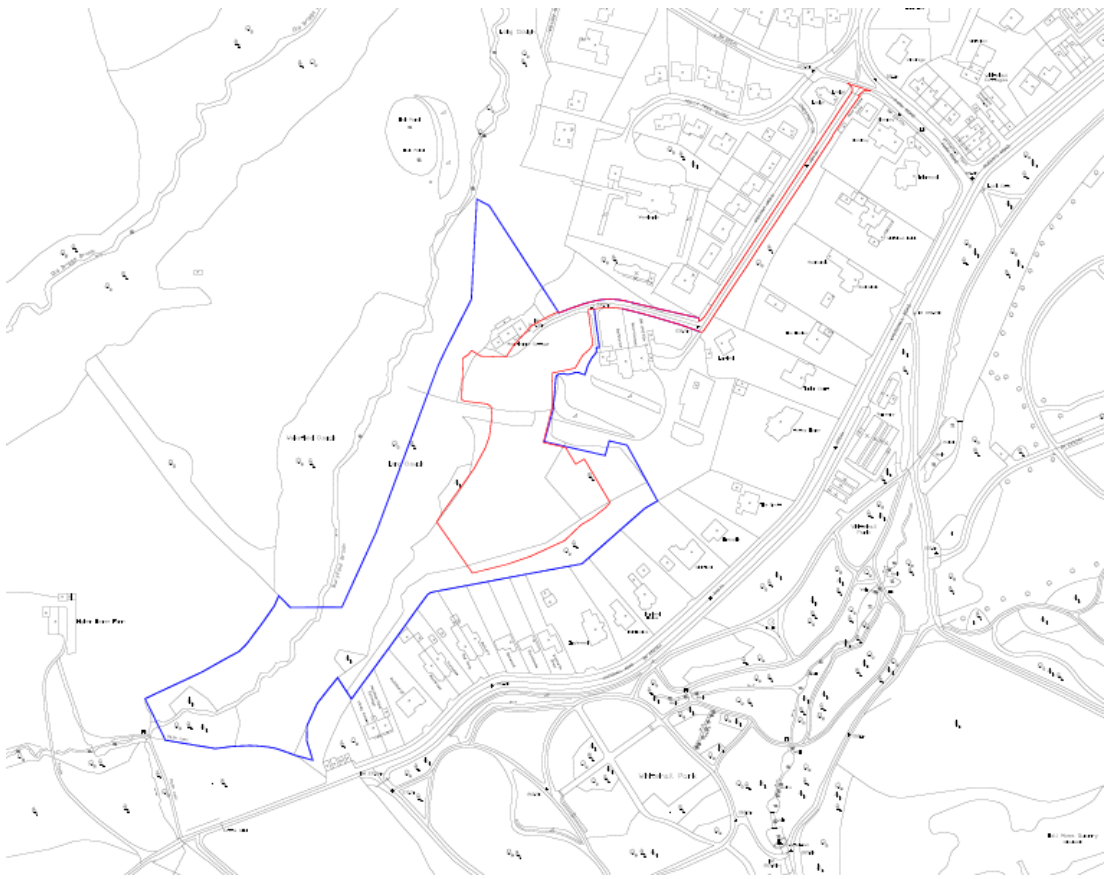
3.1.1 The application site is primarily allocated as a 'Development Opportunity'; identified as 'Long Clough, Darwen', in accordance with the Adopted Policies Map of the Local Plan Part 2 for Darwen. The private drive that serves to access the site is not included in the allocation and is instead unallocated. The entirety of the site lies within the outer confines of Darwen's Urban Boundary, adjacent to open countryside

3.1.2 The application site is privately owned; comprising 0.99 hectares in area and is located within the Whitehall district of Darwen, to the north of Whitehall Road. Access is taken off Printshop Lane / Park Road to the north east, along a private drive that currently serves 5 dwellings. The drive runs adjacent to the length of Chestnut Grove to the west. Moorthorpe Cottage and its associated curtilage lies to the north of the proposed dwellings and is the property closest associated with the development. The site area to be developed is grass and shrub land, bordered by mature trees and woodland groups protected by Preservation Order. The private access drive is hard surfaced. Land levels rise gently from east to west.

3.1.3 The immediate locality features large family dwellings set in spacious grounds within a wider area characterised by woodland and adjacent countryside. A woodland belt separates the application site from dwellings located along Whitehall Road to the south east, beyond which lies the Grade II listed Whitehall Park. The Grade II listed property 'Woodlands' is located to the north of the site.

3.1.4 Darwen town centre is approximately 1.3 miles to the north, accessible by public transport along the A666. It offers a typical range of amenities and includes public rail and bus transport hubs which provide convenient connections to locations such as Blackburn, Bolton, Preston and Manchester. The M65 motorway lies approximately 3.2 to the north.

3.1.5 The application is shown as follows, as defined by the red edge. The wider land holding is defined by the blue edge, on the location plan shown below.



Location Plan, MCK Associates Ltd, October 2018).



Google Earth Image

3.1.6 Photographs below show the site viewed from Moorthorpe looking south, the southern woodland fringe and south eastern edge, respectively.



3.2 Proposed Development

3.2.1 The application seeks approval of RM for appearance, landscaping and scale, pursuant to outline permission granted for 9 dwellings with detached garages, associated access and layout, determined under application no. 10/18/1153.

3.2.2 The layout, although set at outline stage, is submitted with this application at it includes proposed house types. The proposed layout is as follows (Holden Lancashire Ltd, Oct 2022):



3.2.3 Proposed house types are five and six bedrooms and range between two storey and two and a half storey's in height. Sample house types are shown as follows (Holden Lancashire Ltd, Oct 2022):



3.2.4 Full details are set out in the submitted drawings and Supporting Statement.

3.3 Development Plan

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

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

3.3.3 Core Strategy

- CS1 – A Targeted Growth Strategy
- CS5 – Locations for New Housing
- CS6 – Housing Targets
- CS7 – Types of Housing
- CS16 – Form and Design of New Development

3.3.4 Local Plan Part 2

- Policy 1 – The Urban Boundary
- Policy 7 – Sustainable and Viable Development
- Policy 8 – Development and People
- Policy 9 – Development and the Environment
- Policy 10 – Accessibility and Transport
- Policy 11 – Design
- Policy 12 – Developer Contributions
- Policy 18 – Housing Mix
- Policy 28 – Development Opportunities
- Policy 39 – Heritage
- Policy 40 – Integrating Green Infrastructure and Ecological Networks with New Development

3.4 Other Material Planning Considerations

3.4.1 Green Infrastructure (GI) SPD

3.4.2 National Planning Policy Framework (The Framework)

- Section 12 – Achieving well-designed places

3.4.3 National Planning Practice Guidance (NPPG)

3.4.4 Local Plan Review

Blackburn with Darwen Borough Council is reviewing their current adopted Local Plan. The review will lead to a new Local Plan to replace the existing and will cover the period 2018 to 2037. As an emerging document, it carries weight in the decision making process.

3.5 Assessment

3.5.1 As aforementioned, assessment of this Reserved Matters application is limited the following matters:

- **Appearance:** Aspects of a building or place which affect the way it looks, including the exterior of the development.
- **Landscaping:** The improvement or protection of the amenities of the site and the surrounding area; this could include planting trees or hedges as a screen.
- **Scale:** Includes information on the size of the development, including the height, width and length of each proposed building.

3.5.2 Appearance

Proposed dwellings range between two and two and a half storeys in height. Two and a half storey dwellings include bedrooms within the roof space. Each will feature gable pitched roof profiling with a 'Marley Rave' slate effect tile finish.

3.5.3 Each dwelling will be constructed in natural stone, with stone headers and cill detail to the windows. Rainwater goods will be cast iron and windows are proposed in 'timberlook' finish.

3.5.4 Plots 1-4, 6 and 9 would have front gable features, with plots 5, 7 and 8 having a two storey element projecting forwards perpendicular from the front elevation, to be used as a double garage with living accommodation above.

3.5.5 Dwellings are varied in appearance but all retain similar identifiable characteristics to existing dwellings to which they closest relate and which they would be read against – ie. Moorthorpe Cottage, Moorthorpe and Belthorpe.

3.5.6 Plot sizes vary, with those closest to Moorthorpe Cottage at the northern end of the site benefitting from larger gardens than those towards the southern end of the site, arranged around the turning circle. Expanses of open space straddle the internal road, central to the site.

3.5.7 Boundary treatments are not clearly defined. Full details are, however, required via a condition attached to the outline permission, as are external materials, notwithstanding the submitted details. Detailed assessment of such will, therefore, be undertaken through a subsequent discharge of the condition process.

3.5.8 A heritage assessment has been undertaken by the Council's Heritage consultee, with reference to impacts arising on the nearby Grade II Listed Buildings – 'The Woodlands' and adjacent 'Greenhouse' Whitehall Park.

3.5.9 Notwithstanding assessment of the layout, at outline application stage, on the heritage assets, a further assessment is necessary with regard to the RM. Assessment finds that the proposal would meet the statutory test 'to preserve',

causing no discernible harm to the contribution made by the setting to the significance of the heritage assets. Therefore, no balancing exercise is required as, as explained by The Framework at para. 202.

3.5.10 The appearance of the development is found to be in accordance with the requirements of Policies 9, 11 and 39 of The Local Plan Part 2, the Residential Design Guide SPD, and The Framework.

3.5.11 Landscaping

Each of the dwellings will have lawned front and rear gardens with permeable block paved driveways and permeable patio areas. This is consistent with the layout approved at outline stage.

3.5.12 As shown on the submitted Tree Removal and Retention Plan, the removal of four trees, a woodland group and partial removal of another woodland group is proposed. Additional planting is proposed as part of the private road within the proposed road islands, adjacent to the roads and within the private gardens. A mix of species is proposed totalling 92 newly planted trees as shown on the proposed site plan. As requested by the Council's Arboriculture consultee, the extent of tree removal / retention is confirmed via submission of an additional drawing. Members are advised that the parameters of tree removal / retention was established at outline stage. The following is extracted from the Committee Report at that time, setting out the details:

Tree Survey and proposed Tree Removal Plan have been submitted in support of the application. The submission identifies proposed removal of 4no. individual trees within the site, identified as T31, T32, T33 and T34 on the Tree Removal Plan, a woodland group identified as G5 and partial removal of woodland group identified as G6. The submission has been peer reviewed by Urban Green, in the context that the principle of residential development is accepted, on account of the sites allocation. The review is summarised as follows:

It is considered that T31 (Grey Willow), detailed as a category C tree, is of low amenity value that should not constrain the development.

T32 (Sycamore) is detailed as a category A tree. This categorisation is, however, considered very generous and should be considered a category B, due to its impaired condition. Consequently, its retention beyond 40 years is unlikely. Moreover, it is accepted that the proposed highway infrastructure work would encroach within the Root Protection Area (RPA) of this tree to such an extent that retention would not be advisable.

T33 (Grey Willow), detailed as a category U tree displays significant decay. Its condition is such that it cannot realistically be retained in the context of the development.

T34 (Sycamore) is detailed as category B tree with potential to develop into a category A worthy of retention. It is recommended that, during construction work, the ground within the RPA should be excavated using

hand tools under supervision of an Arboricultural Consultant to assess the extent of the root proliferation, in order to inform a decision on retention or removal of the tree.

G5 is a mixed group of Lime, Oak, Beach, Horse Chestnut and Sycamore trees. The Lime trees are considered inconsistent with the nature and form of the rest of the woodland on the site. Moreover, removal of G5 would visually expose the Northern aspect of W3, which is a high quality natural and well-developed group. In this context, G5 should not constrain development.

The 'overstorey' trees within group G6 should be retained. The 'understorey' rhododendron and standing deadwood should not constrain development.

Any other suppressed, dying, diseased or dangerous trees should be removed.

- 3.5.13 Tree removal is addressed in further detail in the Inspector's appeal decision.
- 3.5.14 Notwithstanding the submitted detail, submission of a landscaping scheme will be secured via condition, to further consider planting of trees and shrubs, including species, locations and density.
- 3.5.15 Submission of an Arboricultural Method Statement and Tree Protection Plan is required via condition attached to the outline permission which will specify how retained trees will be protected during construction phase of the development.
- 3.5.16 Landscaping for the development is found to be in accordance with Policies 9, 11 and 40 of The Local Plan Part 2, the Residential Design Guide SPD, and The Framework.
- 3.5.17 Scale
Plots 1 and 9 would have a maximum width and depth of approximately 11.70m and a ridge height of approximately 7.2m.
- 3.5.18 Plots 2 and 8 would have a maximum width of approximately 12.1m, an approximate depth of approximately 8.1m and a ridge height of approximately 8.1m.
- 3.5.19 Plots 3 and 7 would have a maximum width of 11.75m, an approximate depth of 9m and a ridge height of approximately 8.84m.
- 3.5.20 Plots 4 and 6 would have a maximum width of 11.90m, an approximate depth 9m and a ridge height of approximately 8.50m.

- 3.5.21 Plot 5 would have a maximum width of approximately 15.90m, an approximate depth of 9.9m.
- 3.5.22 Proposed floor space for all dwellings would be in excess of the national minimum standard, as prescribed by the Nationally Described Space Standards.
- 3.5.23 Plots 1 and 9 are typical 2 storey scale houses, with accommodation provided over 2 floors. Plots 1, 3, 4, 5, 6, 7 and 8 include accommodation within the roof space and are considered to be 2.5 storey in scale.
- 3.5.24 Plots 1, 2, 4, 5, 6, 8 and 9 benefit from detached double garages measuring approximately 6.75m x 6.75m, in excess of the Council's adopted minimum garage size of 6m x 6m. Plots 3 and 7 do not have garages.
- 3.5.25 The scale of the proposed buildings appropriately respond to those local to the site, defined as large family homes. They are also proportionate to the wider application site and proposed individual plots sizes, which offer ample outdoor amenity space to service householder needs.
- 3.5.26 The scale of the development is found to be in accordance with Policies 8, 10, 11 and 40 of The Local Plan Part 2, the Residential Design Guide SPD, and The Framework.
- 3.5.27 Other Matters
In response to a query from the Council's Highway's consultee, the internal road is confirmed as remaining in private ownership, as established at outline stage, as a matter outside the scope of this assessment.
- 3.5.28 Receipt of an amended layout (received 30/1) provides for a modest repositioning of proposed dwellings, set within plots corresponding to those approved at outline stage. Any minor discrepancy between the position of dwellings indicatively shown on the approved site layout (at outline stage) and those indicated on the current site layout, arises as a consequence of specific house types being proposed with reference to their appearance and scale, as a RM.
- 3.5.29 The proposed site layout (shown above) includes an outline of the position of indicative houses on the original layout. It is important to recognise that the position of proposed houses are no closer to existing neighbouring dwellings, thereby ensuring a mutually acceptable relationship is maintained, with reference to privacy, outlook, dominance and daylight / sunlight admission.
- 3.5.30 Representations questioning the 'minor' nature of the application type have been received, suggesting that the scale of the RM proposal represents a 'major' application type. The application is, however, confirmed as falling outside the scope of a 'major', in accordance with the following definition taken from the Development Management Procedure Order 2015:

“major development” means development involving any one or more of the following—

(a) the winning and working of minerals or the use of land for mineral-working deposits;

(b) waste development;

(c) the provision of dwellinghouses where—

(i) the number of dwellinghouses to be provided is 10 or more; or

(ii) the development is to be carried out on a site having an area of 0.5 hectares or more and it is not known whether the development falls within sub-paragraph (c)(i);

(d) the provision of a building or buildings where the floor space to be created by the development is 1,000 square metres or more; or

(e) development carried out on a site having an area of 1 hectare or more.

3.5.31 This confirms that the application is not a ‘major’, notwithstanding that proposed floor space is in excess of 1000sqm, as the threshold is explicitly excluded for the ‘provision of dwellinghouses’.

3.5.32 Summary

This report assesses the RM planning application for land at Moorthorpe, Darwen. In considering the proposal, the necessary range of material considerations have been taken into account to inform a balanced recommendation that is considered to demonstrate compliance with the Local Development Plan and The Framework. Specifically, the development demonstrably:

- Enhances and reinforces the established character of the locality;
- appropriately responds to the sites topography and general landscape features;
- makes best use of existing connections, landmarks / views and the relationship of buildings to the street, and:
- presents a scale of development proportionate to the surroundings.

3.5.33 To re-iterate, the assessment has been undertaken in the context of residential development of the site for 9 dwellings, layout of the development, and access arrangements off the public highway, having previously been accepted under the outline planning permission.

4 RECOMMENDATION

4.1 Approve:

Delegated authority is given to the Strategic Director of Growth & Development to approve planning permission, subject to the following conditions:

1. Unless explicitly required by condition within this consent, the development hereby permitted shall be carried out in complete accordance with the proposal received 17th January 2021 and drawings numbered: *to be added*.

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

2. Prior to occupation of the development hereby approved, and notwithstanding the submitted details, a hard and soft landscaping scheme shall be submitted to and approved in writing by the Local Planning Authority. The scheme shall include details of native tree and shrub planting on site, in order to compensate for lost trees, local habitat and biodiversity, and hard surface treatment to proposed driveways and patios at each dwelling. Planting of trees and shrubs shall be implemented in accordance with the approved scheme, during the first available planting season after completion of the development. Trees and shrubs dying or becoming diseased, removed or being seriously damaged within five years of planting shall be replaced by trees and shrubs of similar size and species to those originally required to be planted during the first available planting season after the loss of the trees and / or shrubs. Hard surfaces shall be implemented in accordance with the approved scheme prior to occupation of the dwellings.

REASON: To ensure appropriate soft landscaping of the site, in the interests of visual amenity and ecology, in accordance with Policies 9 and 11 of the adopted Blackburn with Darwen Borough Council Local Plan Part 2.

5.0 PLANNING HISTORY

5.1 10/18/1153 - Outline planning application with all matters reserved except for access and layout for erection of 9 dwellings with detached garages. Approved on appeal 5/6/2020.

6.0 CONSULTATIONS

6.1 Public Protection
No objection.

6.2 Strategic Housing

No objection.

6.3 Arboriculture Officer

No objection.

Assessment:

I have considered the impact of the proposals with reference to the submitted AIA document.

With regard to Tree Removal and Retention Plan A3 1-1000 05.02.19 D6647.002 TEP plan.

The tree survey data as not been submitted with the reserved matters application, which is found in application 10/18/1153

I have therefore cross referenced to determine the impact on trees, as required to implement the agreed layout.

The tree cover identified G5 and G6 consists of mature trees, individually graded as B1 moderate.

The trees in G5 hatched area, appear to form part of W1 (grade A) and therefore a number of mature trees would be removed to accommodate the layout.

G5 includes approx. 28 notations for the positions of trees. This appears to include primarily mature trees which form part of the main body of W1.

G6 contains 3 notations within the hatched area for tree removal.

It appears approx. two thirds of W1 is not subject to the above TPO. Located from the rear of Dunkild House on Whitehall Road and to the east, to the rear of houses along Whitehall Road.

Location of services in not included with submission. If all services are to be located in along the access road then it appears there would be no conflict with tree cover.

Plot boundaries where they back onto woodland and trees have not been defined and it appears there is no fencing or boundary treatment where gardens adjoin woodland. Although the garden plots are mostly outside the application there could be issues associated with encroachment without a defined boundary.

It may be desirable to provide a landscape boundary for each property to provide screening and create enclosure with biodiversity benefits.

Appropriate landscaping could consist of native shrub and small tree planting.

Conclusions:

There is a lack of clarity as to how many trees are to be removed to accommodate the approved layout.

There is scope to provide landscape enhancements within each plot including boundaries.

Recommendation.

It would be desirable to seek clarification on tree removal.

A condition for landscaping provision.

6.4 Drainage (Lead Local Flood Authority)

No objection.

6.5 BwD Cleansing

No objection.

6.6 BwD Highways

No objection.

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

The proposal seeks Approval of Reserved Matters "Appearance, landscaping and scale" pursuant to outline planning application 10/18/1153 "the erection of 9 dwellings"

This application as far as we can establish does not propose any further amendment to highways, or changes to that which were approved under matters in relation to access. Clarification is however sought in relation to the adoption of the road, it is reported within the planning statement that the road is to remain private. If that is the case then the comments in relation to both pedestrian and layout below would be irrelevant.

The parking is adequately provided for.

Comments made at outline stage which are still relevant to this application are:

Access: *the access road leading from Park Road, leading up to the development, has been responded to as being a minimum of 4.2, which I would concur is sufficient to allow passage to two vehicles to pass one another. The concern is that the road was not intended for a greater number of houses, which this proposal will bring forward. There are no additional passing places, proposed to support the possibility of larger vehicles passing one another.*

Pedestrian safety: *to support this highway user we would request that a path is delineated from the highway along the access road, which would then connect to a full footway which should be provided to one side of the new access road within the red edge (please condition)*

Layout: *the internal access road should have a minimum 2m service verge around the full periphery of the new access road. This will form part of the adopted highway, but will be maintainable by each frontage. If the service verge is to only accommodate a street lighting column then the verge could be reduced to 800mm.*

Swept Path: *a tracking offering a 3 axle refuse vehicle has been offered, this is deemed acceptable, however we would suggest the tracking would benefit from the green triangle*

landscaping on either side of the first roundabout being removed, as this enable for the full highway to be utilised by the vehicle which will present for ease of manoeuvring

To conclude – in principle we would support the scheme. Subject to the above comments.

6.7 Heritage

No objection.

Assessment

I have reviewed the supporting documents, which include a Supporting Planning Statement, prepared by MacMarshalls Rural Chartered Surveyors & Planning Consultants, dated November 2022, proposed site plan, proposed plan plots, General Arrangements and Swept Paths Analysis and Tree removal/retention plan. I visited the site on 21 November 2022, to complete visual observations.

The key heritage issue for the LPA to consider under the Reserved Matters Application is:

1. Whether the proposal would harm the contribution made by the setting to the significance of the nearby Grade II listed buildings and park.

The Proposal

The application seeks the approval of Reserved Matters following the granting of planning permission on appeal (Ref: APP/M2372/W/19/3243411) dated 5th June 2020. The Reserved Matters include "Appearance, landscaping and scale" pursuant to outline planning application 10/18/1153 "the erection of 9 dwellings".

The proposed dwellings will be 2 and 2.5 storeys, containing 4 and 5 bedrooms, some with additional roof space, with the tallest buildings reaching a ridge height of 8.8m. Plots 1-4, 6 and 9 have front facing gables, whereas Plots 5, 7 and 8 have a projecting two-storey range, perpendicular from the front elevation, to be used as a double garage with living accommodation above.

The submission documents note that the proposed dwellings are to be finished in natural stone with stone lintels and cills, pitched roofs finished in Marley Riven slate effect tile. The proposed windows are to be Timberlook and cast style rainwater goods will be used.

In regards to landscaping, each of the dwellings will have lawned front and rear gardens with permeable block paved driveways. For the wider site, largely most of the boundary trees/woodland are to be retained, with a group of trees located centrally, and a band of woodland close to the southern boundary of the site being removed. In addition, newly planted trees (mix of species) are proposed, as well as planting at the road islands.

Impact on the Setting of the Listed Building

The issue from a heritage viewpoint is whether the proposal would harm the setting of the nearby Grade II Listed buildings and park, which should be regarded as being of high significance.

I note that in principle, the development has been accepted; the main focus of this assessment would largely be on the impact of the appearance, landscaping and scale details.

Historic England's advice on setting is contained in its Planning Note 3 (second edition) entitled *The Setting of Heritage Assets* (2017), which describes the setting as being the surrounding's in which a heritage asset is experienced and explains that this may be more extensive than its immediate curtilage and need not be confined to areas which have public access.

Mindful of the above guidance, on viewing the proposal site and completing map regression, it is evident that there is limited to no visual or historic connection of the site to the listed buildings and park. Largely, views from the proposal site to the range of listed buildings are screened by intervening mature trees and other extant structures.

From the northern end of the proposal site, looking northeast, the listed greenhouse, which is the closest listed building, cannot be viewed. Along the northern boundary, there is some glimpsed views of the listed 'Woodlands' through the autumn trees. Nevertheless, Plots 1 & 2 that will be located at the northern end of the site will likely be screened from view via the mature trees and the intervening Moorthorpe Cottage and Moorthorpe Grange. There are no views of the listed buildings and park located to the south, due to the intervening trees and dwellings and the separation provided by Whitehall Road.

Furthermore, I note that along the eastern and northern boundaries of 'Woodlands and the 'Greenhouse' is a modern housing development, which has already impacted upon and eroded slightly some of the significance of the listed buildings derived from the immediate setting.

In regards to the scale of the proposed dwellings, the properties that already surround the wider site are of a similar or larger size, particularly that of 'Woodlands'. In this context, the scale of the proposed dwellings in my view are appropriate.

To conclude, in the above context, it is my view that, there will be no discernible harm caused by the development to the contribution made by the setting to the significance of the nearby listed buildings and park.

Conclusion / recommendation

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.

I consider that, the proposal would meet the statutory test 'to preserve', causing no discernible harm to the contribution made by the setting to the significance of the nearby Grade II Listed buildings and park. 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.

6.8 Ecology

No comments offered. It should be noted that all ecological matters were considered at outline application stage.

6.9 United Utilities

No comments offered. It should be noted that all drainage / flood risk matters were considered at outline application stage.

6.10 Public Consultation

44 letters were posted to the local community on 28th October 2022. Site notices were also displayed and a press notice published. In response, 31 objections were received - see Summary of Representations (Section 9.0).

7.0 CONTACT OFFICER: Nick Blackledge – [Principal Planner].

8.0 DATE PREPARED: 6th February 2023.

9.0 SUMMARY OF REPRESENTATIONS:

Objection – Mr & Mrs Alker, Heatherfield Cottage, Whitehall Road, Darwen. Received: 11/11/2022.

Good Morning

Re: Planning Application 10/18/1153 and Letter reference 10/22/1002

We have received the above mentioned letter in regards to planning application 10/18/1153. Having looked at the map of the planned erection of 9 dwellings we would like to oppose the application for the following reasons:-

- * It would increase traffic on an already busy area of road which has cars regularly parked by walkers and visitors to the local park.
- * The noise and disturbance not only from the building of the dwellings but once built the increase in volume due to the new occupants.
- * The destruction of the woodland would have a huge impact on the wildlife, we are aware there are badgers setts in this area which are protected by the 'Protection of Badgers Act 1992' there are bats (also protected) deer and other wildlife that this would destroy the homes of.
- * Once work commences the risk of neighbouring houses being infested with rats/mice finding new homes would be a concern.
- * The loss of tree's in the area would be of a large scale and detrimental to the environment.

We hope our concerns are looked into accordingly.

Objection – Mr & Mrs Perricone, Werneth Brae, Whitehall Road, Darwen. Received: 14/11/2022.

Dear Sir/Madam

We would like to register our objection to the above application, on several points.

1 The proposed site layout far exceeds what was in the original Local Development Plan adopted in 2015, which describes the potential use under Policy 28 as *“a very small scale residential in the immediate vicinity of the existing dwelling, ensuring no loss of trees or woodland”*.

In fact, the above plan clearly indicates that over 40 trees will be impacted, of which many are native trees protected by a woodland TPO.

2 This woodland is a heaven for protected wildlife. The enclosed photograph was taken on 12/10/22 and document the unexpected visit of a badger on our land, which is directly adjacent to the woodland. This proves that the sett is “live”.

According to the Protection of badgers act 1992, in addition to direct injury to the animal, it is an offense to intentionally or recklessly destroy or damage access to a badger sett. In other words, the act clearly stipulates that interference with the animal habitat is against the law.

3 The above woodland is also home of many other wild animals, including deer, bats, hedgehogs, owls, and many other species of birds.

4 The proposed building site hosts carpets of bluebells, which are on display only during the spring season, as documented in the enclosed photo taken on 16/05/22. Bluebells are also protected under the wildlife and countryside Act 1981. To destroy the wild plant or the space attached to the plant itself is prohibited and it is unlawful.

5 Access onto and off the main straight driveway leading to Moorthorpe Cottage comes off a sharp corner from Ross Street. This corner represents a rather congested road, serving both Ashleigh school and parking for Aurora school. The main driveway has two stone gateposts, in front of which lies an area of protected trees.

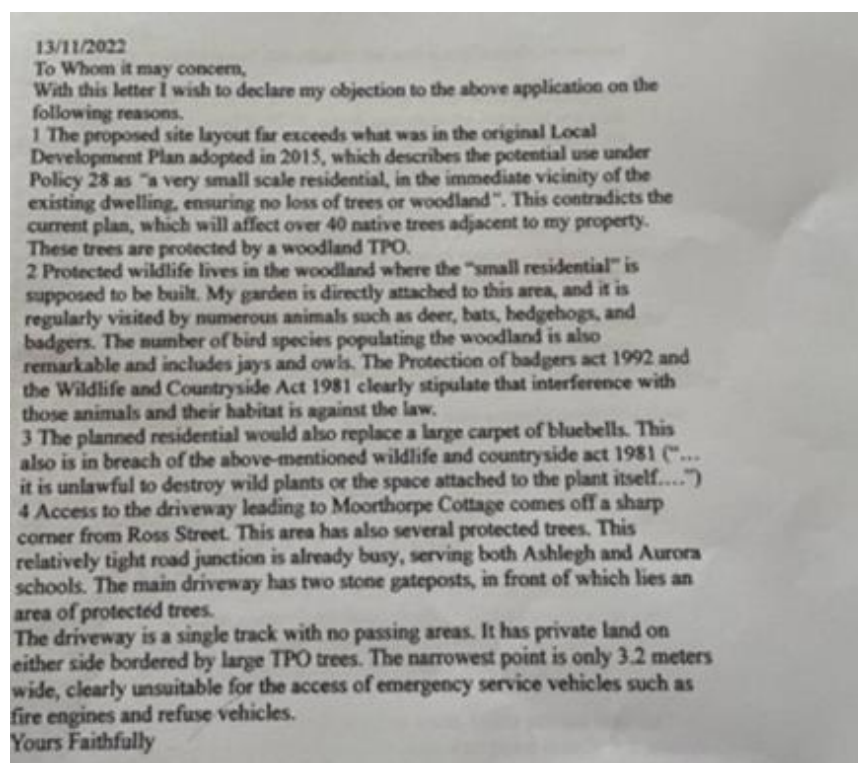
The driveway is a single track with no passing areas. It has private land on either side bordered by large TPO trees. The narrowest point is only 3.2 meters wide, clearly unsuitable for the access of emergency service vehicles such as fire engines and refuse vehicles.



Objection – Caroline Hodson, The Hollies, Whitehall Road, Darwen. Received: 14/11/2022.

I am writing to you to object to the above planning application. I am objecting because I am of the opinion that the application is of a disproportionately large scale for the area involved. I am concerned about the ecological impact of such a large development in that area. I am sure that the local wildlife will be negatively impacted upon. Moreover the loss of trees in a tree preservation area is of concern. Overall I am of the opinion that such a development will have a negative impact on the local area.

Objection – Dr D Duxbury, Inglewood, Whitehall Road, Darwen. Received: 15/11/2022.



13/11/2022
To Whom it may concern,
With this letter I wish to declare my objection to the above application on the following reasons.
1 The proposed site layout far exceeds what was in the original Local Development Plan adopted in 2015, which describes the potential use under Policy 28 as "a very small scale residential, in the immediate vicinity of the existing dwelling, ensuring no loss of trees or woodland". This contradicts the current plan, which will affect over 40 native trees adjacent to my property. These trees are protected by a woodland TPO.
2 Protected wildlife lives in the woodland where the "small residential" is supposed to be built. My garden is directly attached to this area, and it is regularly visited by numerous animals such as deer, bats, hedgehogs, and badgers. The number of bird species populating the woodland is also remarkable and includes jays and owls. The Protection of badgers act 1992 and the Wildlife and Countryside Act 1981 clearly stipulate that interference with those animals and their habitat is against the law.
3 The planned residential would also replace a large carpet of bluebells. This also is in breach of the above-mentioned wildlife and countryside act 1981 ("... it is unlawful to destroy wild plants or the space attached to the plant itself....")
4 Access to the driveway leading to Moorthorpe Cottage comes off a sharp corner from Ross Street. This area has also several protected trees. This relatively tight road junction is already busy, serving both Ashlegh and Aurora schools. The main driveway has two stone gateposts, in front of which lies an area of protected trees.
The driveway is a single track with no passing areas. It has private land on either side bordered by large TPO trees. The narrowest point is only 3.2 meters wide, clearly unsuitable for the access of emergency service vehicles such as fire engines and refuse vehicles.
Yours Faithfully

Objection – Chris Royle, Lee Hall, St Peters Avenue, Haslingden. Received: 15/11/2022.

I strongly object to this application for the following reasons.

Firstly the application for 9 dwellings 10/18/1153 far exceeds the scale of what was in the previous Local Development plan adopted in 2015 which describes the potential use under policy 28 as a "Very small scale residential in the immediate vicinity of the existing dwelling, ensuring no loss of trees or woodland " Yet according to the submitted landscaping plans over 40 trees will be removed ,most are mature trees and protected by a Woodland TPO. As far as I understand a tree preservation order is an order made by a local planning authority in England to protect specific trees ,groups of trees or Wood land in the Interest of the amenity .An order prohibits cutting down, topping, lopping, uprooting, willful damage ,willful destruction. Why then are you allowing this development to go ahead when all the trees including saplings, small bushes are all under a TPO.

I question why the local authority made the TPO in the first place because it appeared to you then to be expedient in the interest of amenity to make provision for the preservation of trees or woodland in the area and now you are happy to have 40 trees taken down in the woodland Whitehall Field. Orders should be used to protect woodlands if their removal would have a significant impact on the local environment and its enjoyment of the public. You assessed the amenity value when putting on the blanket TPO but now you are totally ignoring this Why ????. There are many other matters that refer to TPO and how they are applied and for what reason and I expect you are fully aware of these so I will move on.

The number of trees and hedgerows to be removed to make room for this development will not be replaced by the proposed planting of 8 Oak, 10 Hazel, 9 Cheery and 9 Rowan trees and several varieties of hedge.

In 2019 BwD planning voted to refuse the application and you concluded that "it was considered to represent a scale disproportionately large, taking into account the local context and transition with the countryside area and contrary to the requirements set out in the Local plan part 2. I vehemently object to the scale of this development -9 four and five bedroom houses all with garages is not small scale and this will result in not only losing mature trees which are vital for giving oxygen, storing carbon, stabilising soil and give life to the world's wildlife. Whitehall field is home to Bats, Badger sets that are over fifty years old and other forms of wild life.

Also the houses appear to have Dormer's across the rear of the properties which will be looking directly into the houses/gardens on White hall Road as well as the house at the top of Park Road Belthorpe which will be overlooked by one of the plots. Surely this is invasion of privacy .

I also approve of a more detailed set of objections to be sent out by the Whitehall Residents Against Green field Development Community group.

Objection – Derrick & Gillian Smethurst, Tudor Court, Whitehall Road, Darwen. Received: 15/11/2022.

Reference 10/22/1002

Reserved Matters Application

Proposal: Approval of Reserved Matters "Appearance, landscaping and scale" pursuant to outline planning application 10/18/1153 "the erection of 9 dwellings"

Location: Land adjoining Moorthorpe Cottage, Park Road, Darwen BB3 2LQ

I wish to object to this application on the following grounds.

The application for 9 dwellings 10/18/1153 far exceeds the scale of what was in the previous Local Development Plan adopted in 2015 which describes the potential use under policy 28 as "Very small scale residential in the immediate vicinity of the existing dwelling, ensuring no loss of trees or woodland".

According to the submitted landscaping plans over 40 trees will be felled, most are mature trees (100 year old +) and protected by a Woodland TPO. The tree removal and retention plan will be devastating for the immediate environment that provide a haven for badgers, deer, bats, hedgehogs, owls and many other species. The number of trees and hedgerows to be removed to make room for this development will not be replaced by the proposed planting of 8 oak, 10 hazel, 9 cherry and 9 rowan trees and several varieties of hedge – all of which stated to be less than 1.5m at the point of planting.

The BwD Planning Committee voted to refuse the application in 2019 and concluded that "it was considered to represent a scale disproportionately large, taking into account the local context, and

transition with the countryside area and contrary to the requirements set out in the Local Plan part 2.”

I object to the scale of this development – 9 four and five bedroom houses with garages resulting in the loss of many mature trees and inevitable suffering to wildlife in the loss of their habitat.

I also endorse the more detailed set of objections to be set out by the Whitehall Residents Against Greenfield Development community group

Objection – K.B Ainsworth & J.A Wright, Whitehall Road, Darwen. Received: 15/11/2022.

Dear Mr Blackledge,

I wish to lodge a strong objection to the above application on several grounds.

The application(10/18/1153) for 9 dwellings far exceeds the scale stated in the previous Local Development Plan adopted in 2015 describing the potential use under policy 28 as “very small scale residential in the immediate vicinity of the existing dwelling,ensuring no loss of trees or woodland”. According to submitted landscaping plans,over 40 trees will be felled,most being over 100 years old and under a Woodland TPO.Indeed,field evidence suggests an ancient woodland site; a characteristic indicator is abundant native Common Bluebell,not hybridised with aggressive Spanish Bluebell. This flower enjoys a degree of protection under strategy planning policy.The tree removal plan would be devastating for the immediate environment which provides a haven for badgers,deer,bats,hedgehogs,tawny owls,jays,a resident pair of crows,redpolls,song thrush,woodpeckers to name but a few.They would not survive major disturbance,noise and human activity.The proposed replanting of slow growing oak,hazel,cherry and rowan is no compensation at all.It is worth noting that the government’s National Planning Policy Framework asks that any development should “ deliver measurable improvement for wildlife”.

In 2019 the BwD Planning Committee voted to refuse the application,concluding that “it was considered to represent a scale disproportionately large,taking into account the local context,and transition with the countryside area contrary to the requirements set out in the Local Plan part 2. I object to the scale of this development of extremely large 4/5 bedroom houses with large detached garages.” Very small scale”? I think not.

It would result in the loss of so many mature trees and inevitable suffering to wildlife because of habitat loss.Surely that is something that we all should do our utmost to avoid.

Objection – Mark Taylor, Dunkeld House, Whitehall Road, Darwen. Received: 15/11/2022.

Reference 10/22/1002

Reserved Matters Application

Proposal: Approval of Reserved Matters “Appearance, landscaping and scale” pursuant to outline planning application 10/18/1153 “the erection of 9 dwellings”

Location: Land adjoining Moorthorpe Cottage, Park Road, Darwen BB3 2LQ

I wish to object to this application on the following grounds.

The application for 9 dwellings 10/18/1153 far exceeds the scale of what was in the previous Local Development Plan adopted in 2015 which describes the potential use under policy 28 as “ Very small scale residential in the immediate vicinity of the existing dwelling, ensuring no loss of trees or woodland”.

According to the submitted landscaping plans over 40 trees will be felled, most are mature trees (100 year old +) and protected by a Woodland TPO. The tree removal and retention plan will be devastating for the immediate environment that provide a haven for badgers, deer, bats, hedgehogs, owls and many other species. The number of trees and hedgerows to be removed to make room for this development will not be replaced by the proposed planting of 8 oak, 10 hazel, 9 cherry and 9 rowan trees and several varieties of hedge – all of which stated to be less than 1.5m at the point of planting.

The BwD Planning Committee voted to refuse the application in 2019 and concluded that "it was considered to represent a scale disproportionately large, taking into account the local context, and transition with the countryside area and contrary to the requirements set out in the Local Plan part 2."

I object to the scale of this development – 9 four and five bedroom houses with garages resulting in the loss of many mature trees and inevitable suffering to wildlife in the loss of their habitat.

I also endorse the more detailed set of objections to be set out by the Whitehall Residents Against Greenfield Development community group.

Objection – Elizabeth Jane Glynn & Brian Glynn, Montrose, Whitehall Road, Darwen. Received: 15/11/2022.

Proposal: Approval of Reserved Matters "Appearance, landscaping and scale" pursuant to outline planning application 10/18/1153 "the erection of 9 dwellings"

Location: Land adjoining Moorthorpe Cottage, Park Road, Darwen BB3 2LQ

I wish to object to this application on the following grounds.

The application for 9 dwellings 10/18/1153 far exceeds the scale of what was in the previous Local Development Plan adopted in 2015 which describes the potential use under policy 28 as

"Very small scale residential in the immediate vicinity of the existing dwelling, ensuring no loss of trees or woodland".

According to the submitted landscaping plans over 40 trees will be felled, most are mature trees (100 year old +) and protected by a Woodland TPO. The tree removal and retention plan will be devastating for the immediate environment that provide a haven for badgers, deer, bats, hedgehogs, owls and many other species. The number of trees and hedgerows to be removed to make room for this development will not be replaced by the proposed planting of 8 oak, 10 hazel, 9 cherry and 9 rowan trees and several varieties of hedge – all of which stated to be less than 1.5m at the point of planting.

The BwD Planning Committee voted to refuse the application in 2019 and concluded that "it was considered to represent a scale disproportionately large, taking into account the local context, and transition with the countryside area and contrary to the requirements set out in the Local Plan part 2."

I object to the scale of this development – 9 four and five bedroom houses with garages resulting in the loss of many mature trees and inevitable suffering to wildlife in the loss of their habitat.

I also endorse the more detailed set of objections to be set out by the Whitehall Residents Against Greenfield Development community group.

Objection – J & G Ashton, 12 Chestnut Grove, Darwen. Received: 15/11/2022.

Reference 10/22/1002

Reserved Matters Application

Proposal: Approval of Reserved Matters “Appearance, landscaping and scale” pursuant to outline planning application 10/18/1153 “the erection of 9 dwellings”

Location: Land adjoining Moorthorpe Cottage, Park Road, Darwen BB3 2LQ

I wish to object to this application on the following grounds.

The application for 9 dwellings 10/18/1153 far exceeds the scale of what was in the previous Local Development Plan adopted in 2015 which describes the potential use under policy 28 as “ Very small scale residential in the immediate vicinity of the existing dwelling, ensuring no loss of trees or woodland”.

According to the submitted landscaping plans over 40 trees will be felled, most are mature trees (100 year old +) and protected by a Woodland TPO. The tree removal and retention plan will be devastating for the immediate environment that provide a haven for badgers, deer, bats, hedgehogs, owls and many other species. The number of trees and hedgerows to be removed to make room for this development will not be replaced by the proposed planting of 8 oak, 10 hazel, 9 cherry and 9 rowan trees and several varieties of hedge – all of which stated to be less than 1.5m at the point of planting.

The BwD Planning Committee voted to refuse the application in 2019 and concluded that “it was considered to represent a scale disproportionately large, taking into account the local context, and transition with the countryside area and contrary to the requirements set out in the Local Plan part 2.”

I object to the scale of this development – 9 four and five bedroom houses with garages resulting in the loss of many mature trees and inevitable suffering to wildlife in the loss of their habitat.

I also endorse the more detailed set of objections to be set out by the Whitehall Residents Against Greenfield Development community group.

Objection – Colin Bolton, 2 Chestnut Grove, Darwen. Received: 15/11/2022.

Reference 10/22/1002

Reserved Matters Application

Proposal: Approval of Reserved Matters “Appearance, landscaping and scale” pursuant to outline planning application 10/18/1153 “the erection of 9 dwellings”

Location: Land adjoining Moorthorpe Cottage, Park Road, Darwen BB3 2LQ

I wish to object to this application on the following grounds.

The application for 9 dwellings 10/18/1153 far exceeds the scale of what was in the previous Local Development Plan adopted in 2015 which describes the potential use under policy 28 as “ Very small scale residential in the immediate vicinity of the existing dwelling, ensuring no loss of trees or woodland”.

According to the submitted landscaping plans over 40 trees will be felled, most are mature trees (100 year old +) and protected by a Woodland TPO. The tree removal and retention plan will be devastating for the immediate environment that provide a haven for badgers, deer, bats, hedgehogs, owls and many other species. The number of trees and hedgerows to be removed to make room for this development will not be replaced by the proposed planting of 8 oak, 10 hazel, 9 cherry and 9 rowan trees and several varieties of hedge – all of which stated to be less than 1.5m at the point of planting.

The BwD Planning Committee voted to refuse the application in 2019 and concluded that "it was considered to represent a scale disproportionately large, taking into account the local context, and transition with the countryside area and contrary to the requirements set out in the Local Plan part 2."

I object to the scale of this development – 9 four and five bedroom houses with garages resulting in the loss of many mature trees and inevitable suffering to wildlife in the loss of their habitat.

I also endorse the more detailed set of objections to be set out by the Whitehall Residents Against Greenfield Development community group.

Objection – Michael Burke, 1 Astley House, Whitehall Road, Darwen. Received: 15/11/2022.

Reference 10/22/1002

Reserved Matters Application

Proposal: Approval of Reserved Matters "Appearance, landscaping and scale" pursuant to outline planning application 10/18/1153 "the erection of 9 dwellings"

Location: Land adjoining Moorthorpe Cottage, Park Road, Darwen BB3 2LQ

I wish to object to this application on the following grounds.

The application for 9 dwellings 10/18/1153 far exceeds the scale of what was in the previous Local Development Plan adopted in 2015 which describes the potential use under policy 28 as "Very small scale residential in the immediate vicinity of the existing dwelling, ensuring no loss of trees or woodland".

According to the submitted landscaping plans over 40 trees will be felled, most are mature trees (100 year old +) and protected by a Woodland TPO. The tree removal and retention plan will be devastating for the immediate environment that provide a haven for badgers, deer, bats, hedgehogs, owls and many other species. The number of trees and hedgerows to be removed to make room for this development will not be replaced by the proposed planting of 8 oak, 10 hazel, 9 cherry and 9 rowan trees and several varieties of hedge – all of which stated to be less than 1.5m at the point of planting.

It would be fair to assume the proposed 9 houses with 4/5 bedrooms will have an average of three or even four vehicles each, add to these the other traffic you would get with this amount of houses makes the proposed development even more preposterous not only in the initial stages but the long term ones

The BwD Planning Committee voted to refuse the application in 2019 and concluded that "it was considered to represent a scale disproportionately large, taking into account the local context, and transition with the countryside area and contrary to the requirements set out in the Local Plan part 2."

I object to the scale of this development – 9 four and five bedroom houses with garages resulting in the loss of many mature trees and inevitable suffering to wildlife in the loss of their habitat.

I also endorse the more detailed set of objections to be set out by the Whitehall Residents against Greenfield Development community group.

Objection – Robert Gordon Helliwell, The Beeches, 9 Queens Road, Darwen. Received: 15/11/2022.

RE:-

Reserved Matters Application

Proposal: Approval of Reserved Matters “Appearance, landscaping and scale” pursuant to outline planning application 10/18/1153 “erection of 9 dwellings”

Location: Land adjoining Moorthorpe Cottage, Park Road, Darwen, BB3 2LQ

I wish to object in the strongest possible terms to the above Application as the land in question is one of the few “green lungs” of the Park Road Area. The trees thereon are protected by your own imposed. Woodland TPO. The TPO is there for a reason and should be sacred and untouchable. It may have escaped your notice that there are something like 40 trees in that area, most of which are 100+ year old Beech and it would be totally inappropriate to destroy even one of them. The area has become a refuge for wildlife in general and to sweep it all away by building 9 large houses would be rural vandalism. At a time when our World Leaders are meeting to try to tackle Climate Change you should be pulling out all the stops to enhance our green belt land and should not be destroying it for the private greed of Developers. I am fully aware of the need for Social Housing and also Starter Homes and the building of those should be the focus of your attention, not the destruction of the countryside for the type of housing that does nothing to address this countries housing needs.

I also object on the grounds of increased traffic on streets that are busy enough already. Access from the A666 to the proposed development would be by way of Queens Road, Park Road or Ashleigh Street. These are streets of terraced houses that lack garaging for vehicles so residents park their cars outside their houses, sometimes on both sides, making access difficult. The building of more houses would add to the problem and increase pollution and reduce air quality.

I sincerely hope that common sense will prevail and that you will refuse permission for any Development whatsoever on this site.

Objection – Mr & Mrs A Molloy, Whinfield, Whitehall Road, Darwen. Received: 16/11/2022.

I wish to object to this application on the following grounds.

The application for 9 dwellings 10/18/1153 far exceeds the scale of what was in the previous Local Development Plan adopted in 2015 which describes the potential use under policy 28 as "Very small scale residential in the immediate vicinity of the existing dwelling, ensuring no loss of trees or woodland".

According to the submitted landscaping plans over 40 trees will be felled, most are mature trees (100 year old+) and protected by a Woodland TPO. The tree removal and retention plan will be devastating for the immediate environment that provide a haven for badgers, deer, bats, hedgehogs, owls and many other species. The number of trees and hedgerows to be removed to make room for this development will not be replaced by the proposed planting of 8 oak, 10 hazel, 9 cherry and 9 rowan trees and several varieties of hedge – all of which stated to be less than 1.5m at the point of planting.

The BwD Planning Committee voted to refuse the application in 2019 and concluded that "it considered to represent a scale disproportionately large, taking into account the local context, and transition with the countryside area and contrary to the requirements set out in the Local Plan part 2."

I object to the scale of this development – 9 four and five bedroom houses with garages resulting in the loss of many mature trees and inevitable suffering to wildlife in the loss of the habitat.

The road from the proposed development emerges onto an area that is very restricted by an island with trees and a grassed section facing directly in front and close to the gate (5 yards).

There is also the danger especially in the mornings and early evening when the school (approx. 50 yards away) starts and finishes. There is a constant battle with traffic dropping and picking up children with many incidents of children being subject to near misses. I would suggest that the increase in traffic resulting from this development will escalate the chances of a major injury or even death of a child.

Objection – Mr & Mrs M Molloy, Eden Lee, Park Road, Darwen. Received: 16/11/2022.

Re: 10/22/1002 –

Reserved Matters Application

Proposal: Approval of Reserved Matters "Appearance, landscaping and scale" pursuant to outline planning application 10/18/1153 "the erection of 9 dwellings"

Location: Land adjoining Moorthorpe Cottage, Park Road, Darwen BB3 2LQ

I wish to object to this application on the following grounds:

The application for 9 dwellings 10/18/1153 far exceeds the scale of what was in the previous Local Development Plan adopted in 2015 which describes the potential use under policy 28 as "Very small scale residential in the immediate vicinity of the existing dwelling, ensuring no loss of trees or woodland".

According to the submitted landscaping plans over 40 trees will be felled, most are mature trees (100 year old+) and protected by a Woodland TPO. The tree removal and retention plan will be devastating for the immediate environment that provide a haven for badgers, deer, bats, hedgehogs, owls, and many other species. The number of trees and hedgerows to be removed to make room for this development will not be replaced by the proposed planting of 8 oak, 10 hazel, 9

cherry and 9 rowan trees and several varieties of hedge – all of which stated to be less than 1.5m at the point of planting.

The BwD Planning Committee voted to refuse the application in 2019 and concluded that “it considered to represent a scale disproportionately large, taking into account the local context, and transition with the countryside area and contrary to the requirements set out in the Local Plan part 2.”

I object to the scale of this development – 9 four and five bedroom houses with garages resulting in the loss of many mature trees and inevitable suffering to wildlife in the loss of the habitat.

The road from the proposed development emerges onto an area that is very restricted by an island with trees and a grassed section facing directly in front and close to the gate (5 yards). There is also the danger especially in the mornings and early evening when the school (approx. 50 yards away) starts and finishes. There is a constant battle with traffic dropping and picking up children with many incidents of children being subject to near misses. I would suggest that the increase in traffic resulting from this development will escalate the chances of a major injury or even death of a child.

Objection – Mrs Lynda Ahmed, 14 Chestnut Grove, Darwen. Received: 16/11/2022.

Planning application 10/22/1002

Approval of Reserved matters...Appearance ,landscaping and scale Pursuant to outline planning application 10/18/1153 erection of 9 dwellings on land adjoining Moorthorpe Cottage Park Rd Bb32LQ

I wish to object in the strongest form to this application for the following reasons

Landscaping...9 large detached houses plus garages will be detrimental to the wildlife especially the badgers whom roam around the area freely under the cover of trees and bushes ...the set is only meters away from a newly built house, and go across onto Whitehall rd and chestnut grove regularly ...this set has been active for over 40yrs and is regularly checked on and photographed. The loss of the many mature trees and bushes will lead to loss of their habits and habitat .

In 2019 this was considered to be ,by the planning committee,disproportionately large scale and was refused ...the scale of this development appears to be contrary to the requirements set out in the local plan part 2 The appearance of the proposed houses are certainly not in keeping with the older houses in the vicinity...the stone is of a grey appearance no slate roof and no additional decorated stonework as the older houses have ...this is certainly not in the character of the area .It would appear on the plans the some of the houses are “3 story’s “ leading inevitably to loss of privacy to already established dwellings

I also endorse the more detailed set of objections to be set out by the Whitehall Residents Against Greenfield Development community group .

Objection – Immy Deshmukh, Whitehall, Park Road, Darwen. Received: 16/11/2022.

Reserved Matters Application

Proposal: Approval of Reserved Matters “Appearance, landscaping and scale” pursuant to outline planning application 10/18/1153 “the erection of 9 dwellings”

Location: Land adjoining Moorthorpe Cottage, Park Road, Darwen BB3 2LQ

I wish to object to this application on the following grounds.

The application for 9 dwellings 10/18/1153 far exceeds the scale of what was in the previous Local Development Plan adopted in 2015 which describes the potential use under policy 28 as

“ Very small scale residential in the immediate vicinity of the existing dwelling, ensuring no loss of trees or woodland” .

According to the submitted landscaping plans over 40 trees will be felled, most are mature trees (100 year old +) and protected by a Woodland TPO. The tree removal and retention plan will be devastating for the immediate environment that provide a haven for badgers, deer, bats, hedgehogs, owls and many other species. The number of trees and hedgerows to be removed to make room for this development will not be replaced by the proposed planting of 8 oak, 10 hazel, 9 cherry and 9 rowan trees and several varieties of hedge – all of which stated to be less than 1.5m at the point of planting.

The BwD Planning Committee voted to refuse the application in 2019 and concluded that “it was considered to represent a scale disproportionately large, taking into account the local context, and transition with the countryside area and contrary to the requirements set out in the Local Plan part 2.”

I object to the scale of this development – 9 four and five bedroom houses with garages resulting in the loss of many mature trees and inevitable suffering to wildlife in the loss of their habitat.

I also endorse the more detailed set of objections to be set out by the Whitehall Residents Against Greenfield Development community group.

Objection – James Wilson, Woodlands Lodge, Park Road, Darwen. Received: 16/11/2022.

Reference 10/22/1002

Reserved Matters Application

Proposal: Approval of Reserved Matters “Appearance, landscaping and scale” pursuant to outline planning application 10/18/1153 “the erection of 9 dwellings”

Location: Land adjoining Moorthorpe Cottage, Park Road, Darwen BB3 2LQ

I wish to object to this application on the following grounds.

The application for 9 dwellings 10/18/1153 far exceeds the scale of what was in the previous Local Development Plan adopted in 2015 which describes the potential use under policy 28 as

“ Very small scale residential in the immediate vicinity of the existing dwelling, ensuring no loss of trees or woodland”.

According to the submitted landscaping plans over 40 trees will be felled, most are mature trees (100 year old +) and protected by a Woodland TPO. The tree removal and retention plan will be devastating for the immediate environment that provide a haven for badgers, deer, bats, hedgehogs, owls and many other species. The number of trees and hedgerows to be removed to make room for this development will not be replaced by the proposed planting of 8 oak, 10 hazel, 9 cherry and 9 rowan trees and several varieties of hedge – all of which stated to be less than 1.5m at the point of planting.

The BwD Planning Committee voted to refuse the application in 2019 and concluded that “it was considered to represent a scale disproportionately large, taking into account the local context, and transition with the countryside area and contrary to the requirements set out in the Local Plan part 2.”

I object to the scale of this development – 9 four and five bedroom houses with garages resulting in the loss of many mature trees and inevitable suffering to wildlife in the loss of their habitat. Furthermore, this development, if approved, will lead to increased traffic, noise levels and vibration due to heavy vehicle movement on Moorthorpe Drive (private road) to the side of our own property.

I also endorse the more detailed set of objections to be set out by the Whitehall Residents Against Greenfield Development community group.

Objection – Adam Starbuck, Belthorpe, Park Road, Darwen. Received: 17/11/2022.

Reference 10/22/1002

Reserved Matters Application

Proposal: Approval of Reserved Matters “Appearance, landscaping and scale” pursuant to outline planning application 10/18/1153 “the erection of 9 dwellings”

Location: Land adjoining Moorthorpe Cottage, Park Road, Darwen BB3 2LQ

I wish to object to this application on the following grounds.

The application for 9 dwellings 10/18/1153 far exceeds the scale of what was in the previous Local Development Plan adopted in 2015 which describes the potential use under policy 28 as

“ Very small scale residential in the immediate vicinity of the existing dwelling, ensuring no loss of trees or woodland”.

According to the submitted landscaping plans over 40 trees will be felled, most are mature trees (100 year old +) and protected by a Woodland TPO. The tree removal and retention plan will be devastating for the immediate environment that provide a haven for badgers, deer, bats, hedgehogs, owls and many other species. The number of trees and hedgerows to be removed to make room for this development will not be replaced by the proposed planting of 8 oak, 10 hazel, 9

cherry and 9 rowan trees and several varieties of hedge – all of which stated to be less than 1.5m at the point of planting.

The BWD Planning Committee voted to refuse the application in 2019 and concluded that "it was considered to represent a scale disproportionately large, taking into account the local context, and transition with the countryside area and contrary to the requirements set out in the Local Plan part 2."

I object to the scale of this development – 9 four and five bedroom houses with garages resulting in the loss of many mature trees and inevitable suffering to wildlife in the loss of their habitat.

I also endorse the more detailed set of objections to be set out by the Whitehall Residents Against Greenfield Development community group.

Objection – Dean & Jennifer Squalch, 1 Queens Road, Darwen. Received: 17/11/2022.

Reserved Matters Application

Proposal: Approval of Reserved Matters "Appearance landscaping and scale" pursuant to outline planning application 10/18/1153 "the erection of 9 dwellings"

Location: Land adjoining Moorthorpe Cottage, Park Road, Darwen BB3 2LQ

I wish to object to this application on the following grounds.

The application for 9 dwellings 10/18/1153 far exceeds the scale of what was in the previous Local Development Plan adopted in 2015 which describes the potential use under policy 28 as "Very small scale residential in the immediate vicinity of the existing dwelling, ensuring no loss of trees or woodland".

According to the submitted landscaping plans over 40 trees will be felled, most are mature trees (100 years old +) and protected by a Woodland TPO. The tree removal and retention plan will be devastating for the immediate environment that provide a haven for badgers, deer, bats, hedgehogs, owls and many other creatures. The number of trees and hedgerows to be removed to make way for this development will not be replaced by the proposed planting of 8 oak, 10 hazel, 9 cherry and 9 rowan trees and several varieties of hedge- all of which stated to be less than 1.5m at the point of planting.

The BWD Planning Committee voted to refuse the application in 2019 and concluded that "it was considered to represent a scale disproportionately large, taking into account the local context, and transition with the countryside area and contrary to the requirements set out in in the Local Plan part 2."

I object to the scale of this development-9 four and five bedroom houses with garages resulting in the loss of many mature trees and inevitable suffering to wildlife in the loss of their habitat.

Access is also a problem, the roads are not big enough for construction traffic and there is also already an issue with cars parking on the bend at the top of Park Road (outside the vicarage) which is an accident waiting to happen .

Objection – Robert & Victoria Eyre, Parkland, Whitehall Road, Darwen. Received: 17/11/2022.

Reserved Matters Application

Proposal: Approval of Reserved Matters "Appearance, landscaping and scale" pursuant to outline planning application 10/18/1153 "the erection of 9 dwellings"

Location: Land adjoining Moorthorpe Cottage, Park Road, Darwen BB3 2LQ

I wish to object once again to this application on the following grounds.

The application for 9 dwellings 10/18/1153 far exceeds the scale of what was in the previous Local Development Plan adopted in 2015 which describes the potential use under policy 28 as "Very small scale residential in the immediate vicinity of the existing dwelling, ensuring no loss of trees or woodland".

We purchased the property Parkland on Whitehall Road in October 2016, this purchase was based on the comfort that we would never be overlooked due to Whitehall park being in front of us to the south and the woodland at the back of us to the north. There was no information on the return of searches from our solicitors which suggested this land to the rear of us could be built on. The development provisional plan completely breaks up what is a natural habitat for all kinds of wildlife species.

This proposed development will clearly cause loss of privacy as the proposed houses will be in line with the end of our back garden and in the winter months when the leaves are shed visibility to our back garden and vice versa will be present.

Light pollution to the rear of our property may also be an issue throughout the winter months

It appears for the character of the area at present that the developer is trying to maximise the number of houses on the land without any thought for appearance, disturbance and the wildlife which lives there.

The development looks completely out of keeping when compared to the existing houses on Whitehall Road and Chesnut Grove.

The woodland is awash with bats, owls and deer to name but a few, to put a housing development in the middle of this will only have a negative effect on this wildlife, it will take the shelter away from the deer in Winter, it will create more artificial light at night which will have a negative effect on owls and bats and it will no doubt take the roosting areas away from bats which are ever present in woods.

Reading through the, 'Moorthorpe Cottage Tree Survey and Constraints report' it clearly states in section 3.8 that all trees are subject to a Tree Preservation order within the proposed development, yet further down in the document in section 5.17 it states the area of trees Group G5 could be a candidate for removal, how is this when these trees are clearly covered by a TPO?

There is a fear that the narrow woodland (W3 and G5 Drawing 1 Tree Constraints plan) between the rear of our property and the open grass land in the proposed development will be compromised and possible trees felled which shouldn't be as they are covered by a TPO. This will have a negative effect on the general surroundings of Whitehall road and the surrounding existing properties as it is the trees and park which make the area so beautiful.

In summary the objection to the proposed development is;

- Out of keeping with surrounding land, buildings and properties
- It will have an adverse effect on all sorts of wildlife and plant life
- It will affect the privacy and will overlook residents on Whitehall road
- The developer will inevitably remove trees which are protected under the TPO in areas around the perimeter of the proposed development
- It will cause light and noise pollution to the area

We believe a housing development in the middle of a wood on the edge of Darwen Moors is not something which should be approved and would be irresponsible to do so, due to the points made above,

The BwD Planning Committee voted to refuse the application in 2019 and concluded that "it was considered to represent a scale disproportionately large, taking into account the local context, and transition with the countryside area and contrary to the requirements set out in the Local Plan part 2."

I object to the scale of this development – 9 four and five bedroom houses with garages resulting in the loss of many mature trees and inevitable suffering to wildlife in the loss of their habitat.

I also endorse the more detailed set of objections to be set out by the Whitehall Residents Against Greenfield Development community group.

Objection – Joyce Dunderdale, Balcary, Whitehall Road, Darwen. Received: 17/11/2022.

Reference 10/22/1002

Reserved Matters Application

Proposal: Approval of Reserved Matters "Appearance, landscaping and scale" pursuant to outline planning application 10/18/1153 "the erection of 9 dwellings"

Location: Land adjoining Moorthorpe Cottage, Park Road, Darwen BB3 2LQ

I wish to object to this application on the following grounds.

The application for 9 dwellings 10/18/1153 far exceeds the scale of what was in the previous Local Development Plan adopted in 2015 which describes the potential use under policy 28 as

"Very small scale residential in the immediate vicinity of the existing dwelling, ensuring no loss of trees or woodland".

According to the submitted landscaping plans over 40 trees will be felled, most are mature trees (100 year old +) and protected by a Woodland TPO. The tree removal and retention plan will be devastating for the immediate environment that provide a haven for badgers, deer, bats, hedgehogs, owls and many other species. The number of trees and hedgerows to be removed to make room for this development will not be replaced by the proposed planting of 8 oak, 10 hazel, 9 cherry and 9 rowan trees and several varieties of hedge – all of which stated to be less than 1.5m at the point of planting.

The BwD Planning Committee voted to refuse the application in 2019 and concluded that "it was considered to represent a scale disproportionately large, taking into account the local context, and transition with the countryside area and contrary to the requirements set out in the Local Plan part 2."

I object to the scale of this development – 9 four and five bedroom houses with garages resulting in the loss of many mature trees and inevitable suffering to wildlife in the loss of their habitat.

I also endorse the more detailed set of objections to be set out by the Whitehall Residents Against Greenfield Development community group.

Objection – Diane Hartley & Martin Neild, 8 Chestnut Grove, Darwen. Received: 18/11/2022.

Reference 10/22/1002

Reserved Matters Application

Proposal: Approval of Reserved Matters "Appearance, landscaping and scale" pursuant to outline planning application 10/18/1153 "the erection of 9 dwellings"

Location: Land adjoining Moorthorpe Cottage, Park Road, Darwen BB3 2LQ

Dear Mr Prescott,

I wish to object to this application on the following grounds.

The application for 9 dwellings 10/18/1153 far exceeds the scale of what was in the previous Local Development Plan adopted in 2015 which describes the potential use under policy 28 as

"Very small scale residential in the immediate vicinity of the existing dwelling, ensuring no loss of trees or woodland".

According to the submitted landscaping plans over 40 trees will be felled, most are mature trees (100 year old +) and protected by a Woodland TPO. The tree removal and retention plan will be devastating for the immediate environment that provide a haven for badgers, deer, bats, hedgehogs, owls and many other species. The number of trees and hedgerows to be removed to make room for this development will not be replaced by the proposed planting of 8 oak, 10 hazel, 9 cherry and 9 rowan trees and several varieties of hedge – all of which stated to be less than 1.5m at the point of planting.

The BwD Planning Committee voted to refuse the application in 2019 and concluded that "it was considered to represent a scale disproportionately large, taking into account the local context, and transition with the countryside area and contrary to the requirements set out in the Local Plan part 2."

I object to the scale of this development – 9 four and five bedroom houses with garages resulting in the loss of many mature trees and inevitable suffering to wildlife in the loss of their habitat.

I also endorse the more detailed set of objections to be set out by the Whitehall Residents Against Greenfield Development community group.

Objection – Robert Royle. Received: 18/11/2022.

Re Planning Application 10/22/1002 Reserved Matters

I strongly object to this application for the following reasons.

The application for 9 dwellings 10/18/1153 far exceeds the scale of what was in the previous Local Development plan adopted in 2015 which describes the potential use under policy 28 as a “Very small scale residential in the immediate vicinity of the existing dwelling, ensuring no loss of trees or woodland “ Yet according to the submitted landscaping plans over 40 trees will be removed ,most are mature trees and protected by a Woodland TPO.

The landscaping plans show that over 40 trees will be felled, most are mature trees yet the number of trees and hedgerows to be removed to make room for this development will not be replaced by the proposed planting of 8 Oak, 10 Hazel ,9 Cheery and 9 Rowan trees and several varieties of hedge. The removal of these trees and retention plan will be a terrible loss for the immediate environment that now provides a haven for badgers, deer, bats ,hedgehogs, owls and many other species and the loss of trees which are vital for giving oxygen, and storing carbon comes at a time when keeping trees is vital to the climate .

In 2019 BwD planning voted to refuse the application and you concluded that “it was considered to represent a scale disproportionately large ,taking into account the local context and transition with the countryside area and contrary to the requirements set out in the Local plan part 2. I vehemently object to the scale of this development -9 four and five bedroom houses all with garages is not small scale.

I also approve of a more detailed set of objections to be sent out by the Whitehall Residents Against Green field Development Community group.

Objection – Michael Kelly, Woodbine Cottage, Queens Road, Darwen. Received: 18/11/2022.

Reference 10/22/1002

Reserved Matters Application

Proposal: Approval of Reserved Matters “Appearance, landscaping and scale” pursuant to outline planning application 10/18/1153 “the erection of 9 dwellings”

Location: Land adjoining Moorthorpe Cottage, Park Road, Darwen BB3 2LQ

I wish to object to this application on the following grounds.

The application for 9 dwellings 10/18/1153 far exceeds the scale of what was in the previous Local Development Plan adopted in 2015 which describes the potential use under policy 28 as “ Very small scale residential in the immediate vicinity of the existing dwelling, ensuring no loss of trees or woodland” .

According to the submitted landscaping plans over 40 trees will be felled, most are mature trees (100 year old +) and protected by a Woodland TPO. The tree removal and retention plan will be devastating for the immediate environment that provide a haven for badgers, deer, bats, hedgehogs, owls and many other species. The number of trees and hedgerows to be removed to make room for this development will not be replaced by the proposed planting of 8 oak, 10 hazel, 9 cherry and 9 rowan trees and several varieties of hedge – all of which stated to be less than 1.5m at the point of planting.

The BwD Planning Committee voted to refuse the application in 2019 and concluded that “it was considered to represent a scale disproportionately large, taking into account the local context, and

transition with the countryside area and contrary to the requirements set out in the Local Plan part 2.”

I object to the scale of this development – 9 four and five bedroom houses with garages resulting in the loss of many mature trees and inevitable suffering to wildlife in the loss of their habitat.

I also endorse the more detailed set of objections to be set out by the Whitehall Residents Against Greenfield Development community group.

Objection – Tim & Sarah Squelch, 1b Queens Road, Darwen. Received: 18/11/2022.

Reserved Matters Application

Proposal: Approval of Reserved Matters “Appearance, landscaping and scale” pursuant to outline planning application 10/18/1153 “the erection of 9 dwellings”

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I object to the scale of this development – 9 four and five bedroom houses with garages resulting in the loss of many mature trees and inevitable suffering to wildlife in the loss of their habitat.

I also endorse the more detailed set of objections to be set out by the Whitehall Residents Against Greenfield Development community group.

Objection – Mr S.C. Starbuck, Belthorpe, Park Road, Darwen. Received: 18/11/2022.

Reference 10/22/1002

Reserved Matters Application

Proposal: Approval of Reserved Matters “Appearance, landscaping and scale” pursuant to outline planning application 10/18/1153 “the erection of 9 dwellings”

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I object to the scale of this development – 9 four and five bedroom houses with garages resulting in the loss of many mature trees and inevitable suffering to wildlife in the loss of their habitat.

I also endorse the more detailed set of objections to be set out by the Whitehall Residents Against Greenfield Development community group.

Objection – Tom Keetch, Moorthorpe House, Park Road, Darwen. Received: 18/11/2022.

Reserved Matters Application

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I object to the scale of this development – 9 four and five bedroom houses with garages resulting in the loss of many mature trees and inevitable suffering to wildlife in the loss of their habitat.

I also endorse the more detailed set of objections to be set out by the Whitehall Residents Against Greenfield Development community group.

Objection – Kathryn Tormay, Rothburgh, Whitehall Road, Darwen. Received: 18/11/2022.

Reserved Matters Application

Proposal: Approval of Reserved Matters “Appearance, landscaping and scale” pursuant to outline planning application 10/18/1153 “the erection of 9 dwellings”

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The BwD Planning Committee voted to refuse the application in 2019 and concluded that "it was considered to represent a scale disproportionately large, taking into account the local context, and transition with the countryside area and contrary to the requirements set out in the Local Plan part 2."

I object to the scale of this development – 9 four and five bedroom houses with garages resulting in the loss of many mature trees and inevitable suffering to wildlife in the loss of their habitat.

I also endorse the more detailed set of objections to be set out by the Whitehall Residents Against Greenfield Development community group.

Objection – Clare Starbuck, 32 Cyprus Street, Darwen. Received: 18/11/2022.

Objection to Planning Application Ref 10/22/1002

1 Summary

1.1 This objection is on behalf of Whitehall Residents Against Greenfield Development, an unincorporated residents group of over 60 members in the areas immediately surrounding the development site and access route.

1.2 We wish to register our objection to application 10/22/1002 on the reserved matters of scale, landscaping, and appearance, but also a failure of the application to abide by the schedule of conditions set out in the appeal decision (APP/M2372/W/19/3243411).

1.3 There is a separate map and photo supplement to support these objections: "10_22_1002-WRAGD_Supplement.pdf".

2 Breach of Appeal Conditions

2.1 In the schedule of conditions set at appeal, condition #4 states (emphasis in bold added):

"The development hereby permitted shall be carried out in accordance with the following approved plans: Nos. C3697-1 Site Plan; LP-01 Rev B Location Plan; 17-116 SK01(t)-B Sketch Layout; 17-116 SK01(T)-C Curtilages; D6647.002 Tree Removal and Retention Plan; 18167 Measurements and SCP/18167/ATR01 Rev A General Arrangement and Swept Path Analysis but only in respect of those matters not reserved for later approval."

2.2 However, layout is not a reserved matter for this application, and therefore an attempt to change the layout conflicts with the conditions of the appeal and the matter should be dealt with by a full planning application instead of a reserved matters application.

2.3 The layout has clearly changed, the C3697-1 Site Plan is no longer included in this application and is replaced by Proposed Site Plan (MC-001). The new layout is materially different in the following ways:

- 4 of the 8 garages are attached instead of detached
- Orientation and position of the houses have changed
- Footprint shape of houses has changed
- Garages have increased in size
- Distances between properties within the development site have changed
- Distances from properties outside the development site have changed.
- Plot numbering has changed
- Plots 3 & 7 on the original site plan (C3697-1) do not have garages, but one of these plots now has a garage on the new layout (MC-001)

2.4 A 9th Garage is not shown on the site plan (MC-001) despite the outline planning approval for 9 detached garages. This is an inconsistency that should be clarified.

2.5 These changes are so significant as to being in our opinion worthy of a new full planning application. A side-by-side comparison of the site plans is included in Part A of the supplement.

3 Reserved Matter: Landscaping

3.1 The development site is a locally important habitat that should be protected by Core Strategy policies CS13 and CS15. This is reflected in the 2015 Local Development Plan which states that development must be *"in the immediate vicinity of the existing dwelling, ensuring no loss of trees or woodland"*.

3.2 The development site is also covered by a Woodland TPO (Whitehall TPO, 2003). A decision to allow the felling of protected trees for a housing development may set a precedent to allow additional trees to be felled in the area significantly impacting the amenity value of trees in the area. Any replacement trees will take decades before they can match some of the felled trees in terms of habitat value, size and appearance.

3.3 The current landscaping proposal (D6647.002) is based upon an outdated tree survey produced in September 2018, over four years ago and more than the 12 months such a survey is normally valid for. Since the tree survey was conducted, a number of trees on and adjacent to the site have fallen due to storm damage, been felled or permission for felling given. For example:

- 3 trees in group W3, in the vicinity of T30.
- A large Ash tree at Belthorpe, close to groups G5 and G6 which was affected by Ash dieback.
- 3 trees at Moorthorpe House, 1 of which has been removed, 2 of which are awaiting removal, as approved by (10/22/0302).

3.4 Whilst not necessarily an issue of planning, the tree removal plan appears to include the removal of hedgerows on the verges of the access road which belong to Moorthorpe Grange, Belthorpe and Moorthorpe House, for which consent has not been granted. The landscaping plan should clarify which landscaping is expected of land not owned by the applicant or exclude it from the application.

3.5 In addition, the landscaping plan does not show or account for Moorthorpe Grange (Planning Application 10/16/1349) or the trees removed as part of that development. Since Moorthorpe Grange contributes towards the allocation in the 2015 Local Development Plan, it must be considered alongside this application.

3.6 We recommend that this application be deferred until such time as an updated tree survey and accurate landscaping proposal can be submitted.

3.6 The current proposal for replacement trees is both inadequate and unsuitable. The following tree species are included in the plan:

- Oak ([*Quercus Robet*](#))
- Wild Cherry ([*Prunus Avium*](#))
- Rowan ([*Sorbus Aucuparia*](#))
- Hazel ([*Corylus Avellana*](#))

Except for Oak, none of the other trees are present in the existing woodland and would therefore change the character of the woodland intended to be protected by TPO.

3.7 Hedges and shrubs are not protected by the TPO which would allow for their subsequent removal without permission and therefore should not be considered as a replacement for the lost trees.

3.7 The planting of saplings between 0.6m and 1.5m in height are very vulnerable to damage by deer and rabbits, both of which are active in the area. Without the installing of suitable guards around the trees, a high attrition rate of trees can be expected from bark damage.

3.8 Such small saplings will take decades to mature, assuming they survive. Given the size and age of the removed trees, more mature trees should be planted when appropriate to the species and this should set out in the landscaping proposal.

3.9 Oak trees are best suited to open spaces without competition from faster growing trees. The recommended spacing of such is around 20-25 ft. However, the site plan places Oak trees in close proximity to hedges, existing mature trees, and newly planted Rowan and Hazel saplings which are expected to out-compete the Oaks.

3.10 Trees towards the northern edge of the site will block the southern aspect of existing properties such as Belthorpe and Moorthorpe Grange.

3.11 The site allocation in the 2015 Local Development Plan was on the basis of *"no loss of trees or woodland"*, but over 70 trees will directly be removed, 65 in group W3 alone (a combination of mature lime trees, self-seeded beech trees and other saplings). In the best case of no attrition, only 36 trees will be added, a net loss of at least 34 trees, assuming no attrition or removal.

3.12 The removal of tree T31, a Grey Willow in the middle of the site in middle age and fair condition is unnecessary, for a tree that would otherwise be in the garden of 'Plot 4'. This tree should be retained.

3.13 Similarly, the removal of trees T32, T33, T34 & T35, two of which are native Sycamores in good condition should be retained if they do not conflict with the proposed layout.

3.14 The distance between the houses, garages and expected outbuildings (e.g., garden sheds) and the retained trees, makes it likely that there will be further removal of trees to protect the properties from damage and as a result of trees losing shelter provided by felled trees. Therefore, the plan should account for the likely future removal of trees that will become necessary because of the current landscaping plan.

3.15 The landscaping plans also result in a loss of woodland as distinct from the loss of individual trees. Woodland is lost via the removal of groups G5 and G6, but there is no corresponding increase in woodland cover to offset this.

3.16 Tree group W3 is identified as "High Quality", but due to ongoing mismanagement of the woodland by the landowner, this status is in some doubt and should be re-assessed. The group has a high amenity value in providing a screen between the development site and the properties on Whitehall Road, as well as being visible from the public highway, but due to the recent removal of trees and the planned removal of tree group G5, its amenity value as a screen will be greatly diminished.

Supplement Part C contains photos taken from the proposed tree line of W3 from which the houses along Whitehall Road are clearly visible.

3.17 Tree group W3 also contains private rights of way for the benefit of land along Whitehall Road with easements currently in the process of being registered with the Land Registry. The landscaping plan should respect such rights of way along footpaths have existed for hundreds of years since the formation of the original Moorthorpe Estate in the 1800's of which the development site was once part.

Supplement Part H shows previous OS Maps of the area which clearly show the footpath through W3. There is no suggestion of a public right of way.

3.18 The landowner of the development site commissioned the felling of 3 damaged trees in tree group W3. This was reported to the Blackburn w Darwen council on 21/01/2022 who confirmed that no consent had been given and passed it to a tree officer who visited the site on 27/01/2022 after which the officer informed local residents that a TPO consent was not required because the trees were already diseased and damaged, which is inconsistent with the "Country Planning (Tree Preservation) (England) Regulations 2012". Regulation 14 in the act contains exceptions for dead trees, but not damaged or diseased trees. In our opinion, the landowner committed a criminal act in removing the trees without the proper consent. Whilst the council is free not to pursue a criminal prosecution, a tree replacement order should have been served and still should be in order to maintain the amenity value of group W3 as a screen from the properties on Whitehall Road.

3.19 Hybrid Japanese Knotweed is present at the boundary of the Moorthorpe Cottage Plot at public footpath #122 to the south of the site connected to Whitehall Road. The survey of for invasive plant species is expected to be limited to the development site boundary, not the whole land plot and therefore this would most likely not to be included. A management plan for Japanese Knotweed across the whole plot should be a condition of planning consent should it be granted.

Supplement Part I includes pictures of invasive plant species within the allocated development plot.

3.20 The landowner has allowed invasive Himalayan Balsam to form thick stands across much of the open grassland areas within the site which has in-turn allowed spread from their property to neighbouring ones. Irrespective of whether planning consent is granted or not, the landowner must be reminded of their legal obligations under the Wildlife and Countryside Act 1981 to prevent the spread of Himalayan Balsam to adjacent land.

Supplement Part I includes pictures of invasive plant species within the allocated development plot.

3.21 In order for construction not to spread Himalayan Balsam to the properties adjacent to the shared private access road, a wheel wash at the point of leaving the development site is required, not at the point of joining public roads (Park Road) as per a similar condition attached to the approval for 4 dwellings instead of 9 (10/20/0106):

"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"

3.22 The seed bank of Himalayan Balsam can persist for around 3 years after plant removal. Therefore, any soil removed from site should be considered as contaminated waste. A condition of approval should be for a funded management plan to be in already place prior to consent being granted in acknowledgement of the landowners existing obligations.

3.23 The removal of trees, compaction of soil, addition of a wide (non-permeable) tarmac road and large amounts of (permeable) block paving will significantly increase surface water run-off from the site downhill towards Belthorpe, Moorthorpe Grange, Moorthorpe House, 14 Chestnut Grove and potentially other properties. A suitable mitigation must be included as a condition of approval.

3.24 The landscaping plan must account for the easement for the benefit of the Whitehall Hotel which has the right of repair to a spring water pipe that crosses the development land at an

unspecified point. Identification of the location of the pipe and a mitigation plan to avoid damage to it should be a condition of approval.

3.25 A private water main serving Moorthorpe Cottage, Belthorpe and Moorthorpe House crosses the development site from Whitehall Road to Moorthorpe Cottage. To protect the legitimate rights and interests of those landowners, the landscaping plan and Construction Method Statement must ensure the water pipe is either replaced with a more suitable public water main, or the existing private water main is not damaged during construction and it must be accounted for in the sewerage plan to be approved by the council. The garage of Plot 1 as per the revised layout and the addition of trees in the landscaping proposal may conflict with future maintenance of this water main.

3.26 Management Plans imposed as a condition of approval such as for Woodland Management and Invasive Plant Species which are likely to extend beyond the construction period should have their full funding secured as a condition of approval.

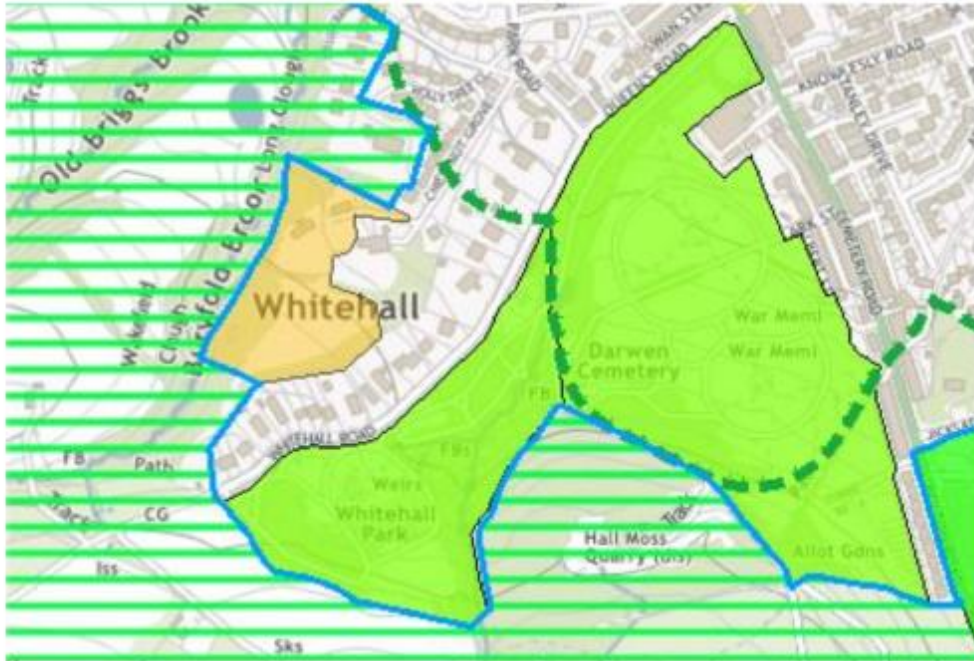
3.27 As previously noted, the landscaping will have an adverse effect on badgers, deer, hedgehogs, rabbits, a wide variety of birds, and many wild flowers including Orchids.

Part J of the Supplement includes pictures of some affected species taken in the immediate vicinity of the development site.

Objection to Planning Application Ref 10/22/1002 – Supplement

A - Comparison of 2015 and 2021 Local Development Plans

2015:



2021:



B - Comparison of Layout Fixed as a Condition of the Appeal Decision

C3697-1 (Outline Planning Application 10/18/1153):





C - Current Views from the proposed tree line of W3 To Whitehall Road





D - View of Moorthorpe House Partially Blocked by Rhododendrons to be Removed



E - View Towards G6 Towards Belthorpe Understory & Bushes to be Removed



F - View From Behind T35, To Be Removed, Of Moorthorpe Cottage, Moorthorpe Grange & Belthorpe

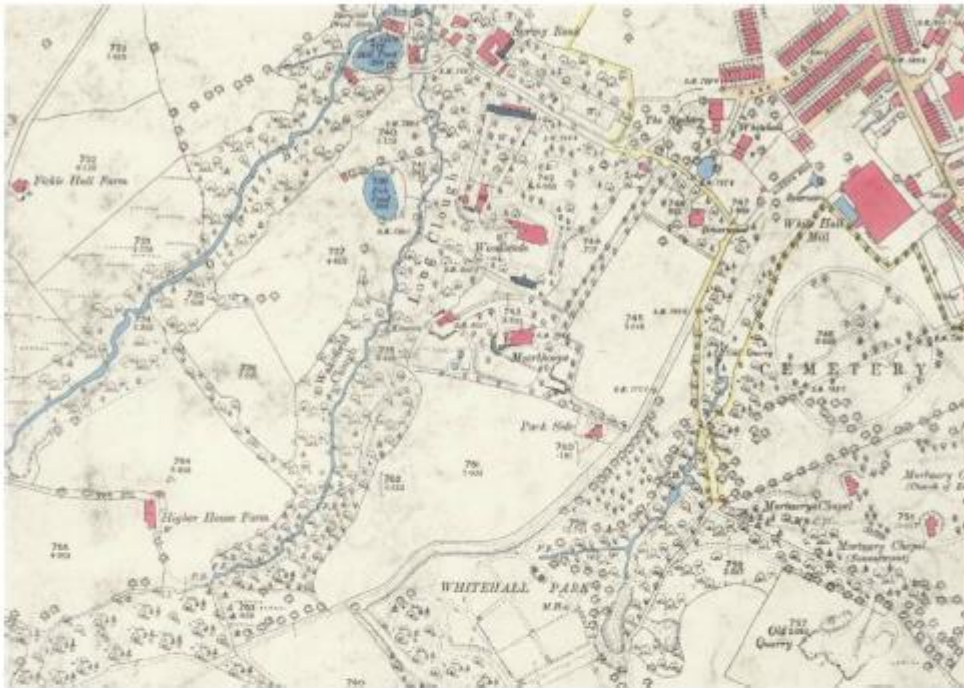


G - Memorial Gravestone & Tree T32 In Path of Proposed Driveway

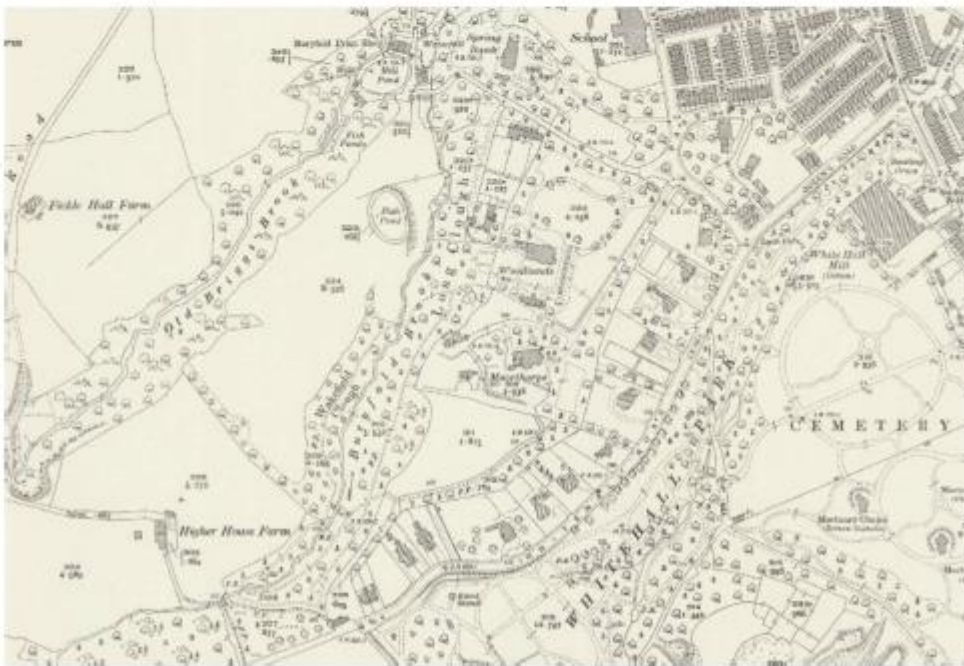


H - Historic OS Maps

1894:



1929:



1966:



I – Invasive Species

Himalayan Balsam:



Hybrid Japanese Knotweed:



J – Other Plant Species and Wildlife

Orchids:



Deer:



Rabbits:



Badgers and hedgehogs (not pictures) are also active in the area.

Objection – Mrs B.A Starbuck, Belthorpe Road, Darwen. Received: 18/11/2022.

Reserved Matters Application

Proposal: Approval of Reserved Matters “Appearance, landscaping and scale” pursuant to outline planning application 10/18/1153 “the erection of 9 dwellings”

Location: Land adjoining Moorthorpe Cottage, Park Road, Darwen BB3 2LQ

I wish to object to this application on the following grounds.

The application for 9 dwellings 10/18/1153 far exceeds the scale of what was in the previous Local Development Plan adopted in 2015 which describes the potential use under policy 28 as

“ Very small scale residential in the immediate vicinity of the existing dwelling, ensuring no loss of trees or woodland”.

According to the submitted landscaping plans over 40 trees will be felled, most are mature trees (100 year old +) and protected by a Woodland TPO. The tree removal and retention plan will be devastating for the immediate environment that provide a haven for badgers, deer, bats, hedgehogs, owls and many other species. The number of trees and hedgerows to be removed to make room for this development will not be replaced by the proposed planting of 8 oak, 10 hazel, 9 cherry and 9 rowan trees and several varieties of hedge – all of which stated to be less than 1.5m at the point of planting.

The BwD Planning Committee voted to refuse the application in 2019 and concluded that “it was considered to represent a scale disproportionately large, taking into account the local context, and transition with the countryside area and contrary to the requirements set out in the Local Plan part 2.”

I object to the scale of this development – 9 four and five bedroom houses, some with garages resulting in the loss of many mature trees and inevitable suffering to wildlife in the loss of their habitat.

I also object to the Appearance. The majority of the house have 3 storeys, which is not in keeping with the area which are mostly 2 storey. The addition of a third storey increases the likelihood of over looking neighbouring properties outside the development site.

There is a high ratio of tarmac and block paving to grass which is at odds with the woodland setting and increases the risk of surface water travelling down hill and flooding Belthorpe, Moorthorpe Grange , Moorthorpe House and homes on Chestnut Grove.

I also endorse the more detailed set of objections to be set out by the Whitehall Residents Against Greenfield Development community group.

Objection – Tom Keetch, Moorthorpe House, Park Road, Rec 16.01.2023

Dear Nick Blackledge,

I would like to ask some questions and also raise some concerns about this reserved matters application.

1) Given the submissions on scale, should this development now be classed as a major development? The NPPF gives priority to the statutory definition in the The Town and Country Planning (Development Management Procedure) Order 2015, which says that all developments over 1000 m.sq qualify as Major Developments. Floorspace could not have been considered at the outline stage. My understanding is that the NPPF is purely advisory and cannot override a statutory instrument, also the NPPF is subservient to the BwD Local Plans (2015 & 2021).

2) I request that the issue of overlooking is reassessed given the submissions on scale, appearance and changes to layout. The orientation of some plots has changed and the size, height and number of windows has now also been specified under appearance. The landscaping plan and the removal of trees since the plan was submitted will also have an impact. I am particularly concerned about Belthorpe and Moorthorpe House which are closest to the development and at a lower elevation. The removal of two large trees affected by Ash Dieback and the removal of understory vegetation will remove much of the screen from the construction site and from the houses once built.

3) There is a lack of detail about which trees are to be removed. In the event that construction removed more TPO protected trees than expected, how could the council possibly enforce the TPO? The exact number of trees to be removed should be included alongside an up to date tree removal plan. This was also the recommendation of your arboricultural officer who it appears from the report did a desk study without visiting the site in person.

4) Which plan Identifiers refer to the current layout and current site area? Both of these appear to have changed multiple times and there are inconsistencies even within the latest amendments.

5) Must the tree removal and border treatments lie fully within the site area? My concern would be that the border treatments have been excluded because they would extend the effective site area beyond the threshold of 1 hectare which would once again qualify the plans as a major development. There is only 100.m.sq difference from 0.99 ha The site area should be confirmed by a RICS land surveyor using a standard methodology after full landscaping proposal is specified.

Finally, I am concerned that the focus on the potential costs of an appeal is having undue influence and that as a result factors against the development are not being given sufficient weight. For example, the new 2021 Local Plan.

Kind Regards,

Tom Keetch

Moorthorpe House

Park Road

Darwen. BB3 2LQ

Objection – J Ashton & G Ashton, 12 Chestnut Grove, Darwen, Rec 01.02.2023

Reference 10/18/1153

Reserved Matters Application

Proposal: Approval of Reserved Matters “Appearance, landscaping and scale” pursuant to outline planning application 10/18/1153 “the erection of 9 dwellings”

Location: Land adjoining Moorthorpe Cottage, Park Road, Darwen BB3 2LQ

I wish to object to this application on the following grounds.

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“ Very small scale residential in the immediate vicinity of the existing dwelling, ensuring no loss of trees or woodland”.

According to the submitted landscaping plans over 40 trees will be felled, most are mature trees (100 year old +) and protected by a Woodland TPO. The tree removal and retention plan will be devastating for the immediate environment that provide a haven for badgers, deer, bats, hedgehogs, owls and many other species. The number of trees and hedgerows to be removed to make room for this development will not be replaced by the proposed planting of 8 oak, 10 hazel, 9 cherry and 9 rowan trees and several varieties of hedge – all of which stated to be less than 1.5m at the point of planting.

The BwD Planning Committee voted to refuse the application in 2019 and concluded that “it was considered to represent a scale disproportionately large, taking into account the local context, and transition with the countryside area and contrary to the requirements set out in the Local Plan part 2.”

I object to the scale of this development – 9 four and five bedroom houses with garages resulting in the loss of many mature trees and inevitable suffering to wildlife in the loss of their habitat.

I also endorse the more detailed set of objections to be set out by the Whitehall Residents Against Greenfield Development community group.

Signed: J Ashton and G Ashton

Address: 12 Chestnut Grove, Darwen BB3 2NQ Sent from my iPhone



Appeal Decision

Site visit made on 24 February 2020

by S R G Baird BA (Hons) MRTPI

an Inspector appointed by the Secretary of State

Decision date: 5th June 2020

Appeal Ref: APP/M2372/W/19/3243411

**Land adjoining Moorthorpe Cottage, Park Road, Darwen, Lancashire
BB3 2LQ**

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a refusal to grant outline planning permission.
 - The appeal is made by Ms G Lomax against the decision of Blackburn with Darwen Borough Council.
 - The application Ref 10/18/1153, dated 15 January 2019, was refused by notice dated 20 June 2019.
 - The development proposed is the erection of 9 dwellings with detached garages.
-

Preliminary Matter

1. The application was submitted in outline with all matters other than access and layout reserved for a subsequent application.
2. An application for costs was made by Ms G Lomax against Blackburn with Darwen Borough Council. This application is the subject of a separate decision.
3. The issuing this decision on what is a straightforward planning dispute has been substantially delayed. The Planning Officer's report to the Planning Committee sought financial contributions to the provision of affordable housing and green infrastructure. However, the appeal as submitted was not accompanied by a completed S106 Obligation and the Council's subsequent statement made no reference to the need for an Obligation. Following a request for clarification, the Council acknowledged¹ that the absence of a reference to a S106 Obligation was an oversight and that financial contributions to the provision of affordable housing and green infrastructure were necessary to make the development acceptable in planning terms. Due to the impact of the Coronavirus on the appellant's and Council's ability to provide an executed S106 Agreement, I agreed to the appellant's request to a 2-month extension until the 5 June 2020 to allow for an Agreement to be submitted. On the 4 June, the Council confirmed that it no longer required a S106 Obligation to provide financial contributions toward the provision of affordable housing and green infrastructure. The proposal has been assessed on this basis.

Decision

4. The appeal is allowed and outline planning permission is granted for the erection of 9 dwellings with detached garages on land adjoining Moorthorpe Cottage, Park Road, Darwen, Lancashire BB3 2LQ in accordance with the

¹ 26 March 2020.

terms of the application, Ref 10/18/1153, dated 15 January 2019, subject to the conditions contained in the attached Schedule of Conditions.

Main Issue

5. The effect on the character and appearance of the area.

Reasons

6. The development plan for the area includes the Core Strategy (CS) adopted January 2011 and the Local Plan Part 2 (LP) Site Allocations and Development Management Policies adopted December 2015. The site forms part of a larger area identified by LP Policy 28 as a development opportunity where planning permission will be granted for, "...very small-scale residential development in the immediate vicinity of the existing dwelling, ensuring no loss of trees or woodland". The existing dwelling is Moorthorpe Cottage located immediately to the north of the application site and within the LP allocation. In October 2017 planning permission was granted on appeal² for a dwelling, currently under construction, immediately to the north-east of Moorthorpe Cottage.
7. The Council acknowledges that the principle of residential development is acceptable, and the proposal would comply with CS and LP policies that relate to amenity, the environment, design, accessibility and transport. However, the Council indicate that, notwithstanding a lack of objection from the Council's specialist arboricultural advisors, the loss of trees and the scale of development would be disproportionately large such that the proposal would conflict with LP Policy 28.
8. Neither the development plan nor national planning policy and guidance³ defines "very small-scale". One of the key principles that underpins the planning and development management process is the application of a consistent approach to development proposals and decisions. The appellant draws attention to a site at Eilerslie House, Darwen. This is a similar sized site identified by LP Policy 28 as a development opportunity for "small-scale residential" development. Here, the Council has granted outline planning permission for 22 dwellings at a density of some 9.56 dwellings per hectare (dph). On the appeal site, the development and the one allowed on appeal would produce a density of some 4.41dph. In this context, the development of 9 dwellings on the appeal site would be consistent with the policy reference to very small-scale.
9. The appeal site and surrounding land is covered by a blanket Tree Preservation Order (TPO). This appears to have been imposed because of the value and contribution the woodland makes to the sylvan character and appearance of the area. The scheme would involve the loss of several freestanding trees and 2 groups of trees/shrubs and this loss would conflict with LP Policy 28. That said, the area of woodland covered by the TPO is extensive and in comparison, the number of trees lost would be minor. The individual trees proposed for removal appear to have once formed part of a larger group. That said, they are multi-stemmed, exhibit various defects and are generally poor specimens. Moreover, these trees are not visible from any public vantage point and are detached from the more extensive and valuable areas of woodland. In my view, their loss would not diminish the contribution

² APP/M2372/W/17/3179112.

³ National Planning Policy Framework (Framework) & Planning Practice Guidance.

the wider woodland makes to the sylvan character and appearance of the area. Similarly, 2 groups of vegetation/trees would be removed. These are adjacent to 2 substantial areas of Category A and B woodland. Tree Group 5 is a linear group of common trees covered by dense ivy. The dense ivy and the proximity to the more mature woodland group (W3) appears to be suppressing their growth. Along with the margin to Group 6, the loss of these trees/shrubbery would not diminish the contribution of the wider woodland area to the character and appearance of the area.

10. Whilst the whole area is covered by a TPO, which prevents unauthorised felling, it does not require the woodland to be maintained. It is evident that the woodland has lacked active management over many years. The lack of management has allowed the spread of ivy and trees to self-seed; both of which have introduced undesirable competition, particularly for light, which has resulted in poor quality growth. The development would provide the opportunity to obtain a comprehensive woodland management programme. Such a programme would ensure the continued and enhanced contribution the woodland makes to the character and appearance of the area. This is a significant benefit, which I attach substantial weight to.

Other Considerations

11. Access to the site would be from Park Road, via a long private track. The Highway Authority do not object to the scheme and I have no reason to conclude that the proposal would result in unacceptable vehicle/pedestrian conflict. As such, the proposal would not conflict with LP Policy 10. Rights of access and covenants are private matters between landowners and are not for me to consider as part of a planning appeal. In terms of the impact on neighbours from the use of the access road, there is adequate separation to ensure there would be no material impacts on neighbours from comings and goings. Impact on ecology could be appropriately managed through the imposition of relevant conditions and as such there would be no conflict with LP Policy 9.

Conclusions

12. Whilst the Council may be able to demonstrate a housing supply in excess of 5 years, that does not weigh against the development. The site is allocated in the development plan for residential development and the Government's objective is to significantly boost the supply of homes. Here, whilst the proposal is in outline, the detail supplied indicates that the house typology presented is consistent with the aims and objectives of Policy CS7 and LP Policy 18 to widen the choice of house types in the Borough. Whilst the proposed development would be consistent with LP Policy 28 in terms of the scale of development, it would result in the loss of several trees. However, the proposed loss of trees would not materially affect the contribution of the wider woodland to the character and appearance of the area and would be outweighed by the benefits in terms of replacement planting and the management of what is otherwise a deteriorating environmental asset. Taken in the round, the proposal would not unacceptably affect the character and appearance of the area or conflict with the development plan when read as a whole. For these reasons and having taken all other matters into considerations, the appeal is allowed.

Conditions

13. A condition specifying the relevant drawings has been imposed as this provides certainty. In the interests of the appearance of the area, conditions requiring the submission of samples of finishing materials and details of boundary treatments have been imposed. In the interests of ecology conditions relating to the submission of measures to protect badgers, otters and great crested newts, bats and reptiles, to protect the site from invasive plant species, the avoidance of construction during the bird nesting season, the submission, if necessary, of an updated Ecological Impact Assessment, the protection of trees, and a woodland management plan have been imposed.
14. In the interests of residents' living conditions, conditions relating to hours of construction, construction management, dust suppression, ground conditions and remediation are imposed. To ensure adequate drainage, conditions relating to the provision of foul and surface water drainage and a sustainable surface water drainage scheme have been imposed. In the interests of sustainable development, a condition requiring the installation of electric vehicle charging points is imposed. In the interests of highway safety, a condition relating to visibility splays at the access and all driveways is imposed. Where necessary and in the interests of precision and enforceability I have reworded the suggested conditions.
15. Landscaping is a reserved matter and as such I have not imposed a separate condition requiring details of landscaping to be submitted. Planning Practice Guidance highlights that the blanket removal of freedoms to carry out small scale domestic alterations is unlikely to meet the test of reasonableness and necessity. Here, I consider the Council's suggested condition removing permitted development rights specified in Classes A-G of Part 1 of that Schedule 2 of the Town and Country Planning (General Permitted Development) (England) Order 2015, has not been justified and is unreasonable.

George Baird

Inspector

SCHEDULE OF CONDITIONS

- 1) Details of the appearance, landscaping and scale, (hereinafter called "the reserved matters") shall be submitted to and approved in writing by the local planning authority before any development takes place and the development shall be carried out as approved.
- 2) Application for approval of the reserved matters shall be made to the local planning authority not later than 3 years from the date of this permission.
- 3) The development hereby permitted shall take place not later than 2 years from the date of approval of the last of the reserved matters to be approved.
- 4) The development hereby permitted shall be carried out in accordance with the following approved plans: Nos. C3697-1 Site Plan; LP-01 Rev B Location Plan; 17-116 SK01(t)-B Sketch Layout; 17-116 SK01(T)-C Curtilages; D6647.002 Tree Removal and Retention Plan; 18167 Measurements and SCP/18167/ATR01 Rev A General Arrangement and Swept Path Analysis but only in respect of those matters not reserved for later approval.
- 5) Prior to commencement of the development hereby approved, samples of all external walling and roofing materials, including their colour, to be used in construction of the building work shall be submitted to and approved in writing by the local planning authority. The development shall be implemented in accordance with the approved details.
- 6) Prior to the commencement of any works on site, a Badger Activity Survey shall be carried out to determine the presence of badgers in the area. The survey shall be carried out by a suitably competent ecologist, during the time of year when badgers are active. The results of this survey and any recommendations or mitigation measures shall be submitted to and approved in writing by the local planning authority. Any recommended mitigation measures shall be carried out in accordance with the approved badger activity survey.
- 7) Prior to the commencement of any works on site, an Otter Activity Survey shall be carried out by a suitably qualified ecologist; in accordance with national survey guidance. The results of this survey and any recommendations or mitigation measures shall be submitted to and approved in writing by the local planning authority. Any recommended mitigation measures shall be carried out in accordance with the approved Otter Activity Survey.
- 8) Prior to the commencement of any works on site, a Great Crested Newt presence/absence survey of the 2 ponds identified in Section 3.25 of the Bowland Ecology "Ecological Impact Assessment" shall be carried out by a suitably qualified ecologist in accordance with Great Crested Newt survey guidelines (Natural England 2001). The results of this survey and any recommendations or mitigation measures shall be submitted to and approved in writing by the local planning authority. Any recommended mitigation measures shall be carried out in accordance with the approved Great Crested Newt presence/activity survey.
- 9) Prior to the commencement of any works on site, a Reasonable Avoidance Measures (RAMs) mitigation plan shall be produced, in order to

mitigate the threat of light spill on bats. The RAMs mitigation plan shall be submitted to and approved in writing by the local planning authority. Any recommended mitigation measures shall be carried out in accordance with the approved plan.

- 10) Prior to the commencement of any works on site, a Reasonable Avoidance Measures (RAMs) mitigation plan shall be produced, in order to mitigate risk to reptiles. The RAMs mitigation plan shall be submitted to and approved in writing by the local planning authority. Any recommended mitigation measures shall be carried out in accordance with the approved plan.
- 11) Prior to the commencement of any works on site, a detailed Invasive Plant Species Survey of the site shall be carried out by a remediation/invasive species specialist. The results of this survey and any recommendations or mitigation measures shall be submitted to and approved in writing by the local planning authority. Any recommended mitigation measures shall be carried out strictly in accordance with the approved details.
- 12) No site clearance or construction works on site shall be carried out during the bird nesting season (1 March to 31 July), unless the absence of nesting birds has been confirmed by further survey work or on-site inspections.
- 13) Prior to the commencement of any works on site, a Woodland Management and Access Plan shall be produced to safeguard retained woodland (Long Clough) at the site. This plan should consider the following issues during the clearance, construction and operational phases of the development;
 - i) formalising access/egress into the woodland and pathways to prevent desire lines dissecting the habitat;
 - ii) zoning of natural habitat to ensure an appropriately restricted and undisturbed area for wildlife;
 - iii) non-native species management to prevent spread to gardens of new residential properties;
 - iv) implementation of traditional woodland management techniques such as felling, coppicing and pollarding, where appropriate;
 - v) retention of standing and fallen dead wood;
 - vi) creation of artificial habitats such as bird/bat boxes, hedgehog hotels and felled log piles for invertebrates;
 - vii) provision of education packs for homeowners about the value of the surrounding habitat and rationale for habitat protection measures;
 - viii) creation of a buffer zone (in accordance with BS5837:2012) during the construction phase and adoption of working practices when carrying out any works near trees or woodland; in accordance with BS5837:2012 guidelines, in order to reduce negative impact on biodiversity.

The Woodland Management and Access Plan shall be submitted to and approved in writing by the local planning authority. All recommended mitigation measures shall be carried out in accordance with the approved plan.

- 14) Should no clearance or construction works be carried out on site within 2 years of the date of the Bowland Ecology "Ecological Impact Assessment" (EIA) an updated EIA shall be produced. The updated EIA shall be submitted to and approved in writing by the local planning authority. Any recommended mitigation measures shall be carried out strictly in accordance with the approved assessment.
- 15) Prior to commencement of the development hereby approved, a Construction Method Statement (CMS) shall be submitted to and approved in writing by the local planning authority. The approved CMS shall be adhered to throughout the construction period. The CMS shall provide for:
 - i) the parking of vehicles of site operatives and visitors;
 - ii) loading and unloading of plant and materials;
 - iii) storage of plant and materials used in constructing the development;
 - iv) the erection and maintenance of security hoarding including decorative displays and facilities for public viewing, where appropriate;
 - v) wheel washing facilities, 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 and dirt during construction;
 - vii) a scheme for recycling/disposing of waste resulting from demolition and construction works.
- 16) Visibility splays at the site access/egress and all driveways shall not at any time be obstructed by any building, wall, fence, hedge, tree, shrub or other device exceeding a height greater than 1 metre above the crown level of the adjacent highway.
- 17) Foul and surface water shall be drained on separate systems.
- 18) Prior to the commencement of the development hereby approved, a sustainable surface water drainage scheme shall be submitted to and approved in writing by the local planning authority. The drainage scheme must include:
 - i) 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;
 - ii) 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); and
 - iii) a timetable for its implementation.

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

hereby permitted shall be carried out only in accordance with the approved drainage scheme.

- 19) Prior to commencement of the development a sustainable drainage management and maintenance plan for the lifetime of the development shall be submitted to the local planning authority and agreed in writing. The sustainable drainage management and maintenance plan shall include as a minimum;
 - i) arrangements for adoption by an appropriate public body or statutory undertaker, or, management and maintenance by a residents' management company; and
 - ii) 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.
- 20) Prior to the implementation of the development hereby approved, a scheme shall be submitted to and approved in writing by the local planning authority detailing provision of an electrical vehicle charging point for each dwelling. The approved scheme shall be implemented prior to first occupation of the development.
- 21) Prior to the commencement of development hereby approved, the developer must submit to the local planning authority for written approval:
 - i) a comprehensive desk study report, including a preliminary Conceptual Site Model (CSM) in text, plan and cross-section form. Where necessary, detailed proposals for subsequent site investigation should also be included, clearly based on the CSM;
 - ii) findings of the approved site investigation work (where necessary), including an appropriate assessment of risks to both human health and the wider environment, from contaminants in, on or under the land (including ground gas). If unacceptable risks are identified, a remedial options appraisal and detailed remediation scheme should be presented, along with an updated CSM. No deviation shall be made from this scheme without the written agreement from the local planning authority.
- 22) Prior to the occupation of the development hereby approved, 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 Conceptual Site Model. 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.
- 23) Should contamination be encountered unexpectedly during redevelopment, 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.

No deviation shall be made from this scheme without the written express agreement of the local planning authority.

- 24) Prior to commencement of the development hereby approved, 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.
- 25) Prior to commencement of any works at the site, an arboricultural method statement and tree protection plan shall be submitted to and agreed in writing by the local planning authority. The method statement shall clearly state how the trees to be retained on site will be protected during construction works. The agreed method statement shall be implemented in full prior to the undertaking of any on site works and retained for duration of the demolition and construction works.
- 26) Prior to commencement of the development hereby approved, a scheme for the suppression of dust during the period of construction shall be submitted to and approved in writing by the local planning authority. The approved scheme shall be used throughout the construction process.
- 27) The construction of the development hereby permitted shall only take place between the following hours: Monday to Friday - 08:00 to 18:00; Saturday - 09:00 to 13:00; Sundays or Bank Holidays - No site operations.

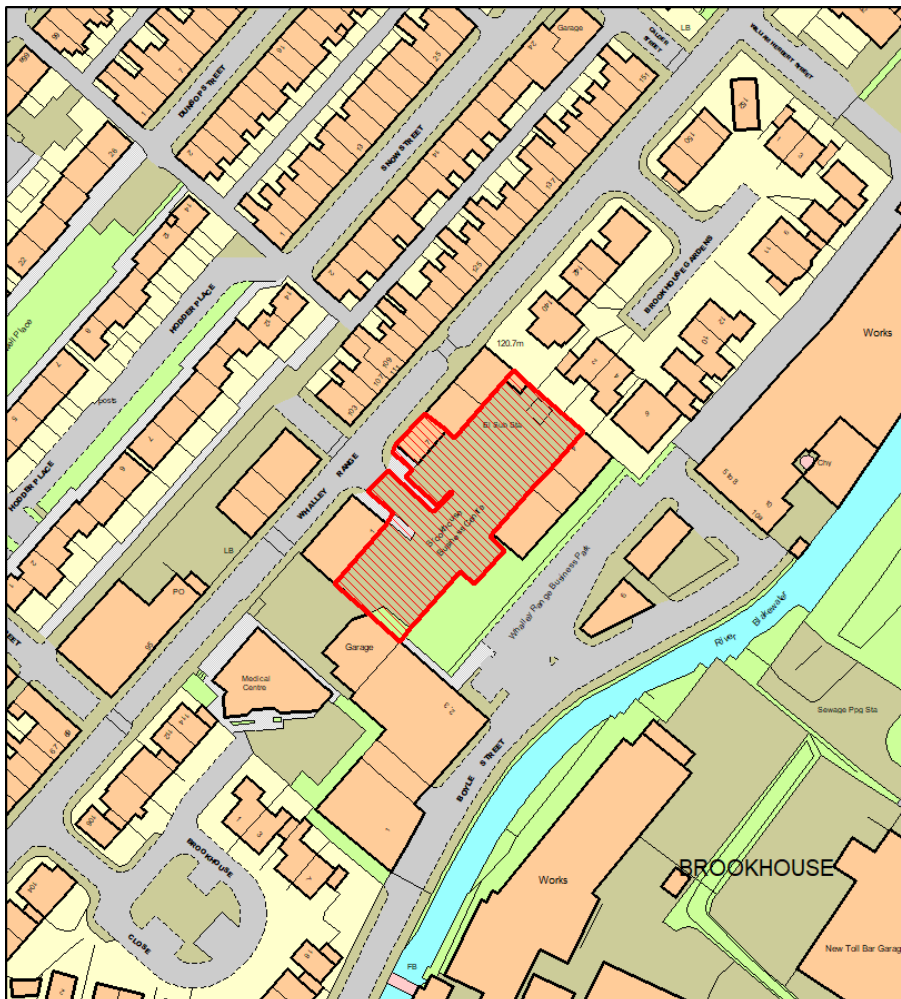
Proposed development: Full Planning Application (Retrospective) for Retrospective Application for Change of Use from Sui-Generis to Cafe (Class E) including New Glazing, Rear Extension and External Alteration, including new seating area to the side elevation

**Site address:
Units 7 and 7A Brookhouse Business Centre
Whalley Range
Blackburn
BB1 6BB**

Applicant: Miss Sonia Ahmed

Ward: Bastwell & Daisyfield

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



1. SUMMARY OF RECOMMENDATION

- 1.1 The proposed development is recommended to be **approved** subject to the conditions detailed in Section 5.

2 KEY ISSUES

- 2.1 This application seeks permission for a retrospective change of use of Units 7 and 7A of the former Brookhouse Business Centre, from showroom, offices and catering preparation area (Sui Generis use), to a Cafe (Class E) including New Glazing, Rear Extension and External Alteration, including new seating area to the side elevation. The application site lies directly adjacent to, just outside the Whalley Range District Centre, within the Inner Urban Area of Blackburn in relative close proximity to the Town Centre, and a Coal Low Risk area.
- 2.2 The two storey commercial unit is in an accessible and highly sustainable location, and has the added benefit of a large shared car park to the rear of the unit, which is owned by the owner of the former Brookhouse Business Centre site (not the applicant). The majority of units in the wider Whalley Range District Centre do not have any off street parking, and parking is known to be a problem in the Whalley Range area. A number of objections have been raised by local residents, including a petition, citing highway safety/parking and amenity concerns. The Highways Authority has also objected to the proposal. These are discussed in the main body of this report.
- 2.3 Notwithstanding the above, there would be recognised social, environmental and economic benefits arising from the proposal, which play a part in weighing up the planning balance. Factors weighing in favour of the application include the highly sustainable and accessible location of the site, directly adjoining the Whalley Range District Centre location; the former Brookhouse Business Centre Class B1 (Light industry / offices) use; the immediately prior use of Units 7 and 7A as showroom, offices and catering preparation area; recent changes to the Use Classes Order which introduce more flexibility for town centre uses (& the creation of a new Use Class E); the additional benefit of a shared rear car park; and recent approvals and appeal decisions for similar uses in the immediate area. On balance, the scheme is considered acceptable for the reasons set out in this report.
- 2.4 Should members approve this application, conditions can also be attached to ensure a degree of control over the use of the application site. Presently, the use is operating with no conditions or restrictions, which is resulting in a number of complaints being received from local residents by the Planning Enforcement and Public Protection teams. There were no conditions attached to the original planning approval for the former Brookhouse Business Centre site.
- 2.5 This application is presented to the Planning and Highways Committee due to the number of objections received, including a petition from local residents,

and the objection from the Highways Authority. Members should note that an application relating to a dessert parlour at Units 1 and 2 Brookhouse Business Centre is also presented to this committee for the same reason(s) – see application reference number 10/22/0920.

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

- Principle of Development (including legislation, policy, site history, and health;
- Highways issues, access, parking, and servicing;
- Design and visual amenity;
- Residential amenity;
- Other matters, including land ownership;
- Planning balance, including recent appeal decisions in the area.

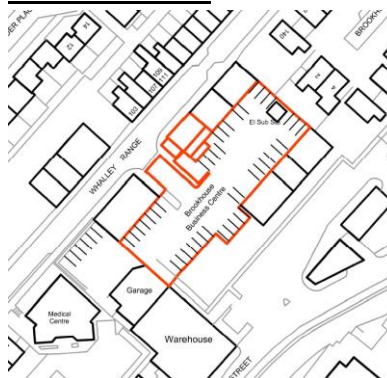
3 RATIONALE

3.1 Site and Surroundings

3.1.1 The application site lies within a commercialised setting, with a range of shops and local services present. The wider surrounding area is mixed, with some residential dwellings also in the vicinity. The application site comprises an existing two storey commercial unit, which is just one of a number of units within the former Brookhouse Business Centre, within the Inner Urban Area of Blackburn, on the south/eastern side of Whalley Range, in a Coal Low Risk area.

3.1.2 Units 7 and 7A also sit directly adjacent to the Whalley Range District Centre, as identified in the current Local Plan Proposals Map (below). The adjoining units adjoining Whalley Range also sit within identified secondary retail frontage on the Proposals Map. This can be seen in the images below.

Location Plan:



Local Plan Proposals Map:



3.1.3 The units are sited on the corner of Whalley Range and the entrance road to the shared rear car park, part of the former Brookhouse Business Centre. The only building it directly adjoins is a single storey commercial unit to the north-east, which formed part of the previous use of this group of units as showroom, offices and catering preparation area.

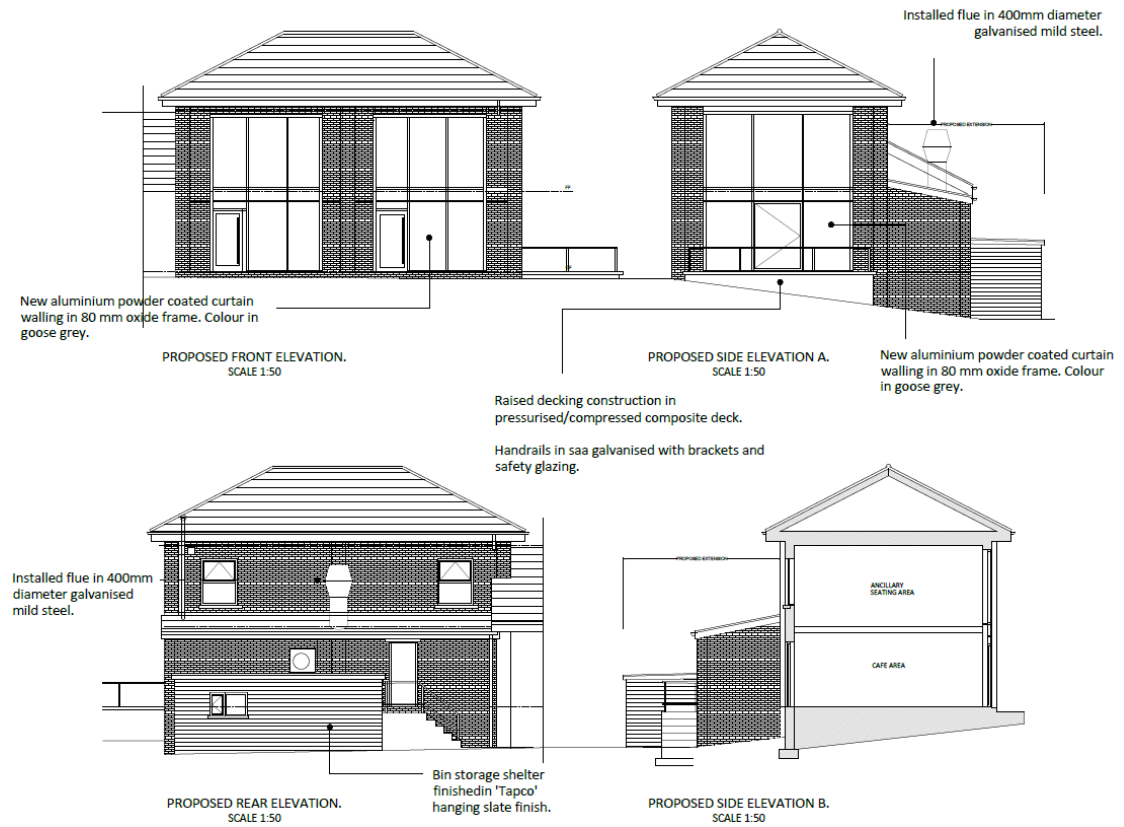
3.2 **Proposed Development**

- 3.2.1 The proposal seeks a retrospective Change of Use of Units 7 and 7A of the former Brookhouse Business Centre, from showroom, offices and catering preparation area (Sui Generis use), to a Cafe (Class E) including alterations including new glazing and curtain walling to the front, side and rear elevations at ground and first floor (New aluminium powder coated curtain walling finished in 80mm oxide frame - Goose Grey colour), a small rear extension (Facing brick to match, with Marley Plain concrete interlocking tiles), a rear bin store (roof in felt finish, and walls in natural slate finish), an extract flue to the rear (Galvanised flue in 400mm diameter with anti-vandal brackets), and an open raised seating area / enclosed decking to the side (handrails in SAA galvanised with brackets and safety glazing). Access to the decking area would be from inside the café, through sliding doors on the side elevation. The applicant states that the development commenced on 26/09/2022.
- 3.2.2 The proposed changes to the elevations reflect the use applied for, essentially introducing much more glazing at both ground and first floor levels, and using modern materials, whilst introducing an open decking area to the side would also contribute to creating a much more open and inviting, active frontage. The existing and proposed elevations can be seen below:

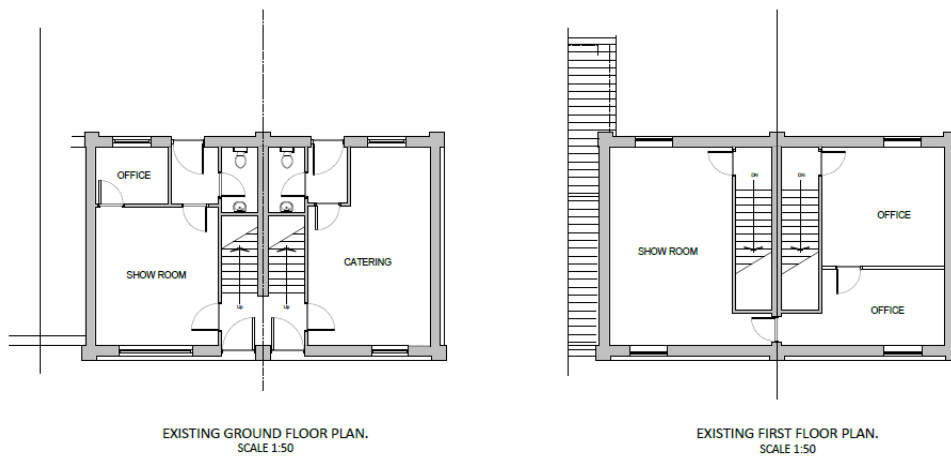
Existing elevations (prior to works being carried out):



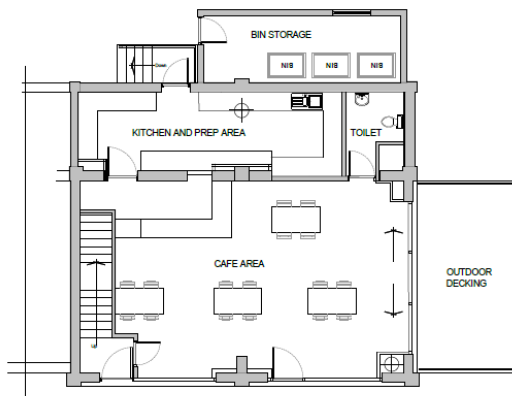
Proposed elevations (as built):



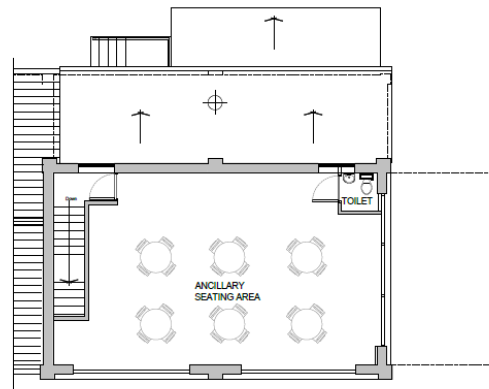
3.2.3 The existing floor plans are shown below.



3.2.4 The proposed floor plans are shown below:



PROPOSED GROUND FLOOR PLAN.
SCALE 1:50



PROPOSED FIRST FLOOR PLAN.
SCALE 1:50

3.2.4 The existing unit comprises 122sqm of floorspace, and this would be increased to 166sqm as a result of the proposed development. The floorspace area for public use has been calculated by officers at 134.8sqm.

3.2.5 Hours of operation applied for are 09:00hrs to 23:00hrs Mon-Sun, including Bank Holidays.

3.2.6 The existing parking arrangements are to remain. The rear car park is shared by all the users of the units within the former Brookhouse Business Centre. There is no definitive parking allocation for the individual units.

3.3 Site Photos



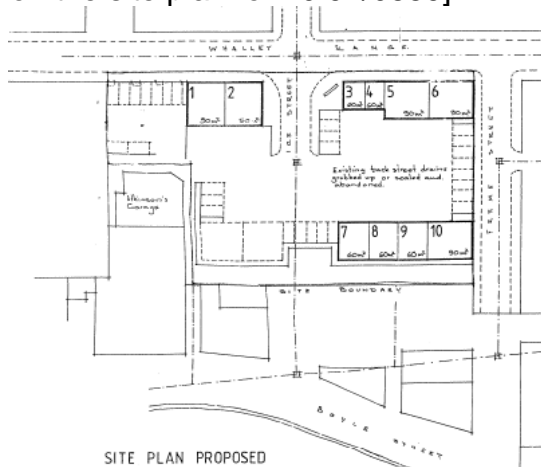
3.4 Planning history

3.4.1 Historic planning records demonstrate that the Brookhouse Business Centre, of which Units 7 & 7A form part, was granted planning permission in 1992, under planning ref 10.92/0889, for Training Workshop & Office Units. This permission is known to have been implemented.

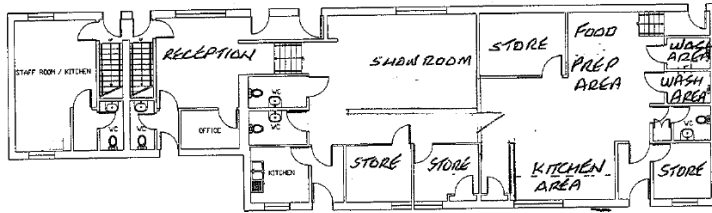
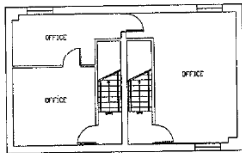
- **10.92/0889** - Proposed Training Workshop & Office Units – Brookhouse Business Centre - Approved 25/08/1992.
- **10/13/0675** - Change of use from education centre and offices to showroom, offices and catering preparation area – Approved 17/10/2013. [Note this permission related to the adjoining units to the north-east as well]

3.4.2 The above approval for the Brookhouse Business Centre (10.92/0889) was subject to a standard 5 year condition for commencement, and a materials condition. There were no other conditions attached.

3.4.3 The Site Plan for Brookhouse Business Centre, as approved under 10.92/0889, is shown below
[Note the units now referred to as Units 7 & 7A are annotated as Units 3 and 4 on the site plan for 10.92/0889]:



3.4.4 Below are the approved floor plans for 10/13/0675 - Change of use from education centre and offices to showroom, offices and catering preparation area
[Note the present application for a cafe only relates to the area annotated as Reception, offices, staff room / kitchen on the 10/13/0675 plans]:



3.4.5 The approval for the showroom, offices and catering preparation area (10/13/0675) only had a condition for a scheme for the control of cooking odours and fan noise to be submitted and approved.

3.5 Supporting documents

3.5.1 The following documents were submitted in support of this application:

- Planning Statement
- Ventilation and Extraction Statement;
- Extract canopy calculations;
- Defra Odour Assessment;
- Waste and Recycling Statement;
- Counter comments in support of the application, submitted by the applicant in response to the Highway Authority objection.

3.6 Development Plan

3.6.1 Blackburn with Darwen Core Strategy

- Policy CS1: Targeted Growth Strategy
- Policy CS16: Form and Design of New Development

3.6.2 Local Plan Part 2 (adopted 2015):

- Policy 1: The Urban Boundary
- Policy 2: The Inner Urban Area
- 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 27: District Centres – a Framework for Their Development
- Policy 29: Assessing Applications for Main Town Centre Uses
- Policy 31: Development in Defined Shopping Frontages
- Policy 33: Health

3.6.3 Other material considerations

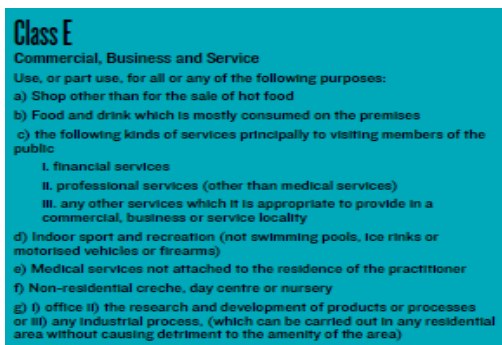
BwD adopted Parking Standards
Borough wide Design Guide SPD
Planning for Health SPD
Shopfront Design and Security SPG
National Planning Policy Framework

4.0 ASSESSMENT

4.1 Principle of Development (including legislation, policy, site history, and health)

Legislative context

- 4.1.1 The Town and Country Planning (Use Classes) (Amendment) (England) Regulations 2020 were introduced on 1st September 2020, making significant changes to the previous system of Use Classes, and permitted changes of use under the Town and Country Planning (General Permitted Development) (England) Order 2015 (as amended).
- 4.1.2 The introduction of these changes was to provide greater flexibility between certain uses and provides a more agile planning framework so that high streets and commercial uses can respond to changes in the commercial market. This was introduced by the government as a response to the Covid19 pandemic.
- 4.1.3 Schedule 2 of these regulations created a new broad 'Commercial, Business and Service' use class (Class E), which incorporated a number of previous Use Classes into a single use class (as summarised, below):



Site history context

- 4.1.4 The original planning approval for the whole Brookhouse Business Centre was for Training Workshop & Office Units. A subsequent change of use for showroom, offices and catering preparation area was approved in 2013. The applicant initially suggested that an application for a change of use to Class E for Units 7 and 7A did not require planning permission because the site benefitted from a Class B1 use (Office/Light Industry), which has now been subsumed into Class E.

4.1.5 However, officers advised the applicant that Units 7 and 7A were a Sui Generis use, and that an application for a change of use was required. Although not entirely in agreement, the applicant agreed to submit an application to regularise the use proposed, and to include the external works. If approved, this will also allow the Council to retain a degree of control over the site with the imposition of planning conditions.

Policy context

4.1.6 Policies 1 and 2 of the Local Plan identify the inner urban area as the preferred location for new development.

4.1.7 The application site also lies directly adjacent to the Whalley Range District Centre. Policy 27 of the Local Plan is clear that this policy applies to proposals “*Within and adjacent to District Centres.*”

Policy 27 supports development where it encourages mixed uses, and where it responds to the scale and function of the centre. Proposals involving conversion and adaptation of premises or involving changes of use should take place within existing buildings and frontages in order to consolidate and strengthen the vitality of the centre. They should retain or provide shop fronts in order to maintain active frontages and retain the character and vitality of the centre.

Policy 27. District Centres – a Framework for Their Development

1. Within and adjacent to the District Centres as shown on the Adopted Policies Map, and listed in the table below, development will be supported where it encourages mixed uses, and where it responds to the scale and function of the centre in question. Proposals which fulfil these requirements will be permitted in the following circumstances:
 - i) New build proposals should be proportionate to the scale and function of the centre. New retail, leisure, office and service use developments should demonstrate that they cater for local needs, and should be accompanied by an impact assessment if they involve the creation of new floorspace above the thresholds set out in Policy 29. The assessment should consider the impact of the proposal on existing, committed and planned public and private investment in the centre and other nearby centres.
 - ii) Proposals involving conversion and adaptation of premises or involving changes of use should take place within existing buildings and frontages in order to consolidate and strengthen the vitality of the centre. They should retain or provide shop fronts in order to maintain active frontages and retain the character and vitality of the centre.

4.1.8 The proposed development encourages mixed uses and responds to the scale and function of the centre. As a change of use of existing premises, criteria 1 ii) of Policy 27 applies. The proposal would introduce a more active frontage, and have a positive impact on the character and vitality of the centre.

4.1.9 The pre-ambles to Policy 27 states that District Centres principally provide for local needs shopping. The Core Strategy further promotes a concept of multi-functional district centres which are also the focus for local services as well as retailing. District centres have faced particular challenges in adapting to changing retail patterns. The Core Strategy identifies the Whalley Range area as having the potential to perform an enhanced function as a destination, as well as a local shopping centre. Within the Whalley Range District Centre there are streets which form the main shopping area of the centre, and others

which perform a wider function in addition to retail. The Council wishes to consolidate this pattern of development.

4.1.10 Policy 27 goes on to apply additional policy considerations for the management of the district centres, as shown below.

2. Within the Whalley Range District Centre (reference 27/5) as shown on the Adopted Policies Map and the Whalley Range Inset Map, the following additional policy considerations will apply:
- i) Within the Primary Shopping Frontages as defined on the Whalley Range Inset Map, proposals for the change of use of ground floor/pedestrian level premises, to uses falling within Use Classes A2, A3 or A5, will be permitted provided that the proposal would not, in isolation or in combination with other completed or committed development, undermine the function of those frontages as a main retail area.
 - ii) Within the Secondary Shopping Frontages as defined on the Whalley Range Inset Map, proposals for service uses falling within Use Classes A2, A3 or A5 will be permitted provided it would not, in isolation or in combination with other completed or committed development, have an unacceptable impact on the level of shopping provision or lead to a change in the character of the street.
 - iii) Exceptions to Criteria i) and ii) may be made where the number of empty units within a frontage block/group of shops is high and the trend in vacancy levels is prolonged.

4.1.11 The site lies directly adjacent to a defined secondary shopping frontage, therefore strictly speaking criteria 2 ii) of Policy 27 does not apply. However, the proposal would not have an unacceptable impact on the level of shopping provision or lead to a change in the character of the street. Therefore there is no conflict with Policy 27.

4.1.12 Furthermore, criteria iii) of Policy 27 refers to the benefits of ensuring vacancy levels are high. The proposal would ensure the premises are brought into active use, which would have wider social, environmental, and economic benefits, and are a material consideration.

4.1.13 Subject to being satisfactory in all other respects, the proposal is considered acceptable in principle, and in accordance with Policies 1, 2, and 27 of the Local Plan.

Health

4.1.14 Policy 33 of the Local Plan states that where a form of development has the potential to impact on public health, with particular reference to obesity and related disorders, and illnesses associated with alcohol or smoking, the Council will require the developer to demonstrate how public health issues have been taken into account in formulating the development proposal and how any impacts are to be mitigated.

4.1.15 The proposal is for a café, directly adjacent to a District Centre. Policy 33 seeks in particular to restrict unhealthy hot food takeaways and shisha cafes, for example. Therefore, Policy 33, or the associated Health SPD which is underpinned by Policy 33, is not considered to be directly relevant in this instance. To ensure the business does not operate partly as a takeaway, conditions can be attached to restrict the use to the use applied for, and to ensure there is no food taken away and consumed off the premises.

4.2 Highways issues, Access, Parking, and Servicing

- 4.2.1 Policy 10 outlines a general requirement for all development proposals to not prejudice road safety, or the safe and convenient movement of all highway users. Parking should also be provided in accordance with the BwD Parking Standards. In addition to avoiding unacceptable impacts on highway safety, the Framework also seeks to ensure that the cumulative impact of development on the highway network is not severe.
- 4.2.2 The Highway Authority raised an objection to this application on the basis that no parking is offered to support the increase in vehicle movements (compared to the previous training centre use), and that the proposal would be detrimental to highway safety, contrary to Policy 10 of the Local Plan.
- 4.2.3 However, there are several mitigating factors. Fundamentally, the application site is located directly adjacent to a District Centre in a highly sustainable and accessible location. The District Centre designation recognises not only the sustainable location but also the potential for linked trips. Many trips to the centre will be multi-purpose, and trips to the cafe will therefore not create substantial new parking demand as a standalone destination in its own right, but will largely be used by people who are already in the area, either visiting other shops in the District Centre, and/or who live locally and will arrive on foot.
- 4.2.4 Furthermore, the majority of businesses on Whalley Range do not have any off street parking. The shared car parking area to the rear takes parking pressure off Whalley Range. If the units in the former Brookhouse Business Centre fell into vacancy, the car park could be permanently closed for example, and this would be to the detriment of the wider District Centre.
- 4.2.5 Units 7 and 7A already benefit from a commercial use, and recent changes to the Use Classes Order (introducing a much broader Class E use) mean that most conversions involving town centre uses do not even require planning permission. Although the proposal would see a shortfall in the amount of parking that is required to accord with the Council's adopted parking standards, the applicant argues, with some justification, that the standards are several years old, with particular regard given to the recent legislative changes to the Use Classes Order. Rigid application of the 2014 Parking Standards is therefore, in this instance, not considered appropriate.
- 4.2.6 The Highways authority also referenced illegal parking on Whalley Range, and a need to keep the area clear from intensive movements, for safety reasons. Vehicles are known to be parking on the double yellow lines to the front of the premises along Whalley Range, and parking in the adjacent streets is also known to be saturated. However, pavement parking is not enforceable by Local Authorities. It is classed as an obstruction of the highway and this is currently only enforceable by the Police. It is further noted that recent appeal decisions in the vicinity have also referenced vehicles

parking on yellow lines as being a traffic enforcement issue rather than a planning matter. The restrictions across the whole of Whalley Range from Barbara Castle Way to Whalley New Road are under review and should any changes be required, this will go out to consultation before a change to, or implementation of, a Traffic Regulation Order is made.

- 4.2.7 Fundamentally, the site directly adjoins a District Centre, in a highly sustainable location. Some people will arrive on foot, others will already be visiting other facilities in the area, thereby not increasing demand to the same extent. Providing on site parking within District Centres is not a prerequisite of Policy 27, which for clarity includes development adjoining District Centres, sets out a framework for development in District Centres.
- 4.2.8 In conclusion, proposals should only be refused on highways grounds where there is a demonstrable unacceptable detrimental impact on highway safety, and/or the cumulative impact of development on the highway network is severe. In this case it is not considered that these thresholds are met.
- 4.2.9 On balance, the site lies directly adjacent to a District Centre in a highly sustainable location, and the impact on highway safety as a result of this application in isolation is not considered to be unacceptable, and the cumulative impact of development on the highway network is not considered to be severe.
- 4.2.10 It is therefore considered that the proposal is acceptable on highways grounds, in accordance with Policy 10 of the Local Plan, and the NPPF.

Waste

- 4.2.11 The applicant asserts that waste will be stored in the dedicated bin storage area to the rear of the premises, and collected via a commercial refuse collection service, so not requiring full access by waste vehicles. Provision will be made for two 1,100 litre euro bins for commercial waste, and a recycling collection for paper, glass, cans, cardboard and plastic bottles (these materials can be collected in either 77 litre boxes or 240 litre bins depending on quantities). A local 'Waste management' company will pick up mainly cardboard and plastic packaging waste three times a week. A system will be implemented whereby all the cardboard is 'flattened' and stored in the store area and the rear door opened to allow waste to be loaded on a medium sized panel van.
- 4.2.12 The Council's Cleansing team raised no objections to the proposal. However, a condition can be attached to secure a scheme for a waste bin at the premises.
- 4.2.13 From an enforcement point of view any waste and litter that accumulates on the car park will be the responsibility of the land owner. The Environmental Crime Team can issue letters and notices asking/telling them to clean their land, otherwise fixed penalties can be issued, or even court action can be taken.

4.3 Design and Visual Amenity

- 4.3.1 In general terms, Core Strategy Policy CS16 require and Local Plan 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.
- 4.3.2 The alterations essentially involve the introduction of more glazing into the elevations, and aluminium powder coated curtain walling, at ground and first floor level, on the front and side elevations, which are most prominent in the street scene. The amount of glazing and the materials to be used are considered acceptable, and there are other examples of extensive amounts of glazing being used at ground and first floor levels in the area. The alterations would introduce new life into the building, which is presently more industrial in appearance.
- 4.3.3 The rear extension, bin store and extract flue would not be visually prominent other than from the shared privately owned car park to the rear, and in any case these additions would be functional, and in keeping with the character of the existing building in terms of size, scale and materials.
- 4.3.4 There would only be a minor increase to the overall floor space, resulting from the rear kitchen extension and the external decking area to the side, which would not detract from the appearance of the main building.
- 4.3.5 The proposed alterations would result in active, modern elevations that are more in keeping with the function, character and vitality of the Whalley Range District Centre. It is therefore considered that the proposal would have a positive impact on the existing building, and would not have any detrimental impact on the mixed character of the wider area / street scene, thereby meeting the requirements of Policy 11 of the Local Plan and Policy CS16 of the Core Strategy.

4.4 Residential Amenity

- 4.4.1 Policy 8 of the Local Plan 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 relationship between buildings. Also that it will, in isolation and in conjunction with other planned or committed development, contribute positively to the overall physical, social, environmental and economic character of the area in which the development is sited.
- 4.4.2 The site was formerly used for commercial purposes, and lies directly adjacent to a designated District Centre on a busy road, where a degree of noise and disturbance is to be expected. No residential premises directly

adjoin the site. By bringing the building into active use, this will also assist in terms of reducing potential crime and antisocial behaviour.

- 4.4.3 The Council's Public Protection team raised no objections to the proposal, subject to appropriate conditions and informatives. However, the Public Protection Officer requested a condition restricting hours of use to 20:00 hours. This is considered unduly restrictive in a commercial building directly adjacent to a District Centre, and could potentially be harmful to the viability of the business.
- 4.4.4 Similar approvals in the area, including appeal decisions, have allowed nearby businesses to open much later than this. For example, Le Glacier, at 51-53 Whalley Range closeby, was granted planning permission to open until 23:00 hours (this was even extended to 00:15 hours, on a 12 month trial basis, at a subsequent appeal). This, and other examples of relevant appeal decisions, are referenced later in this report.
- 4.4.4 Therefore, the hours applied for (23:00 hours) by the applicant are not considered unreasonable, and would be similar to other businesses in the area. Although the applicant was seeking a morning start of 09:00hrs Mon-Sun, it is considered reasonable to restrict opening times to 10:00hrs at weekends/Bank holidays, as suggested by Public Protection. This would also reflect the hours restrictions recommended on planning application 10/22/0920 for the proposed dessert parlour at Units 1&2. A condition can therefore be attached to this effect. The condition can also be worded to ensure that the open decking area is not allowed to be in use after 20:00hrs on any given day, which will help ensure noise and disturbance is not excessive, and is kept mainly inside the building during the evenings, to the benefit of local residents.
- 4.4.5 Other matters within the jurisdiction of Public Protection, such as any dumping of waste, vermin, and/or statutory noise nuisance are being investigated under separate powers / legislation.
- 4.4.6 From a planning perspective, the proposal is therefore considered to have an acceptable impact in terms of residential amenity, subject to conditions, and accords with Policy 8 of the Local Plan.

4.5 Other matters, including land ownership

Land ownership

- 4.5.1 Land ownership was queried with the applicant during assessment of the application. A revised location plan was provided, to show the red edge around the application site and access to Whalley Range and the shared parking area. However, for clarity, the applicant does not own the shared car park or access, but will have access rights. For this reason it has not been possible, and the applicant has not been willing, to agree to a condition requiring a management plan for the shared car park including the other units within the former Brookhouse Business Centre.

4.5.2 The applicant has served a Certificate B on the owner of the site, in compliance with Article 14 - Town and Country Planning (Development Management Procedure) (England) Order 2015 (as amended).

Other matters

4.5.3 Various matters raised by local residents include statutory noise nuisance and environmental concerns, and alleged breaches of operating hours of nearby businesses. Noise nuisance and environmental impacts are being considered under separate legislation by the Council's Public Protection team. Alleged breaches of planning control in the area by existing businesses are also being investigated by the Planning Enforcement team. Illegal parking is a matter for the Police. None of these issues relate specifically to planning issues at the application premises.

4.5.4 Notwithstanding this, given the ongoing issues in the area, a management plan condition for the shared car park was suggested to the applicant, whereby a comprehensive access, parking and waste strategy / management plan for the operation of the whole site, including control of the car park and the car park access / barrier, would be attached by condition. However, the applicant was unwilling to agree to such a condition, which is considered unreasonable given the applicant does not own the car park, or the access to the car park, and does not have exclusive access to it.

4.6 Planning balance, including recent appeal decisions in the area

4.6.1 Relevant appeal decisions

4.6.2 There are a number of recent appeal decisions in the local area which give weight in favour of approving this application. These include:

- 10/16/1299 – Le Glacier, 51-53 Whalley Range (Removal of conditions 1 and 3 of previously approved planning application 10/15/1402) - Appeal Allowed 30th June 2016 (12 month temporary trial).

4.6.3 Key points taken from the above appeal decision 10/16/1299:

- Hours condition previously approved under 10/15/1402 (limiting opening hours to 23:00 hours) extended to 00:15 hours on a 12 month trial basis.
- Quote from Inspector, at Paragraph 15: *"I note the comments made about about people parking on the double yellow lines and blocking the road. I have no photographic or video evidence to show that this was entirely associated with the appeal premises , or in any event, if this now occurs routinely. In any event, there are separate enforcement powers available to deal with unauthorised parking on the highway."*
- Quote from Inspector, at Paragraph 16 of Inspector's report: *"..it must be recognised that the appeal property falls within a District Centre and fronts a relatively busy main road. Hence it is reasonable to expect that levels of noise and activity would be higher than in areas which are more residential"*.
- Quote from Inspector, at Paragraph 19: *"Despite the fact that the site is within a District Centre there are nonetheless residential properties very close*

by. It is therefore important that the occupiers of such properties are afforded reasonable levels of peace and quiet during times when they wish to sleep.”

- 10/15/0241 – 47a Whalley Range - Demolition of garage and erection of two storey retail building with shop front and roller shutters - Appeal Allowed 16th November 2015.

4.6.4 Key points taken from the above appeal decision 10/15/0241:

- Quote from Inspector, at Paragraph 5 of Inspector’s report: “.. *there are parking restrictions all along Whalley Range and almost none of the other small shop units in the vicinity has off-street parking*”.
- Quote from Inspector, at Paragraph 7: “*This is a highly accessible retail centyre, principally serving the local community. As such it seems to me that the proposed use is unlikely to give rise to significant additional demand for parking*”.
- Quote from Inspector, at Paragraph 9: “*I conclude that, although the proposal would not accord with Local Plan policies.. which, among other things, require appropriate provision for off street servicing and parking, the lack of such facilities would not have an unacceptable impact on highway safety and the free flow of traffic.*”

- 10/09/0752 – 23 Whalley Range – Change of use of ground floor to hot food takeaway – Appeal Allowed 1st February 2010.

4.6.5 Key points taken from the above appeal decision 10/09/0752:

- Hours condition: 07:30 hours – 23:00 hours Monday-Sunday;
- Quote from Inspector, at Paragraph 7 of Inspector’s report: “*Although yellow lines may from time to time be ignored by motorists, I do not believe that the consequences would be significant, and could, in any event, be addressed by enforcement of the regulations. Any parking generated by a new hot food takeaway would be a marginal addition to that which already takes place. Parking in the evening would be at a time when the demand is less than at other times during the day.*”

4.6.6 Planning balance

4.6.7 The objection from the Highways Authority is acknowledged, and has been given due consideration in reaching this recommendation. So too have the comments from the Public Protection team, who suggested restricting hours of use to 20:00 hours.

4.6.8 However, on balance, it is considered that the benefits of the proposal outweigh the concerns identified, and the planning balance suggests the application should be approved, subject to the conditions referred to in this report.

4.6.9 Examples of the aforementioned benefits include bringing a former commercial building back into active use; the continued use of the shared car park to the rear; the wider economic benefits / job creation it would bring to the local area; the visual and social benefits; improving the range and choice

of local facilities and services; and making a positive contribution to the vitality of the District Centre.

4.6.10 The application involves the change of use from one commercial use to another. In general terms, the Government is keen to support greater flexibility between town centre uses, evidenced by the introduction of the new Use Class E. Indeed, the applicant disputed whether planning permission was even required for the use now proposed. Most town centre uses would not need to apply for planning permission under the recent Use Class changes. Notwithstanding this, by approving this application, a degree of control can be achieved, with appropriate conditions attached to limit highway/amenity impacts. As things stand, there are no restrictive conditions attached to the former Brookhouse Business Centre.

4.6.11 Another factor to be considered is, should this application be refused, what would the building be used for. It would be likely that the building would fall vacant, and investment in the application site / former Brookhouse Business Centre / wider area would be stunted. Significant weight is given to the wider economic benefits of the proposal, and if the unit were to fall vacant and/or other units did likewise, the car park would also be likely to close, having an even greater detrimental effect on parking availability in the area. A Class E use of a commercial building directly adjoining a vibrant District Centre is an appropriate use in this location / context.

4.6.12 Fundamentally, the location directly adjacent to the District Centre is a key consideration, and the proposal is acceptable in principle. There is no requirement under Policy 27 of the Local Plan to provide any off street parking within a District Centre. The recent changes to the Use Classes Order, introducing the new Class E and its greater flexibility between uses, were introduced far more recently than the Parking Standards which were adopted in 2014. It is therefore considered that only limited weight can be given to the parking standards in this context. Furthermore there is a shared car park to the rear, which is far in excess of what most other businesses have on Whalley Range, and this helps to ease the impact on Whalley Range and surrounding streets. Recent appeal decisions have allowed similar uses in the area, and Inspectors have been clear that illegal parking should be dealt with under separate powers / legislation.

4.6.13 All things considered, on balance, it considered that the development should be approved, subject to conditions.

5 RECOMMENDATION:

5.1 APPROVE subject to the following CONDITIONS:

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

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

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

Project no. 050 / WSA / 2022, Dwg no. 04: Location Plan, received 7/12/23.

PROJECT NO: 050 / WSA / 2022, Dwg no. 02: Proposed Floor Plans.

PROJECT NO. 050 / WSA / 2022, Dwg no. 03: Proposed Elevations.

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

3. The use hereby permitted within the property shall not take place outside the hours of

09:00hrs to 23:00hrs Mon-Fri, and

10:00hrs to 23:00hrs Sat, Sun and Bank Holidays.

The external decking area shall not be in use for any purpose outside the hours of 09:00hrs to 20:00hrs (Mon-Fri), and 10:00hrs to 20:00hrs (Sat, Sun and Bank Holidays).

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

4. The external construction materials shall be as stated on the application form and approved drawings and they shall not be varied without the prior written consent of the Local Planning Authority.

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

5. Within 3 months of the date of this permission, a scheme for the installation of a litter / waste bin, shall be submitted to and approved in writing by the Local Planning Authority. The approved scheme shall be fully implemented in accordance with the approved details within 3 months of the submitted details being approved by the Local Planning Authority, and shall be permanently retained thereafter.

REASON: To ensure adequate facilities are provided at the site, to reduce litter, in accordance with Policy 9 of the Blackburn with Darwen Borough Council Local Plan Part 2.

6. Within 3 months of the date of this permission, a scheme for the control of cooking odours and fan noise from the premises shall be submitted to and approved in writing by the Local Planning Authority. The approved scheme shall be fully implemented in accordance with the approved details within 3 months of the submitted details being approved by the Local Planning Authority, and shall be permanently retained thereafter.

REASON: To prevent loss of amenity to occupiers of neighbouring premises from cooking odours and/or extraction system noise, in accordance with Policy 8 of the Blackburn with Darwen Borough Local Plan Part 2.

7. Prior to the use of any outdoor lighting, an external lighting scheme shall be submitted to and approved in writing by the Local Planning Authority. Any external lighting shall be installed and thereafter operated in accordance with the approved scheme for the duration of the approved use.

REASON: To prevent light pollution and loss of amenity to occupiers of neighbouring premises, in accordance with Policy 8 of the Blackburn with Darwen Borough Local Plan Part 2.

8. The application premises shall only be used for the purposes included within Class E (b) of The Town and Country Planning (Use Classes) Order 1987 (as amended), and for no other purpose, including any other purpose in Class E of the Town and Country Planning (Use Classes) (Amendment) (England) Regulations 2020.

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

9. Notwithstanding the submitted details hereby approved, there shall be no sales of food for consumption off the premises.

REASON: In the interests of public health and in accordance with the requirements of Policy 33 of the Blackburn with Darwen Local Plan Part 2 and the adopted Supplementary Planning Document: Planning for Health.

6 CONSULTATIONS

6.1 Highways

6.1.1 OBJECTION:

- 6.1.2** The application seeks consent for Retrospective Application for Change of Use from Sui-Generis to Café (Class E) including New Glazing. Rear extension and external alteration, including new seating area to the side elevation

In accordance with adopted parking standards. The area for public use is used to equate the required parking allowance to support the business. This exercise has been undertaken and the total area is 134.8sqm, this is then measured against a requirement of 1 car space per 7sqm, which provides a required allowance of 19 spaces.

The proposal would clearly generate an increase in parking numbers, from the outgoing use.

There is a car park to the rear of the units which serves all the units within the business park. With all the units requiring supportive parking, we are concerned that the provision required for this use alone cannot be safely and adequately accommodated within the applicant's ownership.

On recent site visits it has been noted that vehicles are parking on the double yellow lines to the front of the premises along Whalley Range.

The property is located on the fringe of the Whalley Range Bazaar Area. The existing parking in the adjacent streets is fully saturated. It is recognised that the site is sustainable, however not all visitors will be from the immediate area, as the bazaar does attract visitors from a wider area and also from outside the borough.

In addition to the above, there is a priority give way positioned right outside/close to the property. This also highlights the need to keep the area clear from intensive movements, for safety reasons.

To conclude we recommend refusal of the application:

- no parking is offered to support the increase in vehicle movements
- detrimental to highway safety
- contrary to policy 10 of the Local Plan Part 2

I have also attached **emails from colleagues in parking, traffic and community safety supporting our concerns in relation to traffic, safety of highway users.***

6.1.3 *Attached email (as referred to above): Community safety Team:

I can say from a Community Safety point of view that yes we have had a number of historical complaints within this vicinity particularly Whalley Range and notably very nearby concerning another late night refreshment premises last December 2021, which brought complaints of parking issues, Anti-social driving and noise nuisance. This resulted in a multi-agency targeted operation involving the local Police a number of enforcement operations were carried out to try and rectify the issues under the Operation Unity banner. The Police will have a wealth of information themselves relating to this area as these premises were not the only complaints they received, and traffic issues within this area will prove a stretch on their resources. Prior to the Operation Unity interventions around October 2021, a number of Councillors had also highlighted specific problems on Whalley Range with a lack of parking provision and inconsiderate driving.

Any further new premises that attracts further vehicular traffic to this vicinity will only add to the already existing issues we have and will likely fuel more complaints (which it has already done so) and potentially have a detrimental effect on safety and residents quality of life.

6.1.4 *Attached email (as referred to above): Parking Services Team

Operation Unity is a ongoing multi-agency partnership between the Police, Community Safety, Road Safety, Highways, Public Health, Parking Services, Environment Teams, Licensing, local councillors and the Fire Service, created with a view to tackling ASB, noise, littering, parking etc across the borough.

We undertook 5 night-time enforcement sessions, between December 2021 and March 2022. On Whalley Range alone, 108 vehicles were observed in contravention and 42 PCNs were issued. Unfortunately, the lack of available CEOs, coupled with observation times for the current restrictions, hampered the issuing all 108 observed. It is noted that parking enforcement does cause additional dangers on the highway in this area, especially when

motorists attempt to move their vehicles before receiving a PCN/FPN, often at speed or over pavements, with no regard for pedestrian/other motorists safety.

Enforcement of Whalley Range is a 24/7 issue in regards to Parking, Traffic management etc. I also believe that motorists stop reporting when they perceive that nothing is being done, there are lots of comments online about this being a 'no-go' area for the Council, however in the last 12 months, we have visited Whalley Range on 225 occasions, observed 262 vehicles in contravention and issued 102 PCNs (42 of these after 6pm over 5 nights). We are aware of the parking issues and we manage this as best we can, with the resources available.

I have no doubt that residents are happy that there is a bustling Whalley Range Bazaar during the day, but not when it impedes on their evenings/weekends. However, without Operation Unity/Police support, I cannot guarantee that parking enforcement after 6pm can be routinely provided and yet most of the complaints are ASB after 6pm as per the email from the residents below. I have a finite number of CEOs that patrol the whole borough and cannot be in this specific location, 24/7, so my view is that we must stop adding to the historic ASB issues, by allowing venues such as this to operate into the late evening, especially when we cannot provide the services required, at the times required, to manage the enforcement of such.

I am also in support of the comments made by Simon from a Highways/Traffic perspective.

6.1.5 *Attached email (as referred to above): Highways Authority Network Manager

I have serious concerns with regards this and the negative impact it will have on the traffic volumes, anti-social parking (that is already evidenced). We have undertaken multiple joint operations on Whalley Range with concerning results (Andy and Lisa-Marie can fill you on the results).

We have had 5 slight and 1 serious accidents in the last 3 years, around the locus of this application and the increased vehicle movements and lack of sufficient parking will only compound the risks to all road users. We need to reduce the risks to residents and road users and not increase them by allowing the retrospective application to be passed.

6.1.6 Counter comments by the applicant (in response to the Highways objection):

- *Whalley Range is a District Centre. Policy 27 does not require individual businesses to make provision for car parking. This is a highly sustainable location, easily accessible on foot.*
- *The District Centre designation recognises not only the sustainable location but also the potential for linked trip. Many trips to the centre will be multi-purpose.*
- *The Council's car parking 'standards' were adopted in 2014 and are out of date following the revision of the Use Classes Order in 2020. The former 'A' Classes 1,2 and 3 have been subsumed into Class E. As the premises could in the future move between any of the Class E uses without the need for planning permission, there is no justification for using the former A3 standard.*
- *It is notable that the Council's new Local Plan 2021-2037 states at para. 4.142 that. "The Council's latest car parking standards were adopted in 2014. The Council is commencing a*

review of car parking standards to include clearer guidelines on minimum/maximum car parking provision (including both vehicle and cycling provision)”. The Council itself therefore recognises that the 2014 standards are not fit for purpose.

- *The Brookhouse Business Centre car park actually takes parking pressure off Whalley Range. It is very unusual, compared with other businesses on Whalley Range, in that it has its own on-site parking. The businesses operating from the different individual units use the car park at different times of the day. For example, the workshops will use it during the day and the proposed restaurant café would use it predominantly at evenings and weekends.*
- *Para 111 of NPPF states that development should only be prevented or refused on highways grounds if there would be an unacceptable impact on highway safety, or the residual cumulative impacts on the road network would be severe. Highways have not provided any evidence that this single application would result in either of these situations.*
- *Parking ‘requirements’ cannot be imposed in the absence of a policy basis which would justify them.*

[On the requirement to meet parking standards] -

This takes no account of the site’s location in a District Centre with access to sustainable forms of transport. As stated above, it is not appropriate to use the former A3 standard to determine a parking ‘requirement’.

[On generating an increase in parking numbers, from the outgoing use]

- This is not necessarily the case. A high proportion of the patrons of the café/restaurant will arrive on foot. There will also be a high proportion of linked trips, taking in other activities in the District Centre.

[On car parking / illegal parking on Whalley Range] –

The Business Centre was formerly owned by the Council and the car parking provision is the same as at that time, apart from the fact that the whole complex being under private ownership gives more flexibility in the spatial arrangement of parking, for example, parking in areas of the site not designated as marked bays. Businesses are not allocated designated spaces but naturally tend to use those closest to their particular unit. Each business within the Business Centre has a key to the barrier at the entrance to the site. The first person to arrive in the morning will unlock the barrier and the last person out at night will lock it again. The café/restaurant are likely to be the last business out at night. Because the car park serves all the businesses within the centre, and they all have the right to use it as part of their tenancy agreement, the barrier would never be permanently closed. The car park comprises a large area of land with more than sufficient capacity for all the units in the Business Centre. Space is available outside the marked bays. Car parking use varies by the type of business, some of the smaller businesses only use one or two spaces. It also varies throughout the day/week. For example, a car repair business will need parking during the day but a café/restaurant will be predominantly evening/weekend focused. Units 7 and 7a have 7 parking spaces immediately outside the units and Units 1 and 2 (ice cream parlour – not referred to in this Highways document) have 4. In addition there is access to other spaces within the Business Centre site which are not used by other businesses either on a permanent basis or at certain times of the day/week.

If vehicles park on double yellow lines within the Whalley Range District Centre there is a legal remedy available. The fact that illegal parking takes place “along Whalley Range” is not a planning consideration in the determination of this planning application.

[On existing parking saturation in the area] –

The site is covered by Policy 27 which has no requirement for on-site parking. However, unlike the majority of businesses on Whalley Range, this site is able to provide parking. There is, though, no requirement for this development to make up for deficiencies elsewhere in Whalley Range.

[On highway safety / creation of intensive movements] –

There is absolutely no basis for suggesting that the application proposal would create “intensive” movements. Even if the calculation that the development would need 19 car parking spaces is accepted (which it is not), 19 cars all arriving and departing at different times could by no means be called “intensive” in the context of the Whalley Range District Centre and, therefore, the implication that there are highway safety issues associated with the proposed development is wrong.

[Conclusion] –

Policy 10 does not solely focus on parking. Sub section 3 of the policy is as follows:

3. Development will be permitted provided it has been demonstrated that:

- i) road safety and the safe, efficient and convenient movement of all highway users (including bus passengers, refuse collection vehicles, the emergency services, cyclists and pedestrians) is not prejudiced;*
- ii) appropriate provision is made for vehicular access, off-street servicing and parking in accordance with the Council’s adopted standards;*
- iii) access by public transport is catered for either by providing for bus access into the site where appropriate, or by ensuring that safe and convenient access exists to the nearest public facility;*
- iv) measures are included to encourage access on foot and by bicycle;*
- v) the development does not directly affect any public right of way, unless the right of way is maintained or the proposal provides for its replacement by an equally attractive, safe and convenient route; and*
- vi) the needs of disabled people are fully provided for, including those reliant on community transport services.*

The application proposal accords with this policy because:

- it will not interfere with the safe, efficient and convenient movement of highway users;*
- appropriate provision is made for access, off-street servicing and parking;*
- there is good access by public transport;*
- the site is in a District Centre with many complementary uses grouped together, encouraging access by foot or bicycle.*

6.1.7 ADDITIONAL HIGHWAYS COMMENTS (in response to the applicant’s rebuttal of their original Highways objection):

We respond to the rebuttal offered by the agent.

I will leave policies matter to planning and respond to the highway issues.

The site falls outside of the district centre, the highway authority therefore exercises the right to request adequate car parking is to be provided to support the use.

At the time of assessment the only standards adopted by the council are those used in the initial assessment, until further are adopted, the Highway Authority will continue to use those adopted in 2014.

I would reiterate the car parking within the Brookhouse Business Centre was always for the use of the tenants of the units and not for other businesses along Whalley Range. Before being sold the business centre tenants were largely small business/office spaces. The introduction of a food retail attracts a total different demographic and also larger number of customers more so when taking into account the opening hours which run from early morning though to late night.

The Café will in our opinion monopolise (if not already) all the parking spaces available which should be shared with all tenants.

I have visited the premises several times over the past week at various times.

I have observed on all occasions the car park was full to capacity with vehicles spilling out onto Whalley Range, unsafe traffic conditions. Each application is assessed on its own merits, use and location. The site already had a chaitwala operating within yards of the premises, with two further applications received for similar use. This application has been reviewed against the floor area that they have applied for, it is suggested in the rebuttal provided, that the spatial arrangement of parking, i.e. parking in areas of the site not designated as marked bays gives more flexibility. It is our opinion that this will actually lead to more confusion and irregularity of the space within the business centre. This is seen not as a positive but a negative, as this would lead to more parking on the highway in a dangerous manner. Public transport along this corridor is nonexistent, with the services bring removed due to poor usage. The type of facility proposed attracts people from further afield and not necessarily travelling on foot.

We have contacted various departments within the council, who have provided evidence to reaffirm our concerns.

The Community Safety team highlights the number of complaints of parking issues, anti-social behaviour, and Driving and noise nuisance. Our parking and traffic colleagues have offered an update on the number of parking interventions and PCNS issued.

We stand by my initial comments. Nothing further that has been received by way of rebuttal to alter our opinion.

The traffic woes are current and are not going to be alleviated by this use, but exacerbated.

The safety of highway users is paramount the additional vehicle movement to an already heavily congested area, together with the lack of parking and control is evident to see from all concerned departments, including myself.

On the part of the network that already has a similar use close by, together with a traffic calmed highway outside the premises. We are not supportive of any additional uses that would make the situation worse.

We therefore reiterate our reasons for refusal:

To conclude we recommend refusal of the application:

- no parking is offered to support the increase in vehicle movements
- detrimental to highway safety
- contrary to policy 10 of the Local Plan Part 2

6.2 Public Protection

6.2.1 No objections, subject to conditions:

Condition – Hours of Use Restriction

The approved use shall be restricted to the following times:

Monday to Friday: 09:00 – 20:00 hours

Saturdays/Sundays: 10:00 – 20:00 hours

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

Reason

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

Condition – Commercial Kitchen(s)

A scheme for the control of cooking odours and fan noise from the premises shall be submitted to and agreed in writing by the Local Planning Authority.

As soon as reasonably practicable, the agreed scheme shall be implemented and thereafter retained for the duration of the approved use.

Reason

To prevent loss of amenity to occupiers of neighbouring premises from cooking odours and/or extraction system noise.

Informative:

In determining an appropriate scheme the Local Authority will refer to the guidance document entitled 'Control of Odour and Noise from Commercial Kitchen Exhaust Systems'. To assist you with your odour and noise control scheme the Public Protection Service can provide a step-by-step guide, please contact Andy White (Env Protection Officer) tel: 01254 585585 for further details and advice.

Floodlighting

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

Condition – Floodlighting (as appropriate)

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

Reason

To minimise potential loss of amenity due to intrusive light pollution affecting residents.

Informative:

When assessing potential loss of amenity the Local Authority shall make reference to the lighting levels provided in 'Guidance Notes for the Reduction of Obtrusive Light' GN01 produced by The Institution of Lighting Professionals, available at: <https://theilp.org.uk/publication/guidance-note-1-for-the-reduction-of-obtrusive-light-2020/>
NB: The proposed development is within an E3: Medium district brightness area.

Condition – Air Quality (Small Commercial Development)

Prior to commencement of the development hereby approved, a scheme for the provision of charging points for low emissions vehicles shall be submitted to and approved in writing by

the Local Planning Authority. The scheme shall be implemented prior to commencement of the proposed use 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.

Informative: Roller Shutters

Roller shutter(s) fitted to a shop window &/or door must NOT cause a noise nuisance at residential premises during opening/closing operation of the shutter(s) in accordance with the Environmental Protection Act 1990. Electrically operated shutters are recommended.

6.3 Cleansing

6.3.1 No objections.

7 **Publicity**

7.1 The proposed development has been publicised through letters to 35 properties and businesses in the immediate area, and a site notice was displayed on 10^h November 2022.

7.2 As a result of this, 3 objections were received, and a petition signed by 17 signatories, was received on the 29th January 2023.

7.3 The following is a summary of the objections raised:

- Principle – No need or demand, over development, Tip the balance of business/residential to business, Impact on health, Cumulative impacts of this and other businesses. The proposed outdoor seating area causes a negative and adverse impact on the area and is out of character with the surrounding area. Contrary to Local Plan Policy.
- Residential amenity - Noise and disturbance, anti social behaviour, public gatherings, loud music, etc. Operating hours late into the night. If approved, restrictive hours conditions should be applied, and gate to car park should be closed at 8pm. Various existing business breach their permitted hours of use. Others are opening without permission. Litter and waste is frequently left in the car park. Vermin infestation. “Gentrification” of the neighbourhood.
- Highway safety, accidents, Traffic and congestion, illegal parking on Whalley Range footway, blocking and damage to the footway. There are no parking enforcement officers, no double red lines and nothing is policed

due to 'funding'. Infrastructure already overwhelmed. No capacity for this extra footfall/vehicles.

7.4 The above matters have all been addressed, directly or indirectly, in the main body of this report.

7.5 The neighbour objections /petition is appended to this report, at Paragraph 10.

8 CONTACT OFFICER: Tom Wiggans – Planning Officer

9 DATE PREPARED: 03rd February 2023

10 SUMMARY OF REPRESENTATIONS

This is a petition against the exponential rise of dessert and tea shops and businesses in Blackburn and especially the Whalley Range area. This onslaught of the rise of businesses opening without proper planning permission is very alarming and amounts to a gentrification of our community and neighbourhood. We demand a moratorium on any new business outlets as they are bringing in high levels of traffic and noise as well as litter and vermin infestations into our neighbourhood. The current infrastructure is already overwhelmed and cannot support anymore businesses without thought for parking, litter and other hazards that are imported into the area.

Name	Address	Signature
ASIF IQBAL	140, WHALLEY RANGE	[Redacted]
M. GHCEWANA	10 BROOKHOUSE GARDENS	
H Khondr	6 Brookhouse Gardens	
Abid	144 W. Range	
GHAIB	146 Whalley Range	
IRFAN	150 WHALLEY RANGE	
MUSA I. PATEL	152 WHALLEY RANGE	
SAYED MOHAMMED	5 BROOKHOUSE GARDENS	
ARIF RAH	2 Brookhouse Gardens	
MOHAMMED AYAZ	105 WHALLEY RANGE	
Samin Patel	7 BROOKHOUSE GARDENS	
AZAM IQBAL	9-11 Brookhouse Gardens	
M-Farooq	1-Brook house Gardens-	

Name	Address	Signature
Rabina Yesmin	8 Brook House gardens	[Redacted]
Abubakar Siddique	8 Brookhouse gardens	
ENALID KHAN	109 WHALLEY RANGE	
MOHAMMED Siddique	12 Brookhouse gardens	

Objection 1 - Arif Bapu, Rec 23.11/2022

Dear Sir / Madam

Please accept this email as an objection to the planning application reference no 10/22/1004 due to the following reasons.

1: customers are parking and blocking public footpath in attendance to the

Sent from my iPhone

Objection 2 – A Iqbal, Rec 23.11.2022

Dear Sir/ Madam

Please accept this email as an objection to the planning application from the above stated business. The reasons for the objection are as that the business negatively affects neighbours and community due to an increase in noise (traffic and people), disturbance caused due to unreasonable operating hours late into the night, a general nuisance from the extra litter generated and dropped onto the floor. Furthermore, the business is causing overcrowding and over-development and the proposed outdoor seating area causes a negative and adverse impact on the area and is out of character with the surrounding area. The outdoor seating area is over-bearing in terms of its appearance and scale.

I would like to support this objection by citing elements from Blackburn with Darwen Core Strategy document 2011, Under part 4 - Targeted Growth Spatial Interventions page 103 states:"retailing will be permitted, provided it is demonstrated that there will be no unacceptable impact vitality and viability within other centres, on traffic generation, or on amenity." Further in this section on page 104 item 9.14 it states: "Recently the Whalley Range and Victoria Street area in Blackburn has begun to develop a specialism in fashion and to attract an element of "destination" shopping as a result. This is encouraged providing it does not adversely affect trade in the Town Centres themselves and providing local infrastructure and surrounding uses can accommodate it."

I would further like to cite Blackburn with Darwen Local Plan Part 2, 2015 document as a further basis for my objection. Chapter 5, Public Facilities page 101 Health - items 5.31 and 5.32 and page 102 policy 33, items 1 and 2. These specific sections quoted should provide the council justification to reject the planning application due to the detrimental effects on health in the community.

Another document I would like to quote is National Planning Policy Framework (NPPF), In section 8: Promoting healthy and safe communities item 92. (C) it states: "Enable and support healthy lifestyles, especially where this would address identified local health and well-being needs..."

Item 93. (B) states: "Take into account and support the delivery of local strategies to improve health..." Note that the NPPF's emphasis is also on planning policies and decisions that aim to achieve healthy places for businesses.

The council should enforce a cessation of the business activities with immediate effect until the planning matters are resolved.

Yours Sincerely

A. Iqbal

Objection 3 – Arif Babu, 2 Brookhouse Gardens, Rec 24.11.2022

Dear planning,

Please consider my reasons below to the objections for planning ref no 10/22/1004.

Since the opening of the business at unit 7 & 7A there are continually customers parking on our estate at Brookhouse gardens and surrounding area, customers are also parking their vehicles on the

footpath outside of this unit and this has led to blocking public footpath, increase in the followings: noise, public gathering, litter, loud music, cars accidents, damages to the public footpath, I have attached a video of cars park outside these unit and other units please have a look, please consider giving the permission to the units the residential area will be deemed as high street or retail park, it is clear the road whalley Range does not have the capacity for the unit attendance customers, it's a residential area and needs to be protected as residential area. Our neighbourhood needs to remain protected which has been set out in Blackburn with Darwen Core Strategy & Blackburn with Darwen Planning.

Please reject planning for reference 10/22/1004.

Objection 4 – Mr Arif Babu, 2 Brookhouse Gardens, Rec 11th January 2023

Dear all

Further to receiving email from John wood it is now apparent unit 1 & 2 are under impression the approval of application reference 10/22/0920 is in approval! internal fixtures fittings for desert place has now commenced at unit 1 & 2.

Mii Chai also continues to operate till after midnight and resident's disturbance from customers and their customers parking at back of brookhouse gardens remains disturbance to residents with nuisance noises and cars, continually cars remain parking on whalley range directly outside of these operating business blocking of public footpath till close of business, it is clear the business of Mii Chai having put No Parking Sign on their front of business are not enforcing to there customers. Please see pic & video.

Also Butcher's remains in full operation of machinery usage whilst shutters open and now rodents are in view.

We residents ask you all to stop saying this department and that department get a grip and remind yourselves this is not commercial area it's residential area and we need to stop this of further exploding in earnest and only we can do this for residential and residents.

We residents as payee to the council are not receiving support and protection? why is that having provided substantial evidence after evidence we residents are still having our residential living disturbed at all times? Why is Whalley range filling station in Neighbouring details in planning reference 10/22/0920 & 10/22/1004 as well as the businesses units? Filling station are the owners of Brookhouse business centre and are all owners of the units as well as other businesses, it is clear this whole situation of planning applications is flawed.

We residents have continually use our spare resting and quality time to bring disturbances to your attention but yet nothing has been done from you all, when are you going to support and help us residents?

When are you now going to put your full recording of surveillance in place for 24 hours 7 days a week for full month to collaborate with us residents?

When is the planning committee meetings for these planning applications?

We residents 1 to 12 Brookhouse Gardens and 140 to 152 Whalley range have a signed petitions of this whole planning applications disapproval and also of full list of disturbances to our residential area etc etc to bring to the committee meetings, please provide a full details of person and address to send this to prior to the planning committee meeting?.

Proposed development: Full Planning Application: Demolition of existing waste management operations, relocation of the Waste Transfer Station and Materials Recycling Facility and erection of Anaerobic Digestion Facility.

Site address:

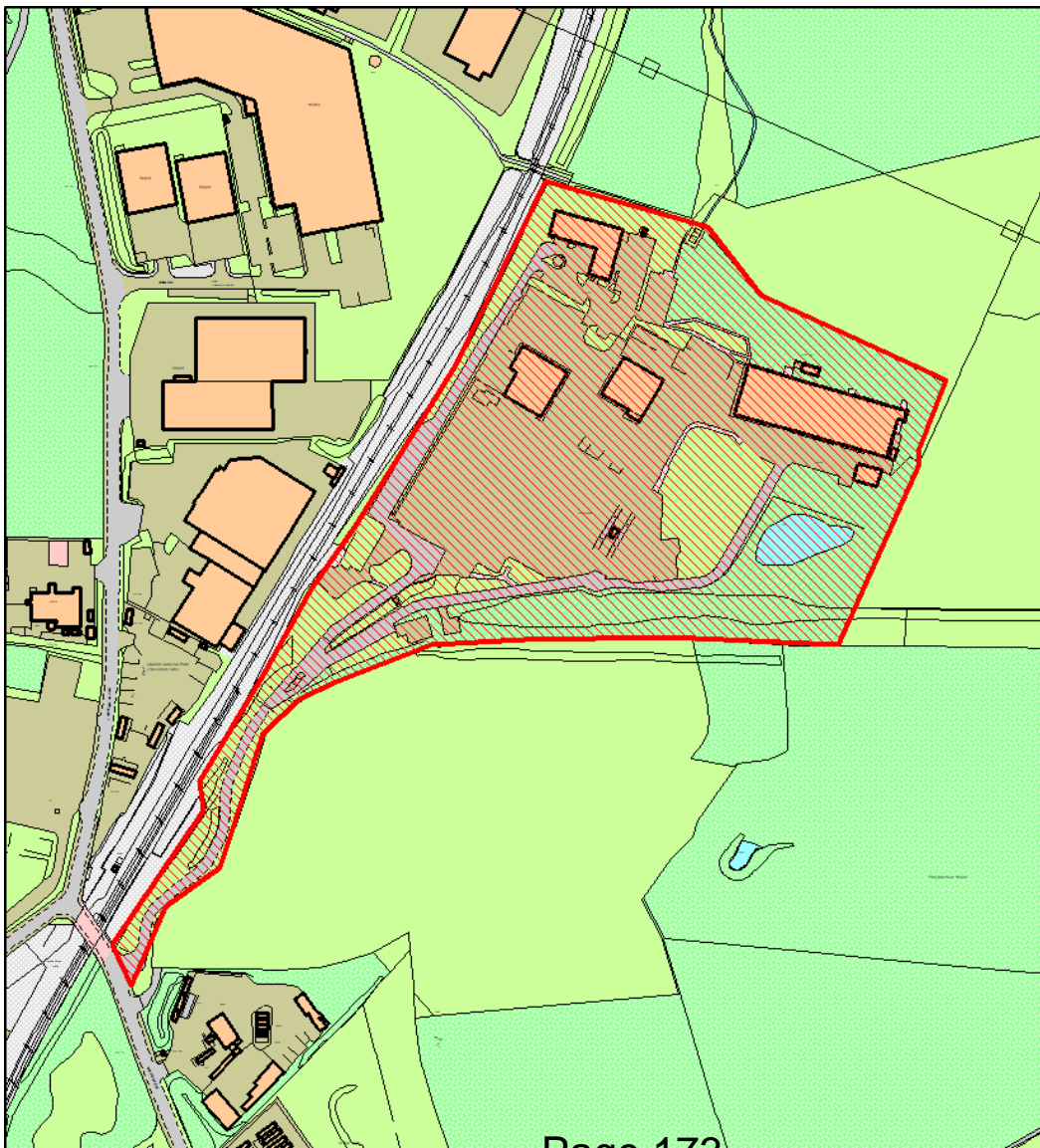
**Suez Recycling & Recovery Park
Lower Eccleshill Road
Darwen
BB3 0RP**

Applicant: Suez Recycling & Recovery UK Ltd

**Ward: Darwen East
Ward: West Pennine**

**Councillor Karina Fielding
Councillor Martin McCaughran
Councillor Paul Browne**

**Councillor Julie Slater
Councillor Neil Slater
Councillor Jean Rigby**



1.0 SUMMARY OF RECOMMENDATION

- 1.1 APPROVE – Subject to a Section 106 Agreement for a commuted sum of £61,000, as a proportionate contribution towards the Goosehouse Lane/Hollins Grove junction enhancements, so required to improve capacity, address safety concerns and improve pedestrian and cycle facilities; and conditions. Full details are set out at paragraph 4.1.**

2.0 KEY ISSUES/SUMMARY OF PLANNING BALANCE

- 2.1** The proposal will deliver an Anaerobic Digestion Facility (ADF), together with the relocation of the existing Waste Transfer Station (WTS) and Materials Recycling Facility (MRF). Demolition of the existing waste management operations will facilitate the works.
- 2.2** The proposed ADF will process up to 100,000 tonnes of food waste per annum from Blackburn with Darwen Borough and the wider Lancashire area. The ADF would treat waste onsite to generate renewable energy (predominantly biomethane 'green gas', but also electricity and heat). The gas and electricity would be exported to the local distribution network and electricity used to power the plant.
- 2.3** The proposal is found to represent a high quality design and sustainable practises in waste management, as well as renewable energy, at an allocated waste site deemed suitable for built waste facilities; in accordance with the Council's strategic aims and objectives for minerals and waste planning. The proposal is also satisfactory from a technical point of view, with all issues having been addressed through the application or capable of being controlled or mitigated through planning conditions and a Section 106 contribution.

3.0 RATIONALE

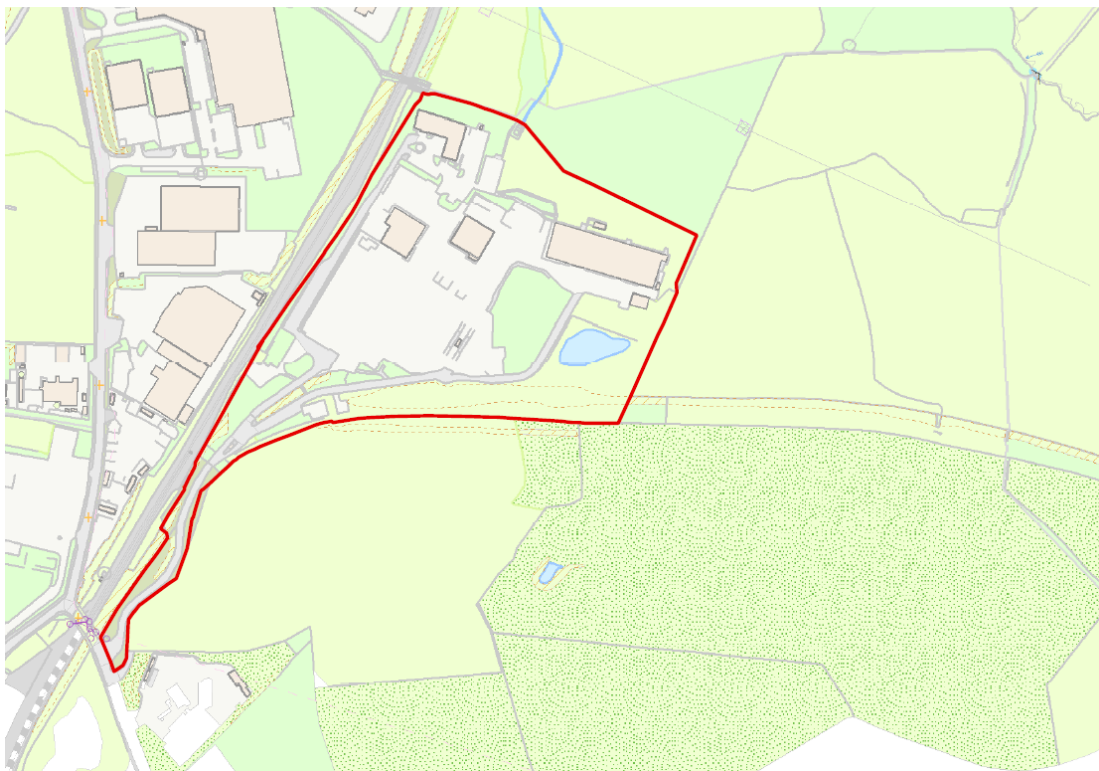
3.1 Background

- 3.1.1** The application is submitted following pre-application dialogue with the applicant (Suez Recycling & Recovery UK Ltd). The site currently benefits from an extant planning permission to create the new Darwen Energy Recovery Centre – EFW facility. The facility would process up to 500,000 tpa of residual municipal, commercial and industrial waste. Permission was granted in August 2019 by the Planning and Highways Committee, under application reference 10/19/0495. Permission was subject to a mutually agreed 4 year commencement period which expires on 15th August 2023. The current ADF proposal is submitted as an alternative form of waste management facility to the EFW which is unlikely to come forward, due to a significant shift in market forces, since approval of the facility.
- 3.1.2** The applicant does, however, wish to secure lawful commencement of the EFW permission, in order to retain the option of developing the site for that

purpose, should market forces dictate a need. In order to facilitate this option and to ensure lawful commencement can be achieved, an application is anticipated to discharge pre-commencement conditions and / or to vary the wording of conditions, as may be necessary. Members should, however, be assured that only one development - either the ADF or EFW - will be implemented. Indeed the site cannot physically accommodate both. In order to formalise the position, the applicant and the Council have agreed that revocation of the EFW permission will be triggered upon commencement of the ADF, legally secured via either a clause inserted into the Section 106 Agreement or a Unilateral Undertaking. Discussions with the Council's Legal team are ongoing in this regard and the final position will be represented in the Update Report.

3.2 Site and Surroundings

3.2.1 The application site (the site) comprises Darwen Resource Recovery Park located east of Lower Eccleshill Road and off Goose House Lane. The site extends approximately 7.23ha, as defined by the red edged location plan extracted below (Planning Statement (WSP, Oct 2022).



3.2.2 The Site is located approximately 4km south of Blackburn Town Centre and approximately 1.6km north of Darwen Town Centre, and is an established waste management site which currently operates as a Waste Transfer Station (WTS) and Materials Recycling Facility (MRF), within the ownership and occupancy of the applicant (Suez).

3.2.3 The Site contains an established pond located towards the eastern edge, with a small stream issuing from it flowing northwards. Another small stream flows

north from an interceptor on the site boundary. Both streams feed into Davy Field Brook located north of the site.

- 3.2.4 The Site also contains a two-storey high office building located in the northwest corner and also a fire-water pond located to the eastern side of the site. Current waste operations take place in existing repurposed industrial buildings.
- 3.2.5 The site is accessed along a private road via a T-junction with Goose House Lane. Goose House Lane provides access to a junction with Lower Eccleshill Road and Hollins Grove Street to the west. Lower Eccleshill Road provides access to Junction 4 of the M65 which is located approximately 0.93-mile driving distance to the north of the site and Hollins Grove Street provides access to the centre of Darwen to the west via the A666.
- 3.2.6 To the west of the site lies a predominately industrial area with a number of commercial units located in close proximity to the site, such as Crown Paints Polymer Plant located directly to the west, beyond an active rail line which bounds the west of the site.
- 3.2.7 The site is bounded to the south by a disused railway and beyond lies an open field. The northern boundary is bounded by a public footpath which runs from east to west linking Lower Eccleshill with Davy Field Farmhouse. The eastern boundary is formed by a combination of trees and hedgerows beyond which agricultural land is located. The area beyond the site to the north is a Biological Heritage Site (BHS) designated at County Level, known as Eccleshill Old Iron Works and is currently wooded, this area is also in the ownership of the applicant SUEZ but does not form part of the application site. To the south and southeast is open agricultural land, designated as Green Belt.
- 3.2.8 The site is well served by road but limited public transport links currently exist in close proximity.
- 3.2.9 The nearest residential properties are located on the Oakhill Caravan Park, a travellers' site, which is located around 200m to the southwest of the site. Other residential properties are located on Lords Crescent 500 metres to the north, beyond the M65 motorway and around 500m away to the southeast in Knowle Lane.
- 3.2.10 The site is not subject to any environmental designations.
- 3.2.11 The site is allocated as a Secondary Employment Area in the Council's adopted Blackburn with Darwen Borough Local Plan Part 2 (LPP2) (December 2015). It is also an allocated site for large scale-built waste management facilities in the adopted Lancashire Joint Minerals and Waste Local Plan, supporting waste type development with capacities of up to 330,000 tonnes per year.

3.3 Proposed Development

- 3.3.1 The Proposed Development is for the demolition of existing waste management operational buildings, installation of an AD plant and the relocation of existing WTS and MRF at Darwen Resource Recovery Park off Goose House Lane, Darwen to replace existing waste handling, processing, and transfer facilities at the site. The use does not fall within any defined Use Class and instead considered a *sui generis* use – ie. of its own kind.
- 3.3.2 The proposed AD plant will form a network of strategic facilities across the UK. Food waste derived from Lancashire and surrounding areas will be processed and treated through the anaerobic digestion process of which is considered to provide the best environmental outcome for food waste.
- 3.3.3 The AD plant will be designed to treat 100,000 wet tonnes per annum (tpa) of organic and commercial food waste to generate renewable energy (predominantly biomethane 'green gas', but also electricity and heat). The gas and electricity would be used to power the plant but also exported to the local distribution network. It is considered that a maximum capacity the Proposed Development could generate a capacity of approximately 126,600MWh of gas which could be exported as a renewable gas to replace fossil gas currently used in the local network.
- 3.3.4 A further 19,200Mwh (approximately) of power from burning gas to generate renewable electricity could also be generated and exported of which 8,000 MWh to be used to power the AD Plant.
- 3.3.5 The key aspects of the Proposed Development include:
- Erection of AD plant and main process building
 - Erection of new WTS and MRF facility
 - Office car park, disabled parking and cycle parking and shelter, EV charging provision
 - Bin store and container area
 - Fuel tank and transformer/substation
 - New office and welfare facilities
 - Logistics/HGV parking area
 - Workshop area.
- 3.3.6 Areas and structures that will be retained as part of the proposals include the existing two storey office building, substation, pond /lagoon, gas governor, access and haul route, gatehouse and weighbridges.
- 3.3.7 The facilities will be constructed on concrete and hardstanding surfaces. Permeable block paving is proposed for areas where there are office and welfare facilities and access for pedestrians. Pedestrians on areas will be appropriately demarcated.

3.3.8 Proposed ADF composition and operational summary:

The proposed ADF can be separated into six general areas: reception, separation, anaerobic digestion, liquor treatment, biogas handling (including electricity generation) and odour control.

3.3.9 The process of anaerobic digestion at the site can be summarised as the conversion of biodegradable material into methane, carbon dioxide and waste through microbial action in the absence of oxygen. Biogas consisting of mainly methane and carbon dioxide is captured and used in the generation of electricity. The material left from the process is known as digestate which is subsequently separated into solid digestate and liquid.

3.3.10 The AD plant comprises:

- Main process building,
- Gas to Grid area
- Combined heat and power plant (CHP)
- Heat exchanger
- Boiler house
- Ferric Store
- Pasteurisers
- X 3 stacks
- X 1 gas flare
- X 5 digester tanks
- X 4 buffer tanks
- X 3 post digestion tanks
- Feeder tanks
- NaOH tank
- X 3 Propane tanks.

3.3.11 The main AD process building extends to approximately 2,800m² in area and would be a maximum height of 16m. The roof will be flat and contain photovoltaic panels. The building would be aluminium framed curtain walling and painted with an olive-green finish. A number of outer steel roller shutters inclusive of a high-speed curtain door for HGV access are proposed on the front elevation. The building is also attached to an odour control area which contains an odour control stack extending to a maximum height of 19m. A chiller and compressors area are also provided in the south of the building.

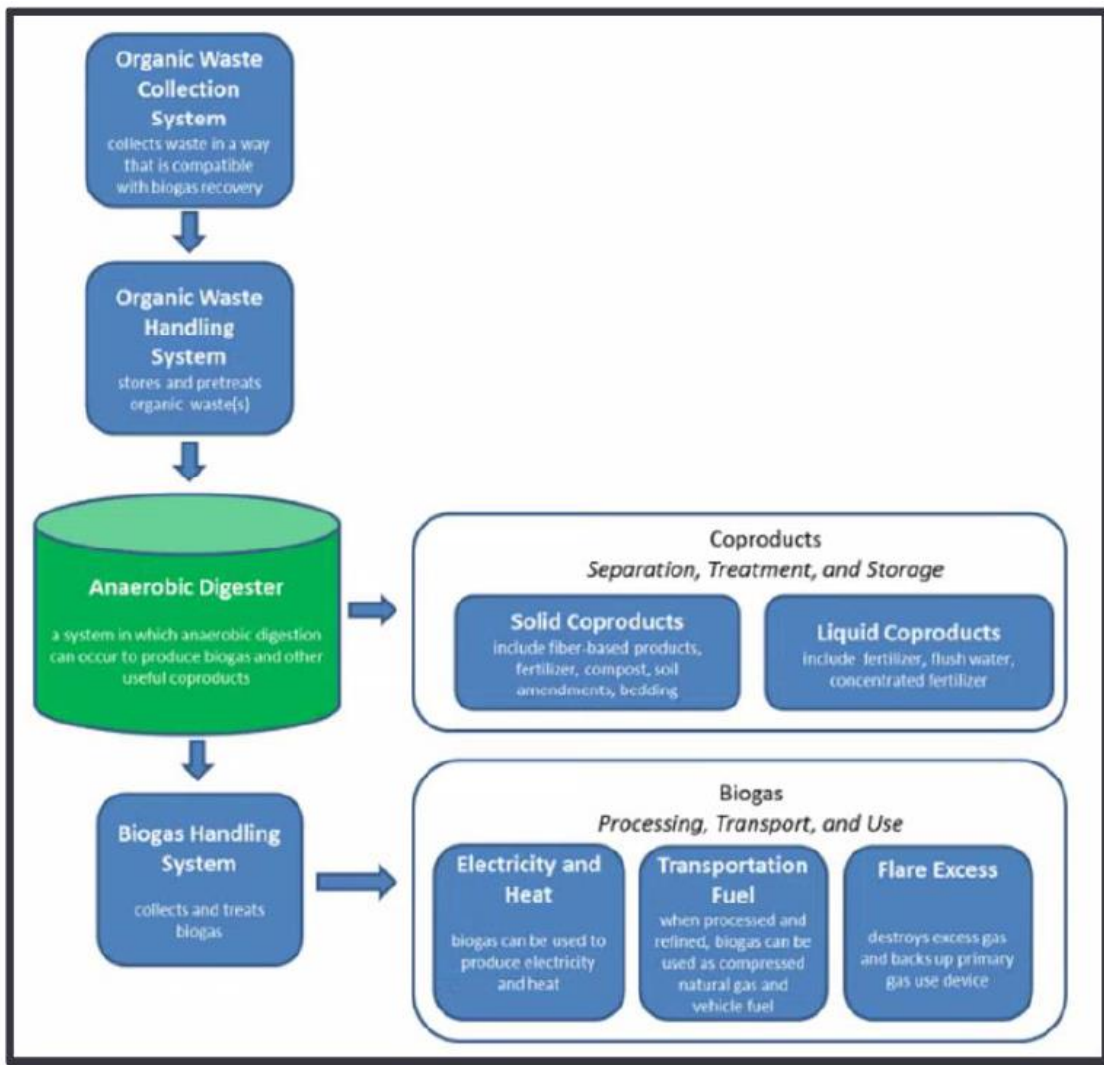
3.3.12 The AD tanks vary in diameter between 3.5m and 28m, the tallest AD tanks (the digester tanks) would be a maximum of 15m in height. Most of the tanks will be finished in light grey colour, however the digester tanks would be olive green with a light grey PVC tank hood.

3.3.13 Above ground pipe gantries would link the various components of the AD facility within which, liquid digestate, biogas, reagents and water would be piped. A visualisation of the proposal is shown below (Planning Statement (WSP, Oct 2022)).



3.3.14 The waste reception area is located in the centre of the building. Vehicles arriving onsite via a weighbridge would reverse into the reception area of the main AD building, where the waste would be tipped. The fast-acting shutters will be used and operated by staff to provide access and exit to the AD facility building. The building would be maintained under negative air pressure through the extraction of air by forced ventilation. This would ensure that all odours are drawn through the odour control system preventing odour release from the building. Once the doors are closed the driver would tip the waste into a bunker pit (below ground level), which will then automatically discharge food waste into the pre-treatment mechanical plant for depackaging and waste separation stage.

3.3.15 The ADF process is shown below (Planning Statement, WSP, Oct 2022).



3.3.16 The proposal also seek to relocate the existing WTS and MRF operations at Darwen, which benefit from extant planning permission (refs. 10/15/1150 and 10/15/1149). These operations will continue as per their consent including their aligned operational hours, except will be newly constructed and relocated onsite west of the main AD building.

3.3.17 The WTS and MRF will be split over two buildings. These two facilities will continue to process a total of 85,000 tpa of waste. No other changes to these facilities are proposed including additional vehicles or tonnage increases as a result of the relocation of these facilities.

3.3.18 A site wide landscaping and biodiversity enhancement strategy is also proposed, though full details are not yet available. Instead, they will be secured via condition.

3.3.19 The proposed operational hours of the AD plant will be 24 hours per day and seven days a week, with the reception of waste restricted between 0700-1900hrs Monday - Sunday, excluding bank holidays

3.3.20 Full details are set out in the submitted drawings, Planning Support Statement, Environmental Statement (ES) and suite of Technical Reports.

3.3.21 The proposed site layout is illustrated below (Planning Statement, WSP, Oct 2022).



3.3.22 Methodology for assessment of environmental impact:

This planning application is supported by an Environmental Impact Assessment (EIA), which is a process required by UK law to collate information about the likely significant environmental effects of a development. The legal basis for an EIA lies in European Community Directive 85/337/EEC3 (the 'EIA Directive') (as amended by Directive

2014/52/EU). The EIA Directive is transposed into UK law through several pieces of legislation.

3.3.23 The proposed development does not fall within Schedule 1 of the EIA Regulations (2017), which mandates the undertaking of an EIA and the production of an ES. It is, however, considered that the development, represents a Schedule 2 development under Category 11(b) (installations for the disposal of waste), which sets a threshold of over 0.5ha in size. As the site area of over 0.5 ha it, therefore, meets the threshold for EIA Screening.

3.3.24 For Category 11 (b) development, the indicative criteria in Schedule 3 and threshold column identifies installations (including landfill sites) for the deposit, recovery and/or disposal of household, industrial and / or commercial wastes where new capacity is created to hold more than 50,000 tpa, or to hold waste on a site of 10 hectares or more. Sites taking smaller quantities of these wastes, sites seeking only to accept inert wastes (demolition rubble etc.) or civic amenity sites, are unlikely to require EIA. The key issues to consider column identifies the need to consider the scale of the development and the nature of the potential impact in terms of discharges, emissions or odour. Given the above and the fact that the tonnages exceed 50,000 tpa the applicant has voluntarily submitted an EIA and the application is supported by an Environmental Statement (ES). This follows an EIA scoping exercise, undertaken in advance of this application (ref. 10/22/0598), when the extent of the ES was mutually agreed. Assessment takes account of noise and air quality / emissions arising from the proposal upon the environment; detailed assessment of which is included in the assessment section of this report.

3.3.25 Environmental Permitting:

The proposal requires an Environmental Permit (EP), issued by the Environment Agency (EA), before it can operate. The EP regime seeks to ensure that regulated facilities do not cause harm to the environment or human health; it is the Environment Agency's responsibility to ensure this.

3.3.26 The applicant has management procedures in place for the existing operations on site in the form of a Site Management Plan (SMP) which is regulated by the EA under the Environmental Permit. The SMP will be amended to incorporate the changes proposed within this application. The SMP will ensure appropriate control of odour, windblown litter, dust and noise on site and is subject to review and continual improvement under the Environmental Permitting system.

3.3.27 The EA requires that all applications for Environmental Permits for new installations, regulated under the Environmental Permitting (England and Wales) Regulations 2016, demonstrate the use of Best Available Techniques (BAT) for a number of criteria, including emissions and energy efficiency; one of the principal ways that energy efficiency can be improved is through the use of combined heat and power.

3.3.28 Environmental Permits have a series of conditions attached addressing specific outcomes e.g. emissions and monitoring requirements, maintenance of records, requirements for staff competence etc, which must be complied with. The EA conducts regular inspection visits to ensure that facilities are operating in accordance with the permit conditions.

3.4 Development Plan

3.4.1 Section 38(6) of the Planning and Compulsory Purchase Act 2004 requires that determination of planning applications must be made in accordance with the Development Plan, unless material considerations indicate otherwise.

3.4.2 The Development Plan comprises the Core Strategy and adopted Local Plan Part 2 – Site Allocations and Development Management Policies. Joint Lancashire Minerals and Waste Local Plan: Core Strategy DPD (February 2009) (Blackburn and Darwen Borough Council, Blackpool Council and Lancashire County Council, 2009); Site Allocations and Development Management Policies – Part One (September 2013) DPD (Blackburn and Darwen Borough Council, Blackpool Council and Lancashire County Council, 2013a); Site Allocations and Development Management Policies – Part Two (September 2013) DPD (Blackburn and Darwen Borough Council, Blackpool Council and Lancashire County Council).

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

3.4.4 Blackburn with Darwen Core Strategy:

- CS2: Types of Employment land
- CS3: Land for Employment Development
- CS4: Protection and reuse of employment sites
- CS11: Facilities and Services
- CS16: Form and Design of New Development
- CS18: The Borough's Landscapes
- CS21: Mitigation of Impacts / Planning Gain

3.4.5 Blackburn with Darwen Local Plan Part 2 (2015) (LPP2):

- Policy 1: The Urban Boundary
- Policy 7: Sustainable and Viable Development
- Policy 8: Development and People
- Policy 9: Development and the Environment
- Policy 10: Accessibility and Transport
- Policy 11: Design
- Policy 12: Developer Contributions
- Policy 15: Secondary Employment Areas
- Policy 36: Climate Change
- Policy 39: Heritage

- Policy 40: Integrating Green Infrastructure & Ecological Networks with New Development
- Policy 41: Landscape

3.4.6 Emerging Blackburn with Darwen Borough new Local Plan 2021-2037.

3.4.7 Joint Lancashire Minerals and Waste Local Plan Site Allocations and Development Management Policies Part One (2013) and Part Two (2013):

- Policy DM1: Management of Waste & Extraction of Minerals
- Policy DM2: Development Management
- Policy DM4: Energy from Waste

3.4.8 Review of the Joint Lancashire Minerals and Waste Local Plan – Publication Consultation Version (Regulation 19), Autumn 2018.

3.4.9 **Other material Planning Considerations**

3.4.10 National Planning Policy Framework (The Framework):

The Framework sets out the government's aims and objectives against which planning policy and decision making should be considered. At its heart is a presumption in favour of sustainable development, which should proceed without delay, unless impacts which significantly and demonstrably outweigh the benefits of a proposal are identified. The following sections of the Framework are considered relevant to assessment of the proposal:

- Section 6: Building a strong, competitive economy
- Section 11: Making effective use of land
- Section 12: Achieving well-designed places
- Section 14: Meeting the challenge of climate change, flooding and coastal change.

3.4.11 Additional considerations:

- National Planning Policy Guidance
- Our Waste, Our Resources: A Strategy for England (2018)
- Waste Management Plan for England 2013
- Waste (England and Wales) Regulations 2011
- National Planning Policy for Waste (NPPW), 2014
- National Planning Statements

3.5 **Assessment**

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

3.5.2 In assessing this application, the following important materials considerations have been taken into account:

- Principle
- Amenity
- Environment
- Highways / Accessibility & Transportation
- Design / Landscape / Visual Impact
- Heritage
- Climate Change

3.5.3 Principle

The Joint Lancashire Minerals and Waste Local Plan - Core Strategy (JLMWCS) was adopted in February 2009 and covers a period of time up to 2021. As the life of the JLMWCS ended in 2021, it is considered out of date. Therefore paragraph 11 (d) of the NPPF (2021) is engaged, directing a presumption in favour of sustainable development. Notwithstanding the plans out of date status, and in the interests of completeness, the JLMWCS sets out the joint planning authorities collaborative objectives, as follows:

- *that new waste facilities will be located to reduce the need to transport wastes unnecessarily and to support self-sufficiency and local ownership of waste management;*
- *all new waste development will contribute to conserving and enhancing our landscapes, our natural and cultural heritage and our quality of life;*
- *that Lancashire will benefit from an integrated network of waste facilities using innovative technologies to manage our waste in sustainable ways, and supporting by thriving a recycling and reprocessing market;*
- *where high quality design and working practices will be an essential feature of all new waste development which will respect the character and distinctiveness of their surroundings; and*
- *that waste activities will be an exemplar of best practices.*

3.5.4 Building upon the vision of the Core Strategy, the Site Allocations and Development Management Policies DPD (Parts 1 & 2) set out a number of objectives that are underpinned by the vision to manage waste according to the principles of sustainable development. Officers have considered the relevant policies and consider key policies in relation to this are as follows:

3.5.5 Policy CS7 of JLMWCS outlines that an integrated waste management strategy will be planned which relies on the 'top end' of the waste hierarchy to 'improve waste prevention and maximise reuse, recycling and composting, supported by a network of facilities providing flexibility for different technologies.' The policy also states that proposals for new developments are required to provide suitable facilities for the handling, storage, collection and separation of wastes arising from the permanent use of the development.

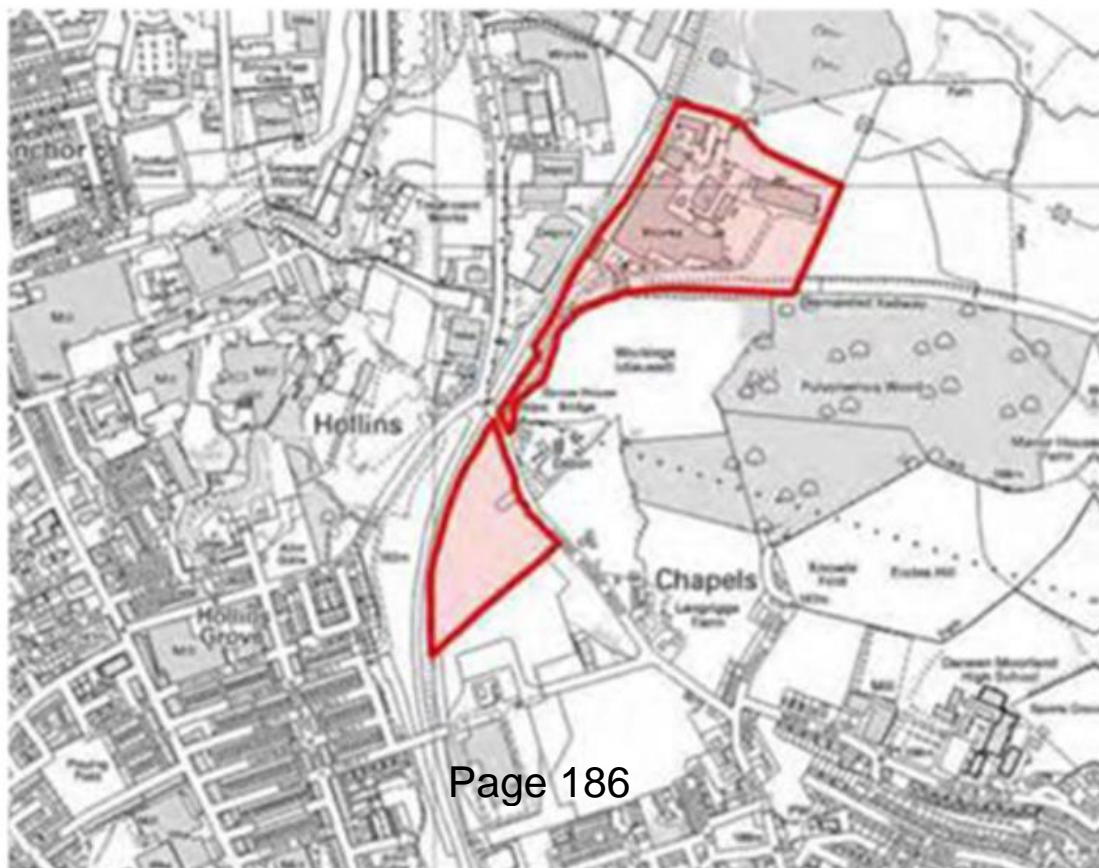
3.5.6 The Site is an established and active waste management facility, where waste is currently segregated and sorted so that recyclable items can be bulked up

and onward transferred and non-recyclables disposed of site. The proposed development would result in the installation of anaerobic digestion plant to process 100,000 tpa of food waste to generate renewable energy. The proposal will include the relocation of existing waste operations (WTS and MRF), of which will continue to process, recycle and recover 85,000 tpa of household recyclable waste.

3.5.7 The proposed ADF will treat food waste from Lancashire and surrounding areas that would otherwise be sent for disposal to a landfill site. The waste would be treated through anaerobic digestion to generate renewable energy (predominantly biomethane 'green gas', but also electricity and heat). The primary functions of the proposal are considered to provide multiple environmental and economic benefits, which fundamentally support the north west's transition to achieving net zero carbon by 2050. The proposal would enable Lancashire as a region to process, treat and manage 100,000tpa of its own organic food waste which in itself reduces many environmental impacts on the wider environment. Whilst this policy predates the NPPF (2021) NPPW (2014) and Our Waste, Our Resources - a Strategy for England (20184), the proposed development complies with this policy in effectively promoting waste at the top end of the waste hierarchy where waste will be treated to generate a renewable energy and not disposed to landfill.

3.5.8 Policy CS8 of JLMWCS sets out management needs and the strategic way in which they will be met.

3.5.9 The Site is a strategic allocation within the Joint Lancashire Minerals and Waste Local Plan - Core Strategy DPD (2009) identified as Policy WM2 – 'Large Scale Built Waste Management Facilities' (site referenced as BWF7 – former Wolstenholme Bronze / Goosehouse Lane site) and forms part of a network of waste management facilities across Lancashire. The site allocation is illustrated below (extract from Site Allocation DPD).



- 3.5.10 The proposed development is for installation of an ADF and the relocation of existing waste management facilities. The ADF, when operated at maximum capacity, will treat 100,000 tonnes of organic food waste, which will prevent 100,000 tonnes of food waste being sent to landfill.
- 3.5.11 The proposal will enable Lancashire as a region to treat its own food waste and enable it to become self-sufficient further reducing the impacts of transporting waste and particularly exporting waste.
- 3.5.12 Policy CS9 of JLMWCS sets out that priority of location will be given to local waste facilities close to residential or community area. It also states that priority of location will be given to larger waste facilities within existing or planned industrial or commercial areas; and that provision will be made for a limited number of resource recovery / waste parks where this would maximise recycling and recovery, support growth in the reprocessing. The policy also requires no significant adverse environmental or other identified impacts to arise for development.
- 3.5.13 As noted above, the site is a strategic allocation hosting a long-standing waste management facility, located within an established industrial area where commercial and other industrial uses exist. Therefore, the scale and nature of the proposed development, with respect to the planned waste management operations, are suitably located in the context of local amenity and the wider environment.
- 3.5.14 The proposal is supported by an ES where potential effects on air quality (Chapter 7 of the ES) and noise (Chapter 6 of the ES) are proportionately considered in detail. Impacts are not considered to pose a significant threat to the environment.
- 3.5.15 All other material matters are proportionately informed by a range of technical reports.
- 3.5.16 Policy DM1 'Management of Waste and Extraction of Minerals' outlines that to achieve the Spatial Vision and to provide for the level of need and spatial distribution for the provision of waste treatment and disposal set out in the Core Strategy developments will be supported in accordance with the site specific policies within this plan - subject to the developments not exceeding the overall capacity as set out in the Core Strategy, and for the individual catchment area as set out in Policy WM1 - for, amongst other things:
- provision of a network of fixed recycling facilities, and
 - provision of a network of new waste management facilities based on strategic locations and local sites.
- 3.5.17 The proposed ADF and relocation of existing WMF would be in accordance with Policy DM1. Existing waste management operations (WTS and the MRF) at the site which are proposed to be relocated, benefit from extant planning permission and collectively manage a total of 85,000 tonnes pa. Furthermore,

the site also benefits from extant planning permission for the development of an EFW to treat 500,000 tpa.

3.5.18 Policy DM2 'Development Management' outlines that waste management operations will be supported where it can be demonstrated that all material, social, economic or environmental impacts that would cause demonstrable harm can be eliminated or reduced to acceptable levels. It also requires that in assessing proposals account will be taken of the proposal's setting, baseline environmental conditions and neighbouring land uses, together with the extent to which the impacts can be controlled in accordance with current best practice and recognised standards. Furthermore, in accordance with Policy CS5 and CS9 of the Core Strategy developments will be supported for waste developments where it can be demonstrated by the provision of appropriate information that the proposals will where appropriate make a positive contribution to the:

- local and wider economy;
- historic environment;
- biodiversity, geodiversity and landscape character;
- residential amenity of those living nearby;
- reduction of carbon emissions; and
- reduction in the length and number of journeys made;

3.5.19 Policy DM4 'Energy from Waste' outlines that all developments that include processes capable of recovering EfW will be required to include measures to capture any heat or electricity produced directly or as a by-product of the waste treatment process and either use it on site or export it to the national grid or a local energy or heat consumer.

3.5.20 Policy WM3 allows that Local Built Waste Management Facilities Development involving individual local waste management facilities, of a capacity of around 50,000 tonnes per year, for the recycling, transfer, and materials recovery (excluding thermal treatment) will be supported at the strategic locations identified in Policy WM2 and at other identified sites. A need for 100,000 tonnes of this type of capacity is identified in Blackburn with Darwen / Ribble Valley. In measuring the total capacity of the developments within a catchment, all waste permissions granted on sites identified within Policy WM2 and WM3 will be aggregated. As previously noted, the site already benefits from an extant permission for an EFW to treat 500,000 tpa. In this context, the proposal is considered acceptable. Moreover, it should be re-iterated that the AD and EFW cannot be developed together. Only one will be developed, likely the current AD proposal, which, together with the existing WTS and MRF, will collectively manage 185,000 tpa.

3.5.21 The waste management facilities which would be appropriate within the Strategic locations identified in Policy WM2 - Large Scale Waste Management Facilities - are listed as follows:

- Waste Transfer Station;
- Material Recovery Facility (MRF);

- Construction and Demolition Waste Recycling Plants;
- In Vessel Composting Plant (IVC);
- Thermal Treatment (EfW);
- Advanced Thermal Treatment (pyrolysis and/or gasification);
- Mechanical Biological Treatment (MBT);
- **Anaerobic Digestion**; and
- Mechanical Heat Treatment (MHT).

3.5.22 In November 2018, Lancashire County Council consulted on the 'Review of the Joint Lancashire Minerals and Waste Local Plan Publication' (Regulation 19) version. This new local plan is a combination of the adopted Core Strategy and the Site Allocation and Development Management Policies plan with new proposed policies to ensure the plan remains relevant until the period of 2034. Lancashire County Council is anticipating undertaking further consultation in autumn 2022, with a Submission version submitted to the Secretary of State in summer 2023. The emerging plan currently carries limited weight. Notwithstanding the position, the proposal demonstrates broad consistency with the emerging policies, insofar as it involves a waste management facility, at an allocated site, that will meet the requirements of the borough, whilst contributing a meaningful amount to the identified capacity for recyclable and recovery of waste - processing and treating 100,000 tpa of organic food waste from Lancashire and surrounding areas to generate renewable energy that can be exported as a renewable gas to replace fossil gas currently used in the local network.

3.5.23 Moreover, the proposal will have no significant environmental impacts, as evidenced through submission and review of the ES and the suite of supporting technical reports.

3.5.24 Overall, the proposal effectively promotes the management of waste at the top end of the waste hierarchy, at a rate proportionate to the site and its general location, preventing waste being disposed to landfill, thus further enabling Lancashire to be self-sufficient in managing its own food waste, whilst generating renewable energy that would be exported to the local distribution network, as well as electricity used to power the plant. Therefore, the proposal is considered to accord with the emerging policy position.

3.5.25 The Frameworks '*presumption in favour of sustainable development*' is engaged, on account of the JLMWCS outdated status. The presumption directs that development, which should proceed without delay, unless impacts which significantly and demonstrably outweigh the benefits of a proposal are identified. No such negative impacts are identified, as recognised in the remainder of this assessment.

3.5.26 LPP2 Policy 15 'Secondary Employment Areas', explains that within these areas planning permission will be granted for development in use classes B1 (business), B2 (general industrial) and B8 (storage or distribution) and for other uses which have a clear requirement to locate within a commercial area. This is on the proviso that an appropriate overall balance of uses continue to be maintained in the area. The existing use of the site for waste

management, and the extant permission for the EFW, are critical material considerations. In this context, the proposed ADF use at a site allocated for a waste management at county level, is consistent with the policy requirements.

3.5.27 Amenity

Policy 8 requires development to make a positive contribution and to ensure a satisfactory level of amenity and safety is secured for surrounding uses and for occupants or users of the development itself; with reference to noise, vibration, odour, light, dust, other pollution or nuisance, privacy / overlooking, and the relationship between buildings.

3.5.28 Residential Amenity – Relationship between buildings:

The nearest known residential receptors are found to the south west at the Oakhill Caravan Park, a fixed traveller site with 17 pitches and one house. There are additional residential receptors located in Lower Darwen approximately 500 metres to the north (Lords Crescent), south east (Manor House Farm) and east (Davy Field Farm). The residential area of Lower Darwen to the north sits beyond the M65 motorway.

3.5.29 The following maximum height dimensions are proposed:

- Main AD processing building - 16.26m;
- The WTS - 11.74m;
- Digester Tanks – 15.30m;
- Buffer Tanks – 16.64m;
- Post Digestion Buffer Tank – 10.275m; and
- Sequence Batch Reactor Feed Tank – 8.370m.

3.5.30 Although substantial buildings / structures occupying a large area of the site, their siting in relation to the nearest residential properties is appropriate, in achieving a separation distance in excess of 200m (from the edge of the Caravan Park), thereby guarding against any significant amenity threat, with specific reference to outlook, dominance and overshadowing. Moreover, it should be recognised that the overall scale and mass of the current proposal is significantly smaller than the EFW previously approved. An acceptable relationship between buildings is, therefore, achieved.

3.5.31 Noise:

The significance of noise impact is recognised, as a matter scoped into the EIA. A Noise Impact Assessment has, therefore, been submitted with application and reviewed by the Council's Public Protection consultee. The main thrust of the assessment is impact on the living and working conditions of people in proximity to the site. Noise impact can be split into construction and operational phase of the development.

3.5.32 Construction phase: Noise and vibration impacts arising from construction of the development have the potential to be significant, albeit for a limited duration. Noise and vibration control measures are recommended to be secured via condition, in order to mitigate impacts during construction phase.

3.5.33 Operational phase: The assessment is accepted as comprehensive, utilising noise modelling and relevant British Standard (BS4142) to forecast the likely impact upon existing receptors in the area. The assessment concludes that there will be no significant impact upon those receptors, as no significant increase in noise levels will arise. Notwithstanding the submitted information, noise mitigation measures for the operational phase of the development are recommended to be secured via conditions requiring submission of a Noise Management Plan and time limited delivery and despatch of materials.

3.5.34 Air Quality:

As with noise, the significance of air quality impacts is recognised, as a matter scoped into the EIA. An Air Quality Impact Assessment has, therefore, been submitted with the application and reviewed by Public Protection. Air quality impact can be split into the categories of air pollution, dust and odour arising from the operational use of the site.

3.5.35 Air pollution: The potential impacts from pollutants include, but are not necessarily limited to, nitric oxide (NO) and nitrogen dioxide (NO₂). Such impacts are considered in the assessment qualitatively and, to some degree, quantitatively. This includes modelling of emissions from the combined heat and power engines. Modelling forecasts a generally low impact on the environment

3.5.36 Dust: The assessment considers the potential impact of dust during construction phase of the development. A low to medium risk is forecast when appropriate mitigation applied. It is recommended that such mitigation will be delivered by a control of construction dust scheme, to be secured via condition.

3.5.37 Odour: A qualitative assessment of odour has been undertaken, forecasting the site as having a low potential for odour with a negligible risk of odour exposure at all surrounding receptors. Public Protection offer the following cautionary comment:

“For the record I do not agree that the odour source potential is low. I believe that an Anaerobic Digestion Plant with a capacity of 100 000 tonnes per annum has a greater than “low” odour potential.

I also feel that the assessment does not fully take into account the potential for fugitive emissions.”

3.5.38 It is, however, recognised that odour outcome will very much depend on the final plant design, the technology employed and the way in which the site is maintained and operated. Moreover, the site will be required to operate under an Environmental Permit, as regulated by the EA, which will include strict conditions relating to odour and emissions. The assessment makes reference to a more detailed quantitative assessment in support of the Permit application for the site.

3.5.39 Notwithstanding the expressed concern, Public Protection are satisfied that odour control conditions can mitigate impacts under the planning process, and in conjunction with the EA permitting regime. It is, therefore, recommended that an Odour Assessment and an Odour Management Plan are secured via condition.

3.5.40 Lighting:

As a 24 hour operation, external light sources will be required. Proposed lighting will consist of low energy LED's which will be controlled with a timer and photocell which will be angled downwards to ensure illumination is limited to the site, so far as is practicable. Lighting is currently indicative, and Public Protection offer no objection in this regard, recognising the significant separation between the site and light sensitive uses. A detailed lighting scheme is, therefore, recommended to be secured via condition, applying the guidance from the Institute of Lighting Professionals.

3.5.41 Contaminated Land:

A Phase 1 Environmental Desk Study has been submitted with the application and reviewed by the Council's Public Protection consultee, who notes site investigations (SI) are pending. The Phase 1 report identifies the site has an industrial history and will be contaminated in parts. The proposed use is not, however, considered particularly sensitive. Submission of the SI's, including and any necessary remediation, as well as validation thereof, will, therefore, be secured via the standard contaminated land conditions.

3.5.42 The EA also recommend securing SI's via their standard conditions. For brevity, the conditions will be amalgamated, to avoid unnecessary duplication.

3.5.43 Evaluation of amenity impact:

Overall, the Council's Public Protection consultee is satisfied that the applicant has approached the environmental impact assessment in a manner consistent with the UK requirements. They have utilised a satisfactory approach and methodology to predict the likely emissions, noise and any other key pollutants impacts arising from the proposal on the local environment.

3.5.44 National Planning Policy for Waste advises that when determining waste planning applications, waste planning authorities should: *...concern themselves with implementing the planning strategy in the Local Plan and not with the control of processes which are a matter for the pollution control authorities. Waste planning authorities should work on the assumption that the relevant pollution control regime will be properly applied and enforced.*

3.5.45 As previously noted, activities will require a bespoke installation environmental permit issued by the EA. As part of the environmental permitting process, the EA assess all applications to ensure that they meet the requirements of the Environmental Permitting Regulations. During assessment, the design of the plant is reviewed, as well as how it will be operated, the emissions it will generate (to air, water and land) and whether emissions will have an adverse impact on people living nearby and the natural environment. The EA do this

by consulting partner organisations, such as Natural England (experts on impacts on wildlife) and Public Health England (experts on human health impacts). In order to achieve the limits set by the IED the operator will need to show that they will use Best Available Techniques (BAT).

3.5.46 Coal Mining Legacy:

A Coal Mining Risk Assessment (CMRA) has been submitted with the application and reviewed by The Coal Authority, due to development proposed within a Development High Risk Area, defined as such due to historic coal mining activity. The Coal Authority initially offered objection to the proposal, following review of the CMRA and the proposed drawings, due to the safety risks arising from the proposed location of a workshop within the area of a mine entry. Removal of the workshop from the proposed layout resulted in the withdrawal of the Coal Authority's objection, subject to securing a scheme of intrusive investigations and implementation of any necessary remedial / mitigation works; as well as a verification statement of any remedial / mitigation works undertaken, via conditions.

3.5.47 Accordingly, the development is found to achieve a positive contribution and to appropriately safeguard amenity levels, in accordance with the requirements of Policy 8 and The Framework.

3.5.48 Environment

Policies CS13, 9 and 40 require 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.

3.5.49 Flood Risk / Drainage:

A Flood Risk Assessment (FRA) and Outline Drainage Strategy has been submitted with the application and reviewed by the Council's Drainage consultee (as Lead Local Flood Authority - LLFA), United Utilities and the EA. The FRA confirms the site to be wholly within Flood Zone 1. The assessment concludes that the risk from tidal, fluvial, groundwater and artificial sources is low. Potential flood risks associated with surface water run-on and surface water run-off have been identified, which would be addressed through mitigation. No objection is offered, subject to submission of a Sustainable Surface Water Drainage Scheme and a SuDS Management and Maintenance Scheme, for the lifetime of the development, secured via condition. LLFA also recommend submission of detailed proposals for the diversion of the drainage ditch from the existing lagoon on site, via condition.

3.5.50 Ecology:

An Ecological Impact Assessment has been submitted with the application and reviewed by the Council's Ecology consultee. The Assessment found the site to support a number of protected species as well as habitats with ecological value.

3.5.51 Bats: Survey work found no evidence of roosting bats on the site. Overall activity levels were found to be low. The main features being used by bats

are to be retained. The assessment recommends that a sensitive lighting scheme be designed for the site. It is, therefore, recommended that a Sensitive Lighting Strategy for Biodiversity is secured via condition.

- 3.5.52 In addition, the assessment recommends enhancement measures for bats, including the erection of 25 bat boxes. An Ecological Design Strategy (EDS), addressing mitigation and enhancement measures, is, therefore, recommended to be secured via condition.
- 3.5.53 Barn Owl: Survey work found two locations being used by barn owls including one breeding site. Mitigation measures are outlined in the assessment for the loss of these locations, which are acceptable although more detail is required. Such measures shall be incorporated into the EDS condition referenced above.
- 3.5.54 Amphibians and Reptiles: Survey work found no evidence of Great Crested Newts on the site but other amphibian species were found, including Palmate Newt and Common Toad. A low population of common lizard is also present on the site. Measures to prevent harm to these species during demolition and construction will be required by means of a Demolition & Construction Environmental Management Plan (DCEMP) for Biodiversity, to be secured via condition.
- 3.5.55 Nesting Birds: Survey work found that site supports habitat that is likely to be used by nesting birds. Therefore, any clearance of vegetation or demolition of buildings that may be used by nesting birds should avoid the main bird breeding season (March to August inclusive), a requirement to be secured via condition.
- 3.5.56 Badgers: Although survey work found evidence of badgers on site, the badgers should not be directly impacted by the proposals. However, as badgers are highly mobile species a pre-commencement survey is recommended, to be secured via condition. Precautionary working measures during construction, for badgers and other mammals shall be included as a requirement of the DCEMP.
- 3.5.57 Invasive Species: Survey work found several invasive species present on site. Submission of an Invasive Plant Species Survey of the site is recommended via condition.
- 3.5.58 Biodiversity Net Gain (BNG): A Biodiversity Metric (3.1) has been submitted with the application and reviewed by the Council's Ecology consultee. It is established that the proposed development will result in a net loss in biodiversity of -10.73%. In terms of the information submitted on BNG, the metric divides the habitats into parcels. Some enhancements have been proposed for within the site including for grassland. These measures include the use of a grassland seed mix - Emorsgate EM1 - which includes the species Salad Burnet. This species occurs on calcareous grasslands and should only be included in areas that support the correct substrate. Notwithstanding the submitted information, it is considered that a reasonable

BNG can be achieved on site, as advocated by The Framework. Emerging local policy and the intention to legally mandate a 10% BNG for major developments should be recognised. It is, however, mutually accepted that the full 10% may not be achievable on site or a combination of on-site and off-site (within the applicants adjoining land holding). The outcome is currently uncertain, particularly as the SuDs strategy is not yet finalised, which will be significant to informing the final provision. Accordingly, it is agreed with Ecology that a BNG strategy can be secured via condition. The strategy must include the extent of BNG achieved post development, assessed against the sites biodiversity baseline value pre development, and be agreed by the LPA as reasonable and proportionate for the development as proposed. That the extant EFW permission does not provide for a defined BNG should be recognised as a material fall-back position. It is anticipated that the current ADF proposal will achieve a more significant uplift. Moreover, the applicant's desire to ensure a development providing significant BNG should be emphasised, as a benefit for the internal working environment, as well as the wider area.

3.5.59 The site lies immediately adjacent to Eccleshill Old Iron Works Biological Heritage Site (BHS). Mitigation measures within the CEMP will minimise any impacts arising during construction phase.

3.5.60 Trees: An Arboricultural Impact Assessment / Tree Survey & Constraints Plan has been submitted with the application and reviewed by the Council's Arboricultural consultee. A total of 16 individual trees and 11 groups and one woodland have been surveyed across the site. A total of 10 trees are proposed to be removed due to the direct impact of the development and 3 groups partially removed. These trees are identified on the submitted plan as T1, T4, T5, T9, T10, T11, T12, G4, G6, & G7 – fully removed; and G5, G8 & G3 partially removed. The remaining trees are to be retained and protected as outlined on the Tree Protection Plan by methodology needed in an Arboricultural Method Statement, to be secured via condition.

3.5.61 The site consists broadly of landscape buffer planting that have little relevance in the public realm providing limited visual amenity in the wider landscape by virtue of their geographical position within the site. They are, however, of some amenity value in the local landscape. The trees mainly comprise of landscape plantings that are maturing and located around the site's periphery. The southern boundary contains a notable woodland of considerable arboricultural and conservation quality. Many tree groups are located off site and overhanging into site. It is considered that the retention of significant arboricultural assets has been achieved. Moreover, a site wide landscaping scheme, to be secured via condition, will provide a significant degree of replacement planting. No objection is, therefore, offered on arboricultural grounds.

3.5.62 Accordingly, the environmental impact of the development is found to be acceptable, in accordance with the requirements Policies CS13, 9 and 40, and The Framework.

3.5.63 Highways / Accessibility and Transport

Policies CS22 and 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.

3.5.64 A Transport Assessment (TA) has been submitted with the application and reviewed by the Council's Highways consultee and National Highways; who offer no objection. The TA presents an assessment of accessibility to the site by walking, cycling, public transport and car, and also provides an assessment of the impacts of the development on the Strategic Route Network and the Local Highway Network.

3.5.65 The TA makes the case that additional traffic generated by the development will have a negligible effect on the operation of the Goose House Lane / Hollins Grove Street / Lower Eccleshill junction. An additional 40 HGV movements a day are forecasted, equating to a 1% increase in total vehicles (north of Goose House Lane / Hollins Grove Street / Lower Eccleshill junction) on Eccleshill Road and that, as such, no improvement for capacity should be required at the junction.

3.5.66 Notwithstanding this assertion, it is apparent that the development will result in an increase in traffic movements through additional HGV movements and additional staff attending the site. There is also the potential for additional pedestrian movements at the junction arising from the development proposals. Work undertaken by Capita in their Technical Note "Lower Eccleshill Road / Goose House Lane Junction Improvement – Option Appraisal" identified concerns (in Section 3) relating to the swept path of articulated vehicles overrunning opposing lanes, a lack of pedestrian crossing facilities and right turning traffic from Lower Eccleshill Road onto Hollins Gove Street blocking traffic running straight onto Goose House Lane. The Capita Technical Note also indicates that the existing junction layout would operate over capacity in future years with or without the proposed development.

3.5.67 Consequently, it is considered that improvements at the Goose House Lane / Hollins Grove Street / Lower Eccleshill junction are justified, by local policy and through The Framework, as identified in Section 2.2 of the TA, as it would demonstrate:

- that the potential impacts of development on transport networks can be addressed (Paragraph 104);
- that opportunities to promote walking, cycling and public transport use have been identified and pursued (Paragraph 104); and
- that the proposals give priority first to pedestrians and cycle movements, both within the scheme and with neighbouring areas (Paragraph 112).

3.5.68 The applicant has agreed to a financial contribution towards the identified need for junction improvements, of £61,000, to be secured via a Section 106 Agreement. The agreement is considered as a proportionate, circa 10% contribution towards the overall funding of the junction improvements. Other

major committed developments in the locale have also contributed a proportionate cost, as will other future developments. A timetable for the works is not yet available, though Members are advised that a fully worked up design should be available within the next few months.

3.5.69 In addition to the above, it is considered that the permeable block paving, shown along the access road on the proposed site plan, should be extended to meet with the pavements of Goose House Lane to create a safe, convenient and continuous pedestrian route from the local highway network into the site. It is not clear from the TA or plans provided if this is included within the proposals or not. It is, therefore, recommended that details are secured via condition, in order to achieve a significant improvement to the sites accessibility, in support of employees who travel to site on foot or by public transport.

3.5.70 The proposed site plan indicates an increase in parking provision on site from 77 spaces, including 2 disability spaces, to 85 spaces, including 8 disability spaces. Although no justification has been provided for the additional parking spaces, the increase is not disproportionate to the scale of the development proposals and is accepted.

3.5.71 A Public Right of Way (PRoW) is routed just outside the site boundary (footpath 9 Eccleshill), to the north. An informative shall advise that the PRoW must remain unobstructed throughout the duration of demolition and construction.

3.5.72 Accordingly, highway impacts arising from the development are found to be acceptable, in accordance with the requirements of Policies CS22 and 10, and The Framework.

3.5.73 Design / Character & Appearance / Landscape Impact

Policy 11 requires a good standard of design which will be expected to enhance and reinforce the established character of the locality and demonstrate an understanding of the wider context towards making a positive contribution to the local area. The Framework also requires high quality design directing that, *“the creation of high quality, beautiful and sustainable buildings and places is fundamental to what the planning and development process should achieve. Good design is a key aspect of sustainable development, creates better places in which to live and work and helps make development acceptable to communities. Being clear about design expectations, and how these will be tested, is essential for achieving this. So too is effective engagement between applicants, communities, local planning authorities and other interests throughout the process.”*

3.5.74 The site is not within or covered by any statutory or non-statutory landscape designation. The impact of the development on the landscape must be considered in the context the site’s allocation for waste management development, as well as the defining commercial industrial character of the immediate locale.

3.5.75 Although buildings and structures very substantial in scale are proposed, they would be read against the prevailing commercial / industrial character. Moreover, the overall scale of the development is smaller and less visually prominent than the approved EFW. The facility and supporting infrastructure has been carefully designed with regards to the form of the building its relationship to the existing site and the adjacent area. Buildings / structures would be colour coordinated in a grey and green palette to unify into the immediate natural surroundings, reduce contrast with the background landscape, minimise visual effects and aid assimilation into the wider landscape. Proposed dimensions are as follows (Planning Statement, WSP, Oct 2022):

	Area (m ²)	Diameter (m)	Height(m)	Number	Vol (m ³)
Reception Hall (16m ridge)	1258	-	16	1	-
Pre-Treatment Hall (16m ridge)	680	-	16	1	-
Digestate / Centrifuge Hall (16m ridge)	816	-	16	1	-
Pasteurisation Tanks		3.5	7.235	3	208.7207
Buffer Tanks		8.5	16.64	4	3775.034
Digester Tanks		28	15.3	5	61493.76
SBR Feed		7.5	8.37	1	795.0245
SBR Tank		20	10.77	1	6763.56
PDST		10	10.275	3	3226.35
NaOH Tank		8.5	8	1	567.1625
Gas fare			8.7m	1	
Stacks			19m	3	

3.5.76 The lighting strategy for the development must minimise light spill and sky glow resulting from both the internal and external lighting of the proposed facility. The landscaping and BNG schemes will be formulated to retain as much natural vegetation along the site boundary as possible, and provide enhancement throughout the site, where practicable, thus softening the visual impact of development.

3.5.77 Landscape and Visual Impact Assessment

Policy 41 supports development provided that there is no unacceptable impact on landscape character and the principal traits associated with it.

3.5.78 A Landscape and Visual Impact Assessment (LVIA) has been submitted with the application, on account of the scale of the proposed development. It should be recognised that, from the outset, impacts on landscape character

was not expected to be significant; for this reason, the matter was scoped out on the EA.

3.5.79 The design of the development includes three areas of mitigation that would influence and reduce the extent of potential landscape and visual effects:

- Similar Development Footprint:

The development would occupy a similar but slightly larger development footprint compared to the existing development.

The proposed site layout includes an extended area of hardstanding to the north and east of the site. This is to facilitate the ADF digester tanks, new admin offices, combined heat and power station, transformer and fuel tank. Access is to remain the same, with a change to designated operations (WTS and MRF), location of weighbridges and parking facilities. Existing access infrastructure would be retained and used to minimise the requirement for new access arrangements and land take.

- Reduced Height:

The Proposed Development would include new structures which have been designed to minimise the overall height and scale of the new development.

- Architectural Colour Scheme:

The Proposed Development would be colour coordinated in a grey and green colour pallet to unify the new structures, reduce contrast with the background landscape, minimise visual effects and aid assimilation into the wider landscape. The new building construction would be clad olive-green finish and the digester tanks would also be an olive green with a light grey PVC tank hood. Most of the other tanks would be finished in light grey colour.

3.5.80 The site is well screened from the public realm, by a combination of surrounding landform, trees, woodland vegetation and other buildings, such that further landscaping in the form of screen planting is unlikely to further reduce landscape and visual effects. The approach to landscape design has, therefore, focused, where possible, on the retention of existing vegetation within the site boundary, particularly around the perimeter.

3.5.81 The LVIA offers an analysis of 9 optimum viewpoints which collectively provide a representative assessment of visual impacts. The summary conclusion of the assessment, in terms of landscape effects, is that the proposed development would affect only small areas of existing grassland and trees within the site boundary; and that the effects on the wider landscape character would range from moderate and minor / negligible during construction and reduce to minor / negligible during operation use.

3.5.82 In terms of visual effects, high to medium magnitudes of change, during construction phase, are likely to be limited to areas to the south and east of the site, within an approximate 500m distance, affecting views in from the local Prow network and residents at Davy Field Farm, circa 460m to the east. Operational phase effects would reduce to medium to low. All other viewpoints are indicated to as very low or zero during operational phase.

3.5.83 The Council's Arboriculture consultee concurs with the outcome of LVIA, concluding that the development would not give rise to any detrimental visual impact on landscape character.

3.5.84 Accordingly, the design of the development and its impact of the landscape is found to be acceptable, in accordance with the requirements of Policies CS16, 11, 41, and The Framework.

3.5.85 Heritage

Policies CS17 and 39 require development with the potential to affect designated or non-designated heritage assets to sustain or enhance the significance of the asset.

3.5.86 Paragraph 199 of The Framework states that when considering the impact of proposed development on the significance of a designated heritage asset, great weight should be given to the asset's conservation; and the more important the asset, the greater the weight should be. Substantial harm to or loss of designated heritage assets of the highest significance should be wholly exceptional.

3.5.87 The Planning (Listed Buildings and Conservation Areas) Act 1990 places a duty upon local planning authorities in determining applications for development affecting listed buildings to have special regard to the desirability of preserving the special interest and setting of the listed building.

3.5.88 It should first be acknowledged that the proposed demolition of buildings is acceptable, in the absence of any heritage value.

3.5.89 The Culture Heritage Report which accompanied the extant planning permission for the development of EFW has been considered for this application. It should, however, be noted that the current ADF proposal is smaller in scale than the EFW. The report identifies that there are 3 Post Medieval non-designated heritage assets recorded within the project site. These include a clay extraction pit at the southern end of the site; the former line of the Lancashire and Yorkshire Railway's Huddlesden branch is recorded along the southern boundary of the site; and the former Darwen and Mostyn Iron Works is also recorded within western side of the site. Further afield there are various assets, although most – such as listed buildings within Darwen – are sufficiently distanced from the site and / or have such intimate settings so as to be not affected by the proposal.

3.5.90 With reference to the listed buildings, it is considered that there would be inter-visibility with some, but the separations and / or the context (where there

are already other industrial buildings within views) means that the settings would not be detrimentally affected. In conclusion, 'no harm' arises upon the setting of the listed buildings.

3.5.91 With reference to non-designated heritage assets, the assessment has identified potential impacts to sub-surface archaeological remains associated with the former Darwen and Mostyn Iron Works that may be present within the project site. "A permanent moderate adverse significance of effect is predicted prior to mitigation. Any direct physical impacts to these archaeological remains can be mitigated through the implementation of a phased programme of archaeological investigation and the residual effects are predicted to be negligible. Potential impacts to sub-surface archaeological remains associated with the former clay pit and railway line have also been identified. A negligible effect is predicted and mitigation is not considered necessary." To address these concerns a condition requiring a programme of archaeological investigation has been recommended.

3.5.92 LCC Archaeology (Historic Environment Team) is of the opinion that the site does retain some level of local archaeological significance, one that could be adequately mitigated by the works proposed in section 9.43 of the report. It is, therefore, recommended that an archaeological investigation of the site is secured via condition.

3.5.93 Accordingly, impact of the development upon heritage assets is found to be acceptable, in accordance with the requirements of Policies CS17 and 39, and The Framework.

3.5.94 Climate Change

Policies CS13 and 36, as well as Core Policy 5 of the emerging plan set out the Council's approach to climate change. Exemplar developments which demonstrate how particularly high standards of environmental performance, within the urban area, are explicitly supported.

3.5.95 The Framework states that, " *new development should be planned for in ways that help increase the use and supply of renewable and low carbon energy and heat, and that plans should:*

a) provide a positive strategy for energy from these sources, that maximises the potential for suitable development, while ensuring that adverse impacts are addressed satisfactorily (including cumulative landscape and visual impacts);

b) consider identifying suitable areas for renewable and low carbon energy sources, and supporting infrastructure, where this would help secure their development; and

c) identify opportunities for development to draw its energy supply from decentralised, renewable or low carbon energy supply systems and for co-locating potential heat customers and suppliers."

3.5.96 The proposed ADF would use organic food waste to generate renewable energy in the form of predominantly biomethane 'green gas', but also electricity and heat. The primary functions of the development are considered to provide multiple environmental and economic benefits, which fundamentally support the North West's transition to achieving net zero carbon by 2050.

3.5.97 Other contributions towards reducing carbon dioxide emissions relate to the proposed structures, including the main ADF, WTS and MRF facilities which will comprise some 2313 photovoltaic panels (solar panels) providing 720MWh of power, thereby helping to offset daytime power consumption. The proposals are inclusive of electrical vehicle charging points, which will amount to a minimum of 10% of all car parking provision (9 EV charging points).

3.5.98 The renewable electricity generated onsite would be used to power the ADF, with any excess being sent to the local distribution network. The 'green gas' produced would also be sent to the local gas distribution network, providing a cleaner and more sustainable form of gas that does not involve polluting drilling and extracting processes. The proposal would, therefore, result in the creation of a greener source of electricity, gas and heat that can be used by local residents, businesses and the development itself. The ADF would also reduce the amount of vehicle movements in transport/exporting waste, which would be a significant benefit and awarded significant weight in the determination of the application.

3.5.99 Overall, the proposals are considered to be a highly sustainable solution to managing and treating food waste for the generation of renewable energy, that will prevent waste being disposed and transported to landfill and not have unacceptable impacts on climate change. Through construction activities, the proposals also look to maximise the recycling of waste where possible.

3.5.100 Accordingly, the proposal is found to be acceptable, in accordance with the requirements of Policies CS13 and 36, emerging Core Policy 5 and The Framework.

3.5.101 Planning Gain / Section 106 Financial Contributions

The following Section 106 contribution is agreed between the Council and the applicant, towards improvements at the Goose House Lane / Hollins Grove Street / Lower Eccleshill junction:

- Highway / junction improvements - £61,000
- Monitoring fee - £610
- Total = £61,610

3.5.102 Summary

This report assesses the Full Planning Application for the demolition of existing waste management operations, relocation of the Waste Transfer Station and Materials Recycling Facility and erection of Anaerobic Digestion Facility. In considering the proposal, a wide range of material considerations have been taken into account to inform a balanced recommendation. The

scheme is considered to promote a high quality design and sustainable working practises in waste management at an allocated waste site suitable for built waste facilities; in accordance with the strategic aims and objectives for minerals and waste planning, the Local Plan and The Framework. The proposal is also satisfactory from a technical point of view, with all issues having been addressed through the application or capable of being controlled or mitigated through planning conditions and contributions.

4.0 RECOMMENDATION

4.1 Approve subject to:

- (i) Delegated authority is given to the Strategic Director of Growth & Development to approve planning permission, subject to an agreement under Section 106 of the Town & Country Planning Act 1990, relating to the payment of £61,610, specified as follows (payment is to be made prior to commencement of development):**

- Highway / junction improvements - £61,000
- Monitoring fee - £610
- Total = £61,610

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 will have delegated powers to refuse the application.

(ii) The following conditions:

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

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

2. Unless explicitly required by condition within this consent, the development hereby permitted shall be carried out in complete accordance with the application received 22nd December 2021 and with the following drawings / plans / information: *(to be added)*.

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

3. Prior to commencement of any above ground works hereby approved, and notwithstanding the submitted details, written and illustrative details, including colours and textures, of the external walling, roofing and window 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.

4. Prior to commencement of any above ground work 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.

5. Prior to the commencement of development hereby approved, the developer must submit to the Local Planning Authority for written approval:

i) A comprehensive desk study report, including a preliminary conceptual site model (CSM) in text, plan and cross-section form. Where necessary, detailed proposals for subsequent site investigation should also be included, clearly based on the CSM.

ii) Findings of the approved site investigation work (where necessary), including an appropriate assessment of risks to both human health and the wider environment, from contaminants in, on or under the land (including ground gas). If unacceptable risks are identified, a remedial options appraisal and detailed remediation scheme should be presented, along with an updated CSM. No deviation shall be made from this scheme without the written agreement from the Local Planning Authority or the Environment Agency.

REASON: To ensure that all reasonable steps have been taken to identify contamination at the site, in accordance with Policy 8 of the adopted Blackburn with Darwen Borough Council Local Plan Part 2.

6. Prior to the occupation of the development hereby approved, 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 Council Local Plan Part 2.

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

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

8. Prior to commencement of the development hereby approved, and notwithstanding the submitted details, a scheme for protecting the surrounding residential and commercial premises from noise, vibration and dust shall be submitted to and approved in writing by the Local Planning Authority. The approved scheme shall be implemented and adhered to throughout the period of demolition and construction.

REASON: In order to safeguard neighbouring amenity, in accordance with Policy 8 of the Blackburn with Darwen Borough Local Plan Part 2.

9. Prior to commencement of the operational use hereby approved, and notwithstanding the submitted details, an Odour Assessment shall be submitted to and approved in writing by the Local Planning Authority. The assessment shall provide for odour modelling and detail the likely impact on receptors in the area. The report shall also detail any odour mitigation necessary to ensure that receptors in the area are not impacted by odour from the approved use.

All mitigation measures shall be implemented and adhered to for the duration of the approved use.

REASON: In order to safeguard neighbouring amenity, in accordance with Policy 8 of the Blackburn with Darwen Borough Local Plan Part 2.

10. Prior to commencement of the operational use hereby approved, and notwithstanding the submitted details, an Odour Management Plan shall be submitted to and approved in writing by the Local Planning Authority (LPA). The approved plan shall be implemented and adhered to for the duration of the approved use. Should levels of odour emitted from the site change to the extent that the LPA consider the approved Odour Management Plan to be inadequate, an updated Odour Management Plan shall be submitted, upon request, and all approved management measures implemented with immediate effect.

REASON: In order to safeguard neighbouring amenity, in accordance with Policy 8 of the Blackburn with Darwen Borough Local Plan Part 2.

11. Prior to commencement of the operational use hereby approved, and notwithstanding the submitted details, an Operational Noise Management Plan shall be submitted to and approved in writing by the Local Planning Authority. The approved plan shall be and adhered to for the duration of the approved use. Should levels of noise emitted from the site change to the extent that the LPA consider the approved Operational Noise Management Plan to be inadequate, an updated Operational Noise Management Plan shall be submitted, upon request, and all approved management measures implemented with immediate effect.

REASON: In order to safeguard neighbouring amenity, in accordance with Policy 8 of the Blackburn with Darwen Borough Local Plan Part 2.

12. During the operational phase of the development, no materials shall be delivered to the site or despatched from the site outside of the following hours:

- Monday to Friday (inc) between 07:00 and 19:00; and
- Saturday, Sunday, Bank Holidays and Public Holidays between 09:00 – 17:00.

REASON: In order to safeguard neighbouring amenity, in accordance with Policy 8 of the Blackburn with Darwen Borough Local Plan Part 2.

13. Prior to the installation of any external flood lighting a scheme detailing the location and specification of any luminaires shall be submitted to and approved in writing by the Local Planning Authority. The scheme must accord with the guidelines set out in the Institute of Lighting Engineers publication “Guidance Notes for the Reduction of Obtrusive Light”. The approved scheme shall be implemented and adhered to for the duration of the approved use.

REASON: In order to safeguard neighbouring amenity, in accordance with Policy 8 of the Blackburn with Darwen Borough Local Plan Part 2.

14. The construction of the development hereby permitted shall only take place between the following hours:

Monday to Friday: 08:00 to 18:00

Saturday: 09:00 to 13:00

Sundays or Bank Holidays: No site operations

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.

15. Prior to commencement of the development hereby approved, including demolition) a Demolition, Construction and Environmental Management Plan (DCEMP) shall be submitted to and approved in writing

by the Local Planning Authority. The DCEMP shall provide for the following:

- Details of an environmental pollution incident emergency response;
- A plan showing the areas of storage for all materials associated with construction;
- Details specifying how the existing pond on site would be protected during the construction works, including details of proposed protective fencing/netting to be erected to safeguard the pond;
- Demolition and site clearance methodology;
- The parking of vehicles of site operatives and visitors;
- An area(s) for loading and unloading of plant and materials;
- An area for the storage of plant and materials used in constructing the development;
- The erection and maintenance of security hoarding including decorative displays and facilities for public viewing, where appropriate;
- Wheel washing facilities, 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;
- Measures to control the emission of dust and dirt during construction;
- a scheme for recycling / disposing of waste resulting from demolition and construction works;
- Risk assessment of potentially damaging construction activities.
- Identification of "biodiversity protection zones";
- Practical measures (both physical measures and sensitive working practices) to avoid or reduce impacts during construction (may be provided as a set of method statements);
- The location and timing of sensitive works to avoid harm to biodiversity features;
- Precautionary working measures during construction, for badgers and other mammals;
- The times during construction when specialist ecologists need to be present on site to oversee works;
- Responsible persons and lines of communication.
- The role and responsibilities on site of an ecological clerk of works (ECoW) or similarly competent person; and
- Use of protective fences, exclusion barriers and warning signs.

Demolition and construction shall proceed in strict accordance with the approved DCEMP measures for the duration of those works.

REASON: In order to safeguard protected habitat; to avoid the deposit of debris into watercourses; and onto the highway, and in order to protect local amenity generally, in accordance with Policies 8, 9 and 10 of the Blackburn with Darwen Borough Local Plan Part 2.

16. Prior to the commencement of any above ground works hereby approved, and notwithstanding the submitted details, an electric vehicle charging point scheme shall be submitted to and approved in writing by the Local Planning Authority. The scheme shall be implemented prior to operational use of the approved development and shall be so retained.

REASON: In the interests of air quality management and protection of health, in accordance with Policies 8 and 36 of the Blackburn with Darwen Borough Local Plan Part 2.

17. Prior to the commencement of development hereby approved, details of a sustainable surface water drainage scheme and a foul water drainage scheme shall be submitted to and approved in writing by the Local Planning Authority. The drainage schemes must include:

- (i) 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;
- (ii) 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);
- (iii) Levels of the proposed drainage systems including proposed ground and finished floor levels in AOD;
- (v) Incorporate mitigation measures to manage the risk of sewer surcharge as required;
- (vi) Full details of overland flow paths and any associated mitigation measures as required; and
- (vii) Foul and surface water shall drain on separate systems.

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

Prior to occupation of the proposed development, the drainage schemes shall be completed in accordance with the approved details and retained thereafter for the lifetime of the development.

REASON: To promote sustainable development, secure proper drainage and to manage the risk of flooding and pollution, in accordance with Policy 9 of the adopted Blackburn with Darwen Borough Council Local Plan Part 2.

18. Prior to occupation of the development hereby approved, a sustainable drainage management and maintenance plan for the lifetime of the development shall be submitted to the local planning authority and agreed in writing. The sustainable drainage management and maintenance plan shall include as a minimum:

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

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

REASON: To ensure that management arrangements are in place for the sustainable drainage system in order to manage the risk of flooding and pollution during the lifetime of the development, in accordance with the requirements of Policy 9 and 36 of the Blackburn with Darwen Borough Local Plan Part 2.

19. Prior to commencement of the development hereby approved, detailed proposal for the diversion of the drainage ditch from the existing lagoon on site, shall be submitted to and approved in writing by the Local Planning Authority. The drainage ditch shall be diverted in strict accordance with the approved details.

REASON: To secure proper drainage and to manage the risk of flooding and pollution, in accordance with Policy 9 of the adopted Blackburn with Darwen Borough Council Local Plan Part 2.

20. No site clearance shall be undertaken between the 1st March and 31st August in any year, unless and until a detailed bird nest survey, undertaken by a suitably experienced ecologist, has been submitted to the Local Planning Authority in writing, confirming that no active bird nests are present.

REASON: To ensure the protection of nesting birds, in accordance with the requirements of Policies 9 and 40 of the Blackburn with Darwen Local Plan Part 2.

21. Prior to commencement of any works at the site, an Arboricultural Method Statement and tree protection plan shall be submitted to and agreed in writing by the Local Planning Authority. The method statement shall clearly state how the trees to be retained on site will be protected during construction works. The agreed method statement shall be implemented in full prior to the undertaking of any on site works and retained for duration of the demolition and construction works.

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

22. Prior to commencement of above ground works hereby approved, and notwithstanding the submitted details, a landscaping scheme shall be submitted to and approved in writing by the Local Planning Authority. The

scheme shall include details of native tree and shrub planting, including species and densities, to compliment local priority habitat, to enhance the Leeds and Liverpool canal corridor and to provide for a net gain in biodiversity. Planting of trees and shrubs shall also be implemented in accordance with the approved details, during the first available planting season following completion of the development. Trees dying or becoming diseased, removed or being seriously damaged within five years of planting shall be replaced by trees and shrubs of similar size and species to those originally required to be planted during the first available planting season after the loss of the trees and/or shrubs.

REASON: To ensure an appropriate appearance to the site and in the interests of amenity and ecology, in accordance with Policy 9 and 11 of the adopted Blackburn with Darwen Borough Council Local Plan Part 2.

23. Prior to occupation of the development hereby approved, and notwithstanding the submitted detail, a Landscape and Environmental Management and Maintenance Strategy shall be submitted to and approved in writing by the Local Planning Authority. The strategy shall cover all landscaped areas of public open space, subject to details approved under condition 20, and it shall detail a programme of works including scheduled frequencies of weeding and watering as well as monitoring of habitats for a period of 30 years. The strategy shall be implemented in accordance with the approved detail upon completion of the development.

REASON: To ensure that there is a well maintained scheme of healthy trees and shrubs in the interests of amenity in accordance with Policies 9, 11 and 40 of the Blackburn with Darwen Borough Local Plan Part 2.

24. Prior to commencement of the development hereby approved, and notwithstanding the submitted details, a Biodiversity Enhancement Strategy for the site and adjoining land also within the applicant's control, shall be submitted to and approved in writing by the Local Planning Authority. The Strategy shall set out the extent of biodiversity net gain achieved post-development, assessed against the sites baseline biodiversity value pre-development. The Strategy shall include a phased timetable of implementation as well as a maintenance programme to be implemented post completion of the development, for a specified period of time.

REASON: In order to promote and protect ecology and biodiversity, in accordance with the requirements of Policies 9 and 40 of the Blackburn with Darwen Local Plan Part 2 and the National Planning policy Framework.

25. Prior to commencement of the operational use hereby approved, a "lighting design strategy for biodiversity" for areas to be lit shall be submitted to and approved in writing by the local planning authority. The strategy shall:

- a) identify those areas/features on site that are particularly sensitive for nocturnal species including bats and that are likely to cause disturbance in or around their breeding sites and resting places or along important routes used to access key areas of their territory, for example, for foraging; and
- b) show how and where external lighting will be installed (through the provision of appropriate lighting contour plans and technical specifications) so that it can be clearly demonstrated that areas to be lit will not disturb or prevent the above species using their territory or having access to their breeding sites and resting places.

All external lighting shall be installed in accordance with the specifications and locations set out in the strategy, and these shall be maintained thereafter in accordance with the strategy. Under no circumstances should any other external lighting be installed without prior consent from the local planning authority.

REASON: In order to protect ecology and biodiversity, in accordance with the requirements of Policies 9 and 40 of the Blackburn with Darwen Local Plan Part 2.

26. Prior to commencement of the development hereby approved, a Landscape and Ecological Management Plan (LEMP) shall be submitted to, and be approved in writing by the local planning authority. The content of the LEMP shall include the following.

- Description and evaluation of features to be managed.
- Ecological trends and constraints on site that might influence management.
- Aims and objectives of management.
- Appropriate management options for achieving aims and objectives.
- Prescriptions for management actions.
- Preparation of a work schedule (including an annual work plan capable of being rolled forward over a five-year period).
- Details of the body or organisation responsible for implementation of the plan.
- Ongoing monitoring and remedial measures.

The LEMP shall also include details of the legal and funding mechanism{s} by which the long-term implementation of the plan will be secured by the developer with the management body responsible for its delivery. The plan shall also set out (where the results from monitoring show that conservation aims and objectives of the LEMP are not being met) how contingencies and/or remedial action will be identified, agreed and implemented so that the development still delivers the fully functioning biodiversity objectives of the originally approved scheme. The LEMP shall be implemented in strict accordance with the approved details.

REASON: In order to promote and protect ecology and biodiversity, in accordance with the requirements of Policies 9 and 40 of the Blackburn with Darwen Local Plan Part 2 and the National Planning policy Framework.

27. No development shall take place until an ecological design strategy (EDS) addressing mitigation and enhancement measures has been submitted to and approved in writing by the local planning authority.

The EDS shall include the following.

- Purpose and conservation objectives for the proposed works.
- Review of site potential and constraints.
- Detailed design(s) and/or working method(s) to achieve stated objectives.
- Extent and location/area of proposed works on appropriate scale maps and plans.
- Type and source of materials to be used where appropriate, e.g. native species of local provenance.
- Timetable for implementation demonstrating that works are aligned with the proposed phasing of development.
- Persons responsible for implementing the works.
- Details of initial aftercare and long-term maintenance.
- Details for monitoring and remedial measures.
- Details for disposal of any wastes arising from works.
- Barn Owl mitigation measures.
- Badger and mammals 'Reasonable Avoidance Measures'

The EDS shall be implemented in accordance with the approved details and all features shall be retained in that manner thereafter.

REASON: In order to protect ecology and biodiversity; in accordance with the requirements of Policies 9 and 40 of the Blackburn with Darwen Local Plan Part 2.

28. Prior to the commencement of any works on site, a detailed Invasive Plant Species Survey of the site shall be carried out by a remediation / invasive species specialist. The results of this survey and any recommendations or mitigation measures shall be submitted to and approved in writing by the Local Planning Authority. Any recommended mitigation measures shall be carried out in strict accordance with the approved detail.

REASON: In order to protect ecology and biodiversity, in accordance with the requirements of Policies 9 and 40 of the Blackburn with Darwen Local Plan Part 2.

29. If no site clearance or construction works commence by October 2024, an updated Ecological Impact Assessment shall be submitted to and approved in writing by the Local Planning Authority. Any recommended mitigation measures shall be carried out in strict accordance with the approved detail.

REASON: To ensure the protection of ecology and biodiversity in general, in accordance with the requirements of Policies 9 and 40 of the Blackburn with Darwen Local Plan Part 2.

30. If no site clearance or construction works commence by October 2024, a site walkover shall be undertaken to check for evidence of Badger presence. If such presence is identified, a Badger Survey shall be submitted to and approved in writing. Any recommended mitigation measures identified shall be carried out in strict accordance with the approved detail.

REASON: To ensure the protection of Badgers and ecology and biodiversity in general, in accordance with the requirements of Policies 9 and 40 of the Blackburn with Darwen Local Plan Part 2.

31. Prior to operational use of the development hereby approved, a scheme to extend the permeable block paving along the access road on to meet with the pavements of Goose House Lane, shall be submitted to and approved in writing by the Local Planning Authority. The scheme shall be implemented in strict accordance with the approved detail, prior to operational use of the development.

REASON: In order to create a safe, convenient and continuous pedestrian route from the local highway network into the site, in accordance with the requirements of Policy 10 of the Blackburn with Darwen Local Plan Part 2.

32. No development shall take place until the applicant, or their agent or successors in title, has secured the implementation of a phased programme of archaeological investigation, recording and analysis. This must be carried out in accordance with a written scheme of investigation, which shall first have been submitted to and agreed in writing by the Local Planning Authority.

REASON: To ensure and safeguard the recording and inspection of matters of archaeological/historical importance associated with the site, as well as the proper reporting of that work and archiving of the project, in accordance with the requirements of Policy 39 of the Blackburn with Darwen Local Plan Part 2 and The Framework.

5.0 PLANNING HISTORY (Planning Statement, WSP, Oct 2022).

Permission Reference	Dated	Issuing Authority	Details
10/10/0732	01/12/2010	Blackburn with Darwen Borough Council	Certificate of Lawfulness (Proposed) for change of use from B2 (general industry) to B1 (offices).
10/11/0608	01/07/2011	Blackburn with Darwen Borough Council	Prior notification for demolition of industrial buildings.
10/11/0805	12/10/2011	Blackburn with Darwen Borough Council	New ventilation condensers to supply cooling to ground and first floors.
Materials Recycling Facility			
10/11/0930	29/02/2012	Blackburn with Darwen Borough Council	Change of use of inkworks and H1 building to MRF.
10/13/0767	21/11/2013	Blackburn with Darwen Borough Council	Variation of condition (VOC) to extend the operational hours of the facility.
10/15/1149	03/11/2015	Blackburn with Darwen Borough Council	VOC to extend the operational hours of the facility.
Waste Transfer Station & Refuse Derived Fuel Facility			
10/12/0558	18/10/2012	Blackburn with Darwen Borough Council	Waste Transfer Station with Refuse Derived Fuel Facility, staff welfare and offices and associated infrastructure.
10/15/1150	03/11/2015	Blackburn with Darwen Borough Council	VOC to extend the operational hours of the facility.
Energy From Waste			
10/19/0495	15/08/2019	Blackburn with Darwen Borough Council	Demolition of existing waste transfer and materials recycling buildings and construction of an energy from waste facility (EFW) with ancillary infrastructure and landscaping.

6.0 CONSULTATIONS

6.1 BwD Public Protection

The introduction of a large scale anaerobic digestion facility will bring with it Environmental Protection Challenges in respect of noise, air quality, light and contaminated land.

Noise

Construction Phase

This will be a fairly significant construction project with a potential impact on people living and working in the locality.

Construction phase control conditions can be applied to reduce this impact.

Operational Phase

TBC – comments to follow

Air Quality - including Air Pollution, Odour and Dust

An air quality Assessment has been submitted with the application. This assesses the potential impact of the development on air quality.

Air Pollution

The potential impact from pollutants such as NO₂ / NO_x is considered in the report qualitatively and to some degree quantitatively. This includes modelling of emissions from the CHP engines.

The outcome of this is that the potential impact is low. The report makes reference to the council's planning advice note on air quality.

Dust

The report considers the potential impact as a result of construction phase dust. This is considered as medium but low risk with appropriate mitigation.

This can be controlled via condition to agree a scheme for the control of construction dust.

Odour

A qualitative assessment of odour has been done and the site is classed as having a low potential for odour with a negligible risk of odour exposure at all surrounding receptors.

For the record I do not agree that the odour source potential is low. I believe that an Anaerobic Digestion Plant with a capacity of 100 000 tonnes per annum has a greater than “low” odour potential.

I also feel that the assessment does not fully take into account the potential for fugitive emissions.

However, much will depend on the final plant design, the technology employed and the way in which the site is maintained and operated.

The applicant will be required to operate under an Environmental Permit which will include conditions relating to odour and emissions. The applicant makes reference to a more detailed quantitative assessment in support of the Permit application for the site.

I believe that odour control conditions could be included on the decision notice to reduce the potential for odour impact in the future. This would include an odour assessment and an odour management plan which would also be necessary for the Permit Application.

Light

The use of lighting associated with the development has the potential to have an impact on surrounding light sensitive premises. Given the separation distances involved then this can be conditioned. It is expected that the developer will follow the guidance from the Institute of Lighting Professionals.

Contaminated Land

The site has a considerable industrial history.

An environmental desk study has been completed and submitted with the application. It will be reviewed in due course but this can be dealt with via condition.

Recommended Conditions

Noise

Condition – Construction / Demolition Noise / Dust Control

Demolition or construction work shall not begin until a scheme for protecting the surrounding residential and commercial premises from noise, vibration and dust from the site during these works has been submitted to and approved in writing by the Local Planning Authority. All measures which form part of the approved scheme shall be adhered to throughout the period of demolition and construction.

Reason: To safeguard the amenity of neighbouring properties by reducing the noise/vibration levels emitted from the site.

Condition - Redevelopment working hours

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

Unless otherwise agreed in writing with the Local Planning Authority.

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

Reason: to limit noisy activity to within normal working hours.

Condition – Odour Management Plan

Prior to the occupation of the approved use an odour management plan must be submitted to and agreed in writing with the local planning authority. The agreed plan shall be retained for the duration of the approved use. The odour management plan shall be updated as appropriate.

Reason: To protect local residents from a loss of amenity from odour.

Condition – Odour Assessment

Prior to the commencement of the approved use, an Odour Assessment shall be submitted to and agreed in writing with the local planning authority.

The assessment shall include odour modelling and detail the likely impact on receptors in the area. The report shall also detail any odour mitigation necessary to ensure that receptors in the area are not impacted on by odour from the approved use.

Reason: to safeguard the amenity of surrounding premises.

Condition - Floodlighting:

Prior to the installation of any external flood lighting a scheme detailing the location and specification of any luminaires shall be submitted to, and agreed in writing by, the Local Planning Authority. The scheme must accord with the guidelines set out in the Institute of Lighting Engineers publication "Guidance Notes for the Reduction of Obtrusive Light".

Reason: to ensure adequate levels of residential amenity

CONTAMINATED LAND CONDITIONS

Condition 1

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

i. A comprehensive desk study report, including a preliminary conceptual site model (CSM) in text, plan and cross-section form. Detailed proposals for subsequent site investigation based on the CSM shall be included as appropriate; the developer will be advised whether any further site assessment is required.

ii. If required by the LPA, the findings of the approved site investigation work, including an appropriate assessment of risks to both human health and the wider environment, arising from contaminants in, on or under the land (including ground gas) will be submitted. Where unacceptable risks are identified an updated CSM, remedial options appraisal and detailed remediation scheme shall be presented for approval. No deviation shall be made from this scheme without the written express agreement of the LPA.

Condition 2

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

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

Condition 3

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

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

6.2 BwD Drainage (Lead Local Flood Authority)

LLFA Position,

We have no objections to the proposals but require the following conditions:

Condition 1:

Prior to commencement, the applicant must submit detailed proposals for the diversion of the drainage ditch from the existing lagoon on site, which must be agreed with the LLFA.

Condition 2:

Prior to commencement, the applicant must submit a detailed drainage scheme, in accordance with the principles detailed in the previously submitted FRA. These shall include design details of the SuDS scheme and attenuation tanks, and must be agreed with the LLFA.

6.3 BwD Highways & PRow

The Transport Assessment makes the case that the addition of DERC site development traffic had a negligible effect on the operation of the Goose House Lane/Hollins Grove Street/Lower Eccleshill junction. It is suggested that the DERC development would only see 40 additional HGV movements a day equating to a 1% increase in total vehicles (north of Goose House Lane/Hollins Grove Street/Lower Eccleshill junction) on Eccleshill Road and that as such no improvement for capacity should be required at the junction.

Notwithstanding the above it is apparent that the development proposals will result in an increase in traffic movements through additional HGV movements and additional staff at the site. There is also the potential for additional pedestrian movements at the junction arising from the development proposals. Work undertaken by Capita in their Technical Note "Lower Eccleshill Road / Goose House Lane Junction Improvement – Option Appraisal" identified concerns (in Section 3) relating to the swept path of articulated vehicles overrunning opposing lanes, a lack of pedestrian crossing facilities and right turning traffic from Lower Eccleshill Road onto Hollins Gove Street blocking traffic running straight onto Goose House Lane. The Capita Technical Note also indicates that the existing junction layout would operate over capacity in future years with or without the proposed development.

Improvements at the Goose House Lane/Hollins Grove Street/Lower Eccleshill junction are justified through NNPF as identified in Section 2.2 of the TS as it would demonstrate:

- that the potential impacts of development on transport networks can be addressed (Paragraph 104);
- that opportunities to promote walking, cycling and public transport use have been identified and pursued (Paragraph 104); and

- that the proposals give priority first to pedestrians and cycle movements, both within the scheme and with neighbouring areas (Paragraph 112).

In relation to the above, I would also request that the permeable block paving shown along the access road on the Proposed Site Plan be extended to meet with the pavements of Goose House Lane to create a safe, convenient and continuous pedestrian route from the local highway network into the site. It is not clear from the Transport Statement or plans provided if this is included within the proposals or not but would be a significant improvement to the sites accessibility which would support employees who travel to site on foot or by public transport.

I would also note that while not covered in the TS the proposed site plan indicates an increase in parking provision on site from 77 spaces including 2 disability spaces to 85 spaces including 8 disability spaces. While no justification has been provided for the additional parking spaces the increase is not disproportionate to the scale of the development proposals.

In summary, I would consider that the revised proposals on the site should continue to support the proposed improvement scheme at the Lower Eccleshill Road / Goose House Lane junction and provide a continuous footway from Goose House Lane to connect with the footways shown on the proposed site layout plan to ensure the development proposals adequately support safe and sustainable accessibility.

PRoW

There is a Public right of way (footpath 9 Eccleshill) just outside the red line landownership.

Please add Highways 11 to this application

6.4 **BwD Arboriculture Officer**

I have considered the proposals with regard to the submitted AIA and Tree Survey and Constraints Plan.

Also I have referred to the Landscape and Visual Appraisal. (Highlighted in italics below sec 5.2).

I have highlighted the following in the AIA, as follows, with regard to tree removal and tree retention.

4.0 Trees to be removed and retained 4.1 The following trees have been identified for removal due to their condition (Category U): None 4.2 A total of ten tree references are identified to be removed for the direct impact of development and 3 no references partially removed as listed in section 2.3.2. 4.3 The remaining trees are due to be retained and protected as outlined on the TPP by methodology needed in an AMS.

G4 Leyland Cypress X Cupressocyparis leylandi - Remove and replace within landscape planning

5.0 Summary Category A Category B Category C Category U W1 T2;T3;T4;T5;T6;T7;T8;T9;T10;T11;T1;T14;T15;T16;G1;G2;G3;G9;G10;G11;G7;G8;T1;T12;G4;G5;G6.

Summary: A total of 16 individual trees and 11 groups and one woodland have been surveyed across the site. Note: Please refer to tree survey schedule for detailed dimensions and specific site comments The site consists broadly of landscape buffer planting that have little relevance in the public realm providing limited visual amenity in the wider landscape by virtue of their geographical position within the site. They are of amenity value in the local landscape. The trees mainly comprise of landscape plantings that are maturing and located around the site's periphery. The southern boundary contains a notable woodland of considerable arboricultural and conservation quality. Many tree groups are located off site and overhanging into site.

13.0 Amenity Value The retention of significant arboricultural assets has been achieved

14.0 Concluding statement 14.1 The proposed scheme was assessed in line with guidance provided in BS 5837:2012 Trees in relation to design demolition and construction – Recommendations with the aim to achieve a harmonious relationship between trees and structures that can be sustained in the long term. 14.2 It is my professional opinion as an arboriculturist that a harmonious balance of retained and removed trees that would be considered acceptable by the LPA significant has been achieved.

Landscape and Visual Appraisal

5.2 Landscape design 5.2.1 The Site and the Proposed Development would be well screened by combinations of surrounding landform, trees, woodland vegetation and other buildings, such that further landscaping in the form of screen planting is unlikely to further reduce landscape and visual effects. Although areas of proposed landscaping were identified in the Environmental Statement, the available areas are very limited and tightly constrained. 5.2.2 Therefore, the approach to landscape design has focused, where possible on the retention of existing vegetation within the Site boundary in accordance with BS 5837: Trees in Relation to Design, Demolition and Construction. In order to achieve this some pruning, undertaken by a qualified tree surgeon, may be required.

The Landscape and Visual Appraisal concludes on page 10A -

Magnitude of Visual Change Key determining criteria Very Low A small or negligible change to the view that may be obliquely viewed and mostly screened and/or appearing in the distant background or viewed at high speed over short periods and capable of being missed by the casual observer.

Conclusions:

I concur with the concluding statement 14.1 in the AIA.

It appears the existing landscaping consisting of a belt of trees will provide adequate screening for the new structures.

I do not consider there would be any detrimental visual impact on the wider landscape with the proposed new structures.

Tree Protection

A method statement for tree protection has not been submitted. The AIA includes Tree Protection Plan - Overview. TR-01 Sheets 1 to 4 Rev V1 for positioning of the fencing, which appears suitable, but does not include the type, standard of fencing.

Recommendations:

A condition to approve for a method statement for tree protection would be appropriate with any approval of the application.

6.5 Ecology

The Ecological Impact Assessment (EclA) has been undertaken by an experienced ecological consultancy whose work is known to the Ecology Unit. The Assessment found the site to support a number of protected species as well habitats with ecological value.

Bats

The surveys undertaken found no evidence of roosting bats on the site. Overall activity levels were found to be low and the main features being used by bats are being retained. It is recommended in the EclA that a sensitive lighting scheme be designed for the site and we would therefore advise that the following condition be attached to any permission, should it be granted:

Prior to use, a "lighting design strategy for biodiversity" for areas to be lit shall be submitted to and approved in writing by the local planning authority. The strategy shall:

- a) identify those areas/features on site that are particularly sensitive for nocturnal species including bats and that are likely to cause disturbance in or around their breeding sites and resting places or along important routes used to access key areas of their territory, for example, for foraging; and*
- b) show how and where external lighting will be installed (through the provision of appropriate lighting contour plans and technical specifications) so that it can be clearly demonstrated that areas to be lit will not disturb or prevent the above species using their territory or having access to their breeding sites and resting places.*

All external lighting shall be installed in accordance with the specifications and locations set out in the strategy, and these shall be maintained thereafter in accordance with the strategy. Under no circumstances should any other external lighting be installed without prior consent from the local planning authority.

In addition the Assessment makes recommendation for enhancement measures for bats, including the erection of 25 bat boxes. As no details plans have been submitted for the location of these boxes we would advise that the following condition be attached to any permission:

No development shall take place until an ecological design strategy (EDS) addressing mitigation and enhancement measures been submitted to and approved in writing by the local planning authority.

The EDS shall include the following.

- a) Purpose and conservation objectives for the proposed works.*
- b) Review of site potential and constraints.*
- c) Detailed design(s) and/or working method(s) to achieve stated objectives.*
- d) Extent and location/area of proposed works on appropriate scale maps and plans.*
- e) Type and source of materials to be used where appropriate, e.g. native species of local provenance.*
- f) Timetable for implementation demonstrating that works are aligned with the proposed phasing of development.*
- g) Persons responsible for implementing the works.*
- h) Details of initial aftercare and long-term maintenance.*
- i) Details for monitoring and remedial measures.*
- j) Details for disposal of any wastes arising from works.*

The EDS shall be implemented in accordance with the approved details and all features shall be retained in that manner thereafter.

Barn Owl

Surveys for barn owls found two locations being used by barn owls including one breeding site. Mitigation measures have been outlined for the loss of these locations, which are acceptable although more detail will be required. We would recommend that these measures be incorporated into the EDS outlined above.

Amphibians and reptiles

No great crested newts were found on the site but other amphibian species were including palmate newt and common toad. A low population of common lizard is present on the site. Measure to prevent harm to these species during construction will be required and we would therefore recommend that these be included with a Construction Environmental Management Plan for biodiversity and the following condition be attached to any permission.

No development shall take place (including demolition, ground works, vegetation clearance) until a construction environmental management plan (CEMP: biodiversity)

has been submitted to and approved in writing by the local planning authority. The CEMP (Biodiversity) shall include the following.

- a) Risk assessment of potentially damaging construction activities.*
- b) Identification of "biodiversity protection zones".*
- c) Practical measures (both physical measures and sensitive working practices) to avoid or reduce impacts during construction (may be provided as a set of method statements).*
- d) The location and timing of sensitive works to avoid harm to biodiversity features.*
- e) The times during construction when specialist ecologists need to be present on site to oversee works.*
- f) Responsible persons and lines of communication.*
- g) The role and responsibilities on site of an ecological clerk of works (ECoW) or similarly competent person.*
- h) Use of protective fences, exclusion barriers and warning signs.*

The approved CEMP shall be adhered to and implemented throughout the construction period strictly in accordance with the approved details, unless otherwise agreed in writing by the local planning authority.

The Assessment also recommends enhancement measures for these species which should be included the EDS outlined above.

Nesting birds

The site supports habitats that is likely to be used by nesting birds. Therefore any clearance of vegetation or demolition of buildings that may be used by nesting birds should avoid the main bird breeding season (March to August inclusive) and this requirement should be included within the CEMP.

Badgers

While evidence of badgers was found on site, the badgers should not be directed impacted by the proposals. However because badgers are highly mobile species a pre-commencement survey is recommend by the Assessment and this requirement should be included within the CEMP, as should general precautions to prevent mammals being harmed during construction.

Invasive species

Several invasive species were found on the site. We would therefore recommend that the following condition be attached to any permission:

Prior to the commencement of development (including demolition, ground works, vegetation clearance), an invasive non-native species protocol shall be submitted to and approved by the local planning authority, detailing the containment, control and removal of Japanese Knotweed, Himalayan balsam and Rhododendron on site. The measures shall be carried out strictly in accordance with the approved scheme.

Biodiversity Net Gain (BNG)

As previously stated the proposals will result in a net loss for biodiversity for which no compensation has been proposed.

In terms of the information submitted on BNG, the metric divides the habitats into parcels, as is expected, but does not include any maps to identify these parcels. This will make it harder track the long term outcomes for these parcels. In addition the condition assessments do not appear to have been included, which are required.

Some enhancements have been proposed with the site including for grassland. These measures include the use of a grassland seed mix, Emorsgate EM1, which includes the species Salad burnet. This species occurs on calcareous grasslands and should only be included in areas that support the correct substrate.

The EclA states that the management of retained habitats will be achieved through a Landscape And Ecological Management Plan (LEMP), secured by condition. We would therefore advise that the following condition be attached to any permission:

A landscape and ecological management plan (LEMP) shall be submitted to, and be approved in writing by, the local planning authority prior to the commencement of the development. The content of the LEMP shall include the following.

- a) Description and evaluation of features to be managed.*
- b) Ecological trends and constraints on site that might influence management.*
- c) Aims and objectives of management.*
- d) Appropriate management options for achieving aims and objectives.*
- e) Prescriptions for management actions.*
- f) Preparation of a work schedule (including an annual work plan capable of being rolled forward over a five-year period).*
- g) Details of the body or organization responsible for implementation of the plan.*
- h) Ongoing monitoring and remedial measures.*

The LEMP shall also include details of the legal and funding mechanism{s} by which the long-term implementation of the plan will be secured by the developer with the management body(ies) responsible for its delivery. The plan shall also set out (where the results from monitoring show that conservation aims and objectives of the LEMP are not being met) how contingencies and/or remedial action will be identified, agreed and implemented so that the development still delivers the fully functioning biodiversity objectives of the originally approved scheme. The approved plan will be implemented in accordance with the approved details.

As previously discussed details of off-site measure to achieve net gain are still required.

Addendum, in response to BNG query – ie can the requirement be conditioned:

Case Officer: Please can you review comments below from the applicant's agent, in response to yours? They relate to the BNG position and the absence of a drainage strategy (SuDS) which may impact the BNG outcome. Under the circumstances, what would your view be on the suggested condition approach, as an alternative to pre-determination?

I recommended the condition for the Ecological Design Strategy for on-site enhancements such as bat boxes as no detailed locations had been provided, so there wasn't anything firm to hang a condition on.

If you are confident that there is somewhere the BNG can be delivered then a condition would be acceptable.

6.6 The Coal Authority

On the basis of the recommendations made in the Coal Mining Risk Assessment (April 2019, prepared by RPS Consulting Services Ltd), the Coal Authority is now able to withdraw its objection subject to a planning condition to ensure the investigation of the coal mining legacy features within the site and the implementation of any necessary remedial measures.

The Coal Authority Recommendation to the LPA

The Coal Authority concurs with the recommendations of RPS Consulting Services Ltd that coalmining legacy potentially poses a risk to the proposed development and that intrusive site investigation works should be undertaken prior to development in order to establish the exact situation regarding coal mining legacy issues on the site.

Accordingly, the Coal Authority recommends the imposition of the following conditions:

1. *No development shall commence until;*

a) a scheme of intrusive investigations has been carried out on site to establish the risks posed to the development by past coal mining activity, and;

b) any remediation works and/or mitigation measures to address land instability arising from coal mining legacy, as may be necessary, have been implemented on site in full in order to ensure that the site is safe and stable for the development proposed.

The intrusive site investigations and remedial works shall be carried out in accordance with authoritative UK guidance.

6.7 United Utilities

Drainage

In accordance with the National Planning Policy Framework (NPPF) and the National Planning Practice Guidance (NPPG), the site should be drained on a separate system with foul water draining to the public sewer and surface water draining in the most sustainable way.

We request the following drainage conditions are attached to any subsequent approval to reflect the above approach:

Condition 1 – Surface water

No development shall commence until a surface water drainage scheme has been submitted to and approved in writing by the Local Planning Authority. The drainage scheme must include:

- (i) 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;
- (ii) 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); and
- (iii) A timetable for its implementation.

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

The development hereby permitted shall be carried out only in accordance with the approved drainage scheme.

Reason: To promote sustainable development, secure proper drainage and to manage the risk of flooding and pollution.

Management and Maintenance of Sustainable Drainage Systems

For schemes of 10 or more units and other major development, we recommend the Local Planning Authority consults with the Lead Local Flood Authority regarding the exact wording of any condition. You may find the below a useful example:

Prior to occupation of the development a sustainable drainage management and maintenance plan for the lifetime of the development shall be submitted to the local planning authority and agreed in writing. The sustainable drainage management and maintenance plan shall include as a minimum:

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

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

Reason: To ensure that management arrangements are in place for the sustainable drainage system in order to manage the risk of flooding and pollution during the lifetime of the development.

Please note United Utilities cannot provide comment on the management and maintenance of an asset that is owned by a third party management and

maintenance company. We would not be involved in the discharge of the management and maintenance condition in these circumstances.

6.8 Environment Agency

The use of the proposed development site as a waste treatment site presents a high risk of contamination that could be mobilised during construction to pollute controlled waters. Controlled waters are particularly sensitive in this location because the proposed development site is located near to a surface watercourse, and located upon a secondary aquifer A.

In light of the above, the proposed development will be acceptable if a planning condition is included requiring the submission of a remediation strategy. This should be carried out by a competent person in line with paragraph 183 of the National Planning Policy Framework.

Without this condition we would object to the proposal in line with paragraph 174 of the National Planning Policy Framework because it cannot be guaranteed that the development will not be put at unacceptable risk from, or be adversely affected by, unacceptable levels of water pollution.

Condition

No development approved by this planning permission shall commence until a remediation strategy to deal with the risks associated with contamination of the site in respect of the development hereby permitted, has been submitted to, and approved in writing by, the local planning authority. This strategy will include the following:

1. A preliminary risk assessment which has identified:
 - all previous uses
 - potential contaminants associated with those uses
 - a conceptual model of the site indicating sources, pathways and receptors
 - potentially unacceptable risks arising from contamination at the site
2. A site investigation scheme, based on (1) to provide information for a detailed assessment of the risk to all receptors that may be affected, including those off-site.
3. The results of the site investigation and the detailed risk assessment referred to in (2) and, based on these, an options appraisal and remediation strategy giving full details of the remediation measures required and how they are to be undertaken.
4. A verification plan providing details of the data that will be collected in order to demonstrate that the works set out in the remediation strategy in (3) are

complete and identifying any requirements for longer-term monitoring of pollutant linkages, maintenance and arrangements for contingency action.

Any changes to these components require the written consent of the local planning authority. The scheme shall be implemented as approved.

Reasons

To ensure that the development does not contribute to and is not put at unacceptable risk from, or adversely affected by unacceptable levels of water pollution in line with paragraph 174 of the National Planning Policy Framework.

To prevent deterioration of a water quality element to a lower status class in the underlying aquifer and the nearby water course.

Contaminated land – advice to applicant

We have reviewed the phase 1 desk study by WSP submitted with the application, Doc Ref. 808475-WOOD-RP-OC-00001_P02.2, dated October 2022.

We agree with the recommendations given in the desk study for this development, which on Page B42 states that:

Given the absence of reliable current ground investigation data with respect to potential contamination, it is recommended that a ground investigation is undertaken including sampling of the pond on site and nearby surface water streams (where practicable). A site-wide investigation is recommended given the multiple sources of potential contaminants present both on and surrounding the site.

Environmental Permit – advice to applicant

We note that the applicant has stated that due to the proposed development being in its design phase, the proposed odour abatement plan has not been finalised. As a result, we cannot at this stage provide any comment on the effectiveness of the odour abatement systems that may be required at the site. The EIA correctly acknowledges that the Environment Agency requires odour abatement to meet BAT (Best Available Techniques) and for the company to follow H4 (the Environment Agency Odour Guidance).

We also note that the proposal indicates the use of pits for waste. The company will need to demonstrate that the pits can be completely emptied of all wastes and liquids.

An environmental permit will be required for the operation of the site, and we recommend that the applicant engages with the Environment Agency in permit pre-application advice at the earliest opportunity.

6.9 National Highways

Council's Reference: 10/22/1006.

Location: Suez Recycling & Recovery Park, Lower Eccleshill Road, Darwen, BB3 0RP.

Proposal: Demolition of existing waste management operations, relocation of the waste transfer station and materials recycling facility and erection of anaerobic digestion facility.

National Highways Ref: 96633.

Referring to the consultation on a planning application dated 4th November 2022 referenced above, in the vicinity of the M65 motorway that forms part of the Strategic Road Network, notice is hereby given that National Highways' formal recommendation is that we:

- a) offer no objection.

Highways Act Section 175B is / is not relevant to this application.

This represents National Highways' formal recommendation and is copied to the Department for Transport as per the terms of our Licence

6.10 Natural England

SUMMARY OF NATURAL ENGLAND'S ADVICE

NO OBJECTION

Based on the plans submitted, Natural England considers that the proposed development will not have significant adverse impacts on statutorily protected nature conservation sites or landscapes.

Natural England's generic advice on other natural environment issues is set out at Annex A.

6.11 LCC Archaeology

The proposed development site contains the former site of Darwen and Mostyn Iron Works, and part of the former Hoddleston branch of the Lancashire and Yorkshire Railway, opened in 1876, both recorded as non-designated heritage assets on the Lancashire County Historic Environment Record, PRN9539 & PRN2078 respectively.

The 2019 Environmental Statement, that accompanied planning application 10/19/0495, has been submitted again. The chapter titled Cultural Heritage, states that "there is potential for substantial archaeological remains relating to the Darwen and Mostyn Iron Works to be present on the project site.", and goes on to propose a scheme of staged post-permission works in section 9.43.

The Historic Environment Team is of the opinion that the site does retain some level of local archaeological significance, one that could be adequately mitigated by the works proposed in section 9.43.

The Historic Environment Team would therefore advise that, should the Local Planning Authority be minded to grant planning permission, the necessary archaeological investigation of the site, i.e. that outlined in section 9.43 of the Environmental Statement, along with the appropriate reporting of those works and archiving of the results, be secured by means of the following condition:

Condition: No development shall take place until the applicant, or their agent or successors in title, has secured the implementation of a phased programme of archaeological investigation, recording and analysis. This must be carried out in accordance with a written scheme of investigation, which shall first have been submitted to and agreed in writing by the Local Planning Authority.

Reason: To ensure and safeguard the recording and inspection of matters of archaeological/historical importance associated with the site, as well as the proper reporting of that work and archiving of the project.

6.12 Lancashire Constabulary

Thank you for consulting the Lancashire Constabulary Designing Out Crime team in respect of the above application.

In order to prevent crime and disorder and to keep people safe and feeling safe, crime prevention strategies should be integrated into the design as early as possible to allow crime prevention strategies and a layered approach to security to be effectively integrated into the final scheme. Making minor changes to the design or layout of the development now means it is less attractive to potential intruders and can reduce harm and the fear of crime for users of the buildings, visitors, and the overall community.

We would strongly advocate that this development be designed and constructed to Secured By Design security standards, using the SBD 'Commercial 2015' Design Guide specifications for the proposed development. Further details about Secured By Design, including application forms and security specifications can be found at www.securedbydesign.com.

Independent academic research shows that SBD certified schemes experience less burglary, criminal damage, and vehicle crime.

6.13 Network Rail

No response offered.

6.14 Public consultation

161 letters were posted to the local community on 4th November 2022. Site notices were also displayed and a press notice was published on 28th November 2022. No comments were received.

7.0 CONTACT OFFICER: Nick Blackledge – [Principal Planner].

8.0 DATE PREPARED: 2nd February 2023

Proposed development: Minor Material Amendment for: Removal of condition No. 27 "Off-Site Highways Works" pursuant to planning application 10/21/1426 "Hybrid planning application comprising - Full permission for the erection of 160 dwellings and 50 apartments in two blocks together with access roads and landscape treatment (Phase 1); and outline permission for the erection of 100 apartments in four blocks with all matters reserved except for access (Phase 2).

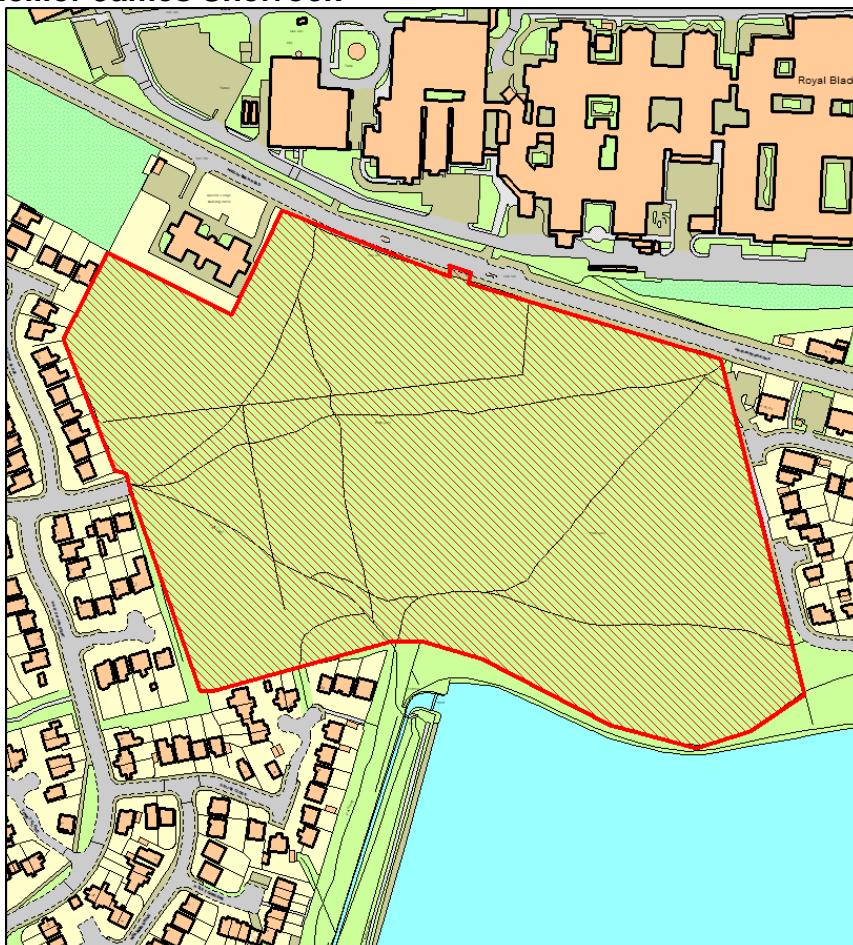
Site address:

**Land Bounded by Haslingden Road and Fishmoor Reservoir
Haslingden Road
Blackburn**

Applicant: Keepmoat Homes (North West 1)

Ward: Blackburn South East

**Councillor Tony Humphrys
Councillor Vicky McGurk
Councillor James Shorrocks**



1.0 SUMMARY OF RECOMMENDATION

- 1.1 APPROVE – Subject to the removal of condition 27 on extant planning permission 10/21/1426.**

2.0 KEY ISSUES/SUMMARY OF PLANNING BALANCE

- 2.1 This application is reported to Committee as it represents a minor material amendment to a major residential planning application, originally determined at Committee level. This is in accordance with the Council's adopted Scheme of Delegation.
- 2.2 The application is submitted under the provisions of Section 73 of the Town and Country Planning Act 1990 (as amended). The proposal seeks to remove condition 27 - off-site highway works for an access and pedestrian crossing point – applied to the full permission element of the hybrid planning permission 10/21/1426, dated 14th September 2022.
- 2.3 Removal of the condition is sought due to agreement between the applicant and the Council that works required by the condition will now be undertaken by the Council, thereby discharging the applicant's responsibilities in this regard and rendering the condition no longer necessary. Works will be incorporated into the next phase of widening works to Haslingden Road, which includes the development site frontage, under the provisions of Section 278 of the Highways Act 1980. This phase of work is in addition to road widening and junction improvements recently completed along Haslingden Road, inclusive of its junction with Old Bank Lane to its junction with Lions Drive. Members are advised that the applicant will contribute an agreed monetary sum, which represents their share of the s278 works cost – ie the works specified in the condition.
- 2.4 The amendment will continue to deliver a high quality bespoke housing development, which will widen the choice of family housing in the Borough, consistent with the planning strategy for housing growth as set out in the Core Strategy and Local Plan Part 2.

3.0 RATIONALE

3.1 Site and Surroundings

- 3.1.1 The application site (the site) is allocated for housing led development. It is identified as Site 16/7 – Haslingden Road Development Site (SE Blackburn), in accordance with Policy 16 of the Local Plan Part 2.

- 3.1.2 The site is located within Blackburn's Outer Urban Area, positioned to the south of The Royal Blackburn Hospital and north of Fishmoor Reservoir, off Haslingden Road. It comprises circa 6.7 hectares of open grassland.
- 3.1.3 The subject works are considered as 'off-site' – ie forward to the site, on Haslingden Road.

3.2 Proposed Development

- 3.2.1 The current application is submitted under the provisions of Section 73 of Town and Country Planning Act 1990, as a minor material amendment to the original grant of planning permission. The amendment seeks to remove condition 27, which requires of the applicant:

Prior to occupation of the development hereby approved, a scheme shall be submitted to and approved in writing by the Local Planning Authority detailing the following off-site highway works:

- *Localised widening of the defined site access to provide a bellmouth entrance / exit, including a right turn exit lane; and*
- *provision of a formalised pedestrian crossing point across Haslingden Road.*

The approved scheme shall be implemented prior to occupation of the development.

REASON: To ensure the safe, efficient and convenient movement of all highway users, for the free flow of traffic, in accordance with Policies 10 and 11 of the Blackburn with Darwen Borough Local Plan Part 2.

3.3 Development Plan

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

3.3.2 Core Strategy

- Policy CS22: Accessibility Strategy

3.3.3 Local Plan Part 2

- Policy 10: Accessibility and Transport

3.4 Other Material Planning Considerations

- 3.4.1 National Planning Policy Framework (The Framework) (2021).

3.5 Assessment

- 3.5.1 Assessment is limited to the merits of removing condition 27.
- 3.5.2 The request to remove the condition follows agreement between the Council and the applicant that delivery of the works required by the condition will now be undertaken by the Council, whereas previously they would be the responsibility of the applicant.
- 3.5.3 The Council will be delivering works as part of the next phase of the Haslingden Road widening scheme. The proposed works are currently being finalised and will include:
- A section of approximately 200 metres of Haslingden Road which will be widened on the south side in front of the development site;
 - all statutory services diverted;
 - a new Access bell mouth into the development site (Keepmoat S278 works) which will connect to the development's S38 highways works; and
 - a Zebra crossing adjacent to the access to the new housing development.
- 3.5.4 Accordingly, it is accepted, in consultation with the Council's Highway's consultee, that condition 27 of the original grant of planning permission, can be removed, as it is no longer necessary due to the Council having full control and responsibility for delivery of the works required by the condition.

3.5.5 Summary

This report assess the minor material amendment for removal of condition 27, attached to hybrid planning permission granted under application no. 10/21/1426, for the erection of the erection of 160 dwellings and 50 apartments in two blocks together with access roads and landscape treatment (Phase 1 – full planning permission); and for the erection of 100 apartments in four blocks with all matters reserved except for access (Phase 2 – outline planning permission). The relevant material consideration has been assessed and this report finds that the proposal meets the policy requirements of the Blackburn with Darwen Core Strategy, Local Plan Part 2, Supplementary Planning Documents and the National Planning Policy Framework and the National Planning Policy Guidance.

4.0 RECOMMENDATION

4.1 Approve subject to:

Delegated authority is given to the Strategic Director of Growth & Development to approve planning permission, subject to the following conditions, as attached to the original grant of planning permission, and removal of condition 27:

Full planning permission

1. The development hereby permitted shall be begun before the expiration of three years from the date of this planning permission – ie. 22/07/2025.

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

2. Unless explicitly required by condition within this consent, the development hereby permitted shall be carried out in complete accordance with the application received 22nd December 2021 and with the following drawings:

Location Plan: KHNW.M2.A.0000 Rev B;
Existing Site Plan: KMHW.M2.A.0000 Rev A;
Site Layout: KMHW.DR.A.1000 Rev S;
Plot Sections: KMHW.DR.A.XXXX;
Site Sections: KHNW.DR.A.14000;
Material and Boundary Treatments: KMHW.DR.A.3000 Rev J;
Timber Gate Elevation: NW3_SD_GATE;
Feature Brick garden Wall with Piers: 4077-KHNW-FW;
Heavy Duty Vertical Lap Fence: 4077-BTD;
Story Heights Plan: KHNW.DR.A.10000;
Surface Materials Plan: KHNW.DR.A.3100;

Apartment Block A Elevations: 21-123 300-BLKA Rev C;
Apartment Block A Fire Plan: 21-123 700-BLKA;
Apartment Block A Ground Floor Plan: 21-123 200-BLKA;
Apartment Block A Stair Plan: 21-123 602-BLKA;
Apartment Block A First Floor Plan: 21-123 501-BLKA;
Apartment Block A Second Floor Plan: 21-123 201-BLKA;
Apartment Block A Third Floor Plan: 21-123 203-BLKA;
Apartment Block A Roof Plan: 21-123 203-BLKA;
Apartment Block A Substructure Plan: 21-123 100-BLKA;
Apartment Block A Sections: 21-123 600-BLKA;
Apartment Block A Details: 21-123 601-BLKA;
Apartment Block A Window and Door Detail: 21-123 800-BLKA;
Apartment Block B Elevations 21-123 300-BLKB Rev C;
Apartment Block B Fire Plan: 21-123 700-BLKB;
Apartment Block B Ground Floor Plan: 21-123 200-BLKB;
Apartment Block B Stair Plan: 21-123 602-BLKB;
Apartment Block B First Floor Plan: 21-123 201-BLKB;
Apartment Block B Section: 21-123 600-BLKB;
Apartment Block B Details: 21-123 601-BLKB;
Apartment Block B First Floor Plan: 21-123 501-BLKB;
Apartment Block B Second Floor Plan: 21-123 202-BLKB;
Apartment Block B Roof Plan: 21-123 203-BLKB;
Apartment Block B Substructure Plan: 21-123 100-BLKB; and
Apartment Block B Window and Door Schedule: 21-123 300-BLKB;

House Types:

The Abbey 1060 Rev 1;
The Bamburgh 1200 Rev 4;
The Danbury 1080 Rev 1
The Dorchester 3030 Rev 1;
The Eaton 1290 Rev 1;
The Fairfield 1050 Rev 1;
The Henbury 5050 Rev 1;
The Lambeth 5180 Rev 3;
The Milford 5190 Rev 3;
The Preston 5170 Rev 2
The Raven 1390 Rev 3;
The Shipley 1400 Rev 1; and
The Stratton 1210 Rev 1;

Materials Schedule: Rec 1/04/2022; and
amended details received 14/11/2022.

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

3. The exterior of the buildings hereby approved shall be constructed in strict accordance with the materials specified in the submitted Materials Schedule, received 1st April 2021.

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

4. The development hereby approved shall be completed in strict accordance with the submitted Material and Boundary Treatment plan, Ref. KMH.W.DR.A.3000 Rev J, Boundary Treatment plan, Ref. 4077-BTD and Feature Brick Garden Wall with Piers plan, Ref. 4077-KHNW-FW.

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.

5. Prior to commencement of the development hereby approved, the developer must submit to the Local Planning Authority for written approval:

- i) A comprehensive desk study report, including a preliminary conceptual site model (CSM) in text, plan and cross-section form. Where necessary, detailed proposals for subsequent site investigation should also be included, clearly based on the CSM.
- ii) Findings of the approved site investigation work (where necessary), including an appropriate assessment of risks to both human health and the wider environment, from contaminants in, on or under the land (including ground gas). If unacceptable risks are identified, a remedial options appraisal and detailed remediation scheme should be presented, along with

an updated CSM. No deviation shall be made from this scheme without the written agreement from the Local Planning Authority.

REASON: To ensure that all reasonable steps have been taken to identify contamination at the site and to prevent unacceptable levels of water pollution, in accordance with Policy 8 of the adopted Blackburn with Darwen Borough Council Local Plan Part 2.

6. Prior to occupation of the development hereby approved, 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 Council Local Plan Part 2.

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

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

8. Construction phase of the development hereby approved shall only take place between the hours of 08:00 and 18:00 Monday to Friday, 09:00 to 13:00 on Saturdays and not at all on Sundays or Bank Holidays.

REASON: To protect the amenity of residents, in accordance with Policy 8 of the Blackburn with Darwen Borough Local Plan Part 2.

9. Construction of the development hereby approved shall be carried out in strict accordance with the submitted Construction Environmental Method Statement, produced by Keepmoat Homes, Ref. 4077/CEMP, dated March 2022. All measures which form part of the approved details shall be adhered to throughout the period of construction.

REASON: In order to safeguard protected habitat; to avoid the deposit of debris into watercourse and onto the highway, in order to protect the

amenity of the occupiers of the adjacent properties and in order to protect the visual amenities of the locality, in accordance with Policies 8, 9 and 10 of the Blackburn with Darwen Borough Local Plan Part 2.

10. Should pile driving works be required on site, prior to the commencements of those works, a programme for the monitoring of generated noise and vibration shall be 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. Noise and vibration levels shall not exceed the specified levels in the approved programme.

REASON: In order to safeguard neighbouring amenity, in accordance with Policy 8 of the Blackburn with Darwen Borough Local Plan Part 2.

11. Noise mitigation measures specified in Section 4.0 'Noise Assessment & Mitigation Scheme' (4.4 - 4.12 inc.) of the Hepworth Acoustics Report, No. P21-571-R01v1 (December 2021), shall be implemented in full prior to operational use of the development hereby approved and shall be so retained.

REASON: In order to safeguard residential amenity, in accordance with Policy 8 of the Blackburn with Darwen Borough Local Plan Part 2.

12. At least 10% of parking bays hereby approved for the apartment buildings will be provided with a mode 3 electric vehicle charging point, delivering a minimum charging rate of 3.6 kW via a Type 2 connector, prior to occupation of the apartments. The charging points shall be so retained.

REASON: In the interests of air quality management and protection of health, in accordance with Policies 8 and 36 of the Blackburn with Darwen Borough Local Plan Part 2.

13. Prior to commencement of any above ground works hereby approved, and notwithstanding the submitted details, a scheme shall be submitted to and approved in writing by the Local Planning Authority to provide for the following:

- Provision of infrastructure to allow for mode 3 electric vehicle charging points, delivering a minimum charging rate of 3.6 kW via a Type 2 connector at each dwelling; and
- provision of electric vehicle charging points, of the type specified above, for a specified number of houses, to be agreed.

The approved scheme shall be implemented prior to first occupation of the development.

REASON: In the interests of air quality management and protection of health, in accordance with Policies 8 and 36 of the Blackburn with Darwen Borough Local Plan Part 2.

14. Gas fired domestic heating boilers shall not emit more than 40mgNO_x/kWh.

REASON: In the interests of improving air quality and to protect the health of resident, in accordance with Policy 36 of the Blackburn with Darwen Borough Local Plan Part 2.

15. Foul and surface water shall be drained on separate systems.

REASON: To secure proper drainage and to manage the risk of flooding and pollution, in accordance with the requirements of Policy 9 of the Blackburn with Darwen Borough Local Plan Part 2.

16. Prior to the commencement of any above ground works and notwithstanding the submitted details, details of a sustainable surface water drainage scheme and a foul water drainage scheme shall be submitted to an approved in writing by the Local Planning Authority. The drainage schemes shall be in accordance with the hierarchy of drainage options in the national planning practice guidance (or any replacement thereof) and the principles set out in the submitted Flood Risk Assessment and Drainage Strategy (prepared by Betts Hydro, ref. ER18, October 2019). The drainage schemes shall include:

- (i) A restricted rate of discharge of surface water agreed with the local planning authority;
- (ii) Levels of the proposed drainage systems including proposed ground and finished floor levels in AOD;
- (iii) Foul and surface water shall drain on separate systems;
- (iv) Details of how existing surface water flood risk will be managed and mitigated;
- (v) Details of the proposed foul water pumping arrangements; and
- (vi) Details of the attenuation ponds including cross section drawings and volumes.

The approved schemes shall also be in accordance with the Non-Statutory Technical Standards for Sustainable Drainage Systems (March 2015) or any subsequent replacement national standards and no surface water shall discharge to the public sewer either directly or indirectly. The approved drainage schemes shall be implemented in full prior to the occupation of the first dwelling, maintained and managed in accordance with the approved details, and retained thereafter for the lifetime of the development.

REASON: To promote sustainable development, to secure proper drainage and to manage the risk of flooding and pollution, in accordance with Policies 9 and 36 of the adopted Blackburn with Darwen Borough Council Local Plan Part 2.

17. Prior to occupation of the development hereby approved, a sustainable drainage management and maintenance plan for the lifetime of the development shall be submitted to the local planning authority and agreed

in writing. The sustainable drainage management and maintenance plan shall include as a minimum:

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

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

REASON: To ensure that management arrangements are in place for the sustainable drainage system in order to manage the risk of flooding and pollution during the lifetime of the development, in accordance with the requirements of Policy 9 and 36 of the Blackburn with Darwen Borough Local Plan Part 2.

18. No site clearance or demolition or construction works on site shall be carried out during the bird nesting season (March to August), unless the absence of nesting birds has been confirmed by further survey work or on-site inspections

REASON: To ensure the protection of nesting birds, in accordance with the requirements of Policies 9 and 40 of the Blackburn with Darwen Local Plan Part 2.

19. Prior to commencement of any site works, an Arboricultural Method Statement, including a Tree Removal Plan as necessary and a Tree, Hedgerow, and Scrub (peripheral to the reservoir) Protection Plan, shall be submitted to and improved in writing by the Local Planning Authority. The development shall be carried out in strict accordance with the approved detail. Specified tree and hedgerow protection measures shall be adhered to throughout the period of construction.

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

20. Prior to commencement of any above ground works hereby approved, a Biodiversity Enhancement Strategy shall be submitted to and approved in writing by the Local Planning Authority. The strategy shall provide for the following:

- Small mammal / amphibian gaps of 130mm x 130mm in the footing, concrete pad or gravel board of the 1.8m feathered board fencing, notwithstanding the type and position of such referenced at condition no. 4; and
- Bat or bird boxes, or informal hibernacula for common amphibians/reptiles.

The development shall be completed in strict accordance with the approved strategy.

REASON: To provide appropriate mitigation against ecological impacts arising from drainage, in accordance with the requirements of Policies 9 and 40 of the Blackburn with Darwen Local Plan Part 2.

21. The development hereby approved shall be implemented in strict accordance with the 'Landscape Masterplan' ref. LDS507-04A 1 & 2, Planting Plan 1 of 3 ref. LDS507-01A, Planting Plan 2 of 3 ref. LDS507-02A, and Planting Plan 3 of 3 ref. LDS507-03A, as prepared by Landscape Design Solutions (NW) Ltd. Planting shall be carried out during the first available planting season following completion of the development, and thereafter retained. Trees and shrubs dying or becoming diseased, removed, or being seriously damaged within five years of planting shall be replaced by trees and shrubs of similar size and species to those originally required to be planted during the first available planting season after the loss of the trees and / or shrubs.

REASON: To ensure that there is a well laid scheme of healthy trees and shrubs in the interests of visual amenity and biodiversity, in accordance with Policies 9, 11 and 40 of the Blackburn with Darwen Borough Local Plan Part 2.

22. Notwithstanding landscaping details approved under condition no. 20, a planting scheme, including a planting timetable, shall be submitted to and approved in writing by the Local Planning Authority. The scheme shall detail additional provision of suitable marshy grassland seeding to the sloped edges of and aquatic native species within the approved drainage attenuation ponds. Planting shall be carried out in accordance with the approved scheme, and thereafter retained. Planting dying or becoming diseased, removed, or being seriously damaged within five years of planting shall be replaced by species similar to those originally required to be planted.

REASON: To provide appropriate ecological and biodiversity enhancement measures, in accordance with the requirements of Policies 9 and 40 of the Blackburn with Darwen Local Plan Part 2.

23. Prior to occupation of the development hereby approved, a Landscape and Environmental Management and Maintenance Strategy shall be submitted to and approved in writing by the Local Planning Authority. The strategy shall cover all landscaped areas of public open space, subject to details approved under condition nos. 20 and 21, and it shall detail a programme of works including scheduled frequencies of weeding and watering as well as monitoring of habitats for a period of 30 years. The strategy shall be implemented in accordance with the approved detail upon completion of the development.

REASON: To ensure that there is a well maintained scheme of healthy trees and shrubs in the interests of amenity in accordance with Policies 9, 11 and 40 of the Blackburn with Darwen Borough Local Plan Part 2.

24. Prior to the commencement of the development hereby approved, a comprehensive Habitat Creation / Biodiversity Enhancement Strategy and Management Plan shall be submitted to and approved in writing by the Local Planning Authority. The development shall be in accordance with the agreed details

REASON: In order to protect ecology and biodiversity in accordance with the requirements of Policies 9 and 40 of the Blackburn with Darwen Local Plan Part 2.

25. Prior to the construction of any of the streets, full engineering, drainage, street lighting and constructional details of the streets shall be submitted to and approved in writing by the Local Planning Authority. The development shall, thereafter, be constructed in accordance with the approved details.

REASON: In the interest of highway safety; to ensure a satisfactory appearance to the highways infrastructure serving the approved development; and to safeguard the visual amenities of the locality and users of the highway, in accordance with Policy 10 of the Blackburn With Darwen Borough Local Plan Part 2.

26. Prior to the occupation of the development hereby approved, details of the proposed arrangements for future management and maintenance of the proposed streets within the development shall be submitted to and approved by the Local Planning Authority. The streets shall thereafter be maintained in accordance with the approved management and maintenance details until such time as an agreement has been entered into under section 38 of the Highways Act 1980 or a private management and Maintenance Company has been established.

REASON: To ensure that the estate streets serving the development are maintained to an acceptable standard in the interest of residential / highway safety, in accordance with Policy 10 of the Blackburn With Darwen Borough Local Plan Part 2.

27. Visibility splays shall not at any time be obstructed by any building, wall, fence, hedge, tree, shrub or other device exceeding a height not greater than 1 metre above the crown level of the adjacent highway.

REASON: To ensure the safe, efficient and convenient movement of all highway users, for the free flow of traffic, in accordance with Policies 10 and 11 of the Blackburn with Darwen Borough Local Plan Part 2.

28. Measures contained within the submitted Travel Plan Framework, produced by CBO Transport ref. CBO-0717-006, Issue 2, dated 10/02/2022, shall be implemented upon occupation of the development hereby approved and be so retained unless otherwise agreed in writing by the Local Planning Authority.

REASON: To provide and promote sustainable transport measures and to minimise traffic flow, in accordance with Policy 10 of the Blackburn with Darwen Borough Local Plan Part 2.

29. Garages hereby approved shall only be used for the purpose of parking domestic vehicles and / or domestic storage. They shall not be externally altered or converted into habitable room space until and unless planning permission has been granted.

REASON: In order to retain sufficient off street parking spaces, in the interests of highway safety and efficiency, in accordance with Policy 10 of the Blackburn with Darwen Borough Local Plan Part 2.

30. Prior to occupation of the apartments hereby approved, and notwithstanding the submitted details, a refuse storage scheme shall be submitted to provide for the following bin storage for each apartment:

- A store to accommodate at least 3 x 1100 litre bins for non-recyclable waste, plus a further 5 x 1100 bins for glass, cans, plastic recyclables; and
- Adequate storage areas(s) for bulky waste items such as furniture, mattresses etc.

REASON: In order to secure adequate refuse storage for occupants of the apartments, in accordance with Policy 8 of the Blackburn with Darwen Borough Local Plan Part 2.

Outline planning permission

31. Details of the appearance, landscaping, layout and scale, (hereinafter called "the reserved matters") shall be submitted to and approved in writing by the local planning authority before any development takes place and the development shall be carried out as approved.

REASON: Because the application is in outline only and no details have yet been furnished of the matters referred to in the Condition, these are reserved for subsequent approval by the Local Planning Authority.

32. Application for approval of the reserved matters shall be made to the local planning authority not later than 3 years from the date of this permission.

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

33. The development hereby permitted shall take place not later than 2 years from the date of approval of the last of the reserved matters to be approved.

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

34. Unless explicitly required by condition within this consent, the development hereby permitted shall be carried out in complete accordance with the proposal received 5th January 2021 and drawings numbered: to be added.

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

35. Prior to commencement of the development hereby approved, the developer must submit to the Local Planning Authority for written approval:

- i) A comprehensive desk study report, including a preliminary conceptual site model (CSM) in text, plan and cross-section form. Where necessary, detailed proposals for subsequent site investigation should also be included, clearly based on the CSM.
- ii) Findings of the approved site investigation work (where necessary), including an appropriate assessment of risks to both human health and the wider environment, from contaminants in, on or under the land (including ground gas). If unacceptable risks are identified, a remedial options appraisal and detailed remediation scheme should be presented, along with an updated CSM. No deviation shall be made from this scheme without the written agreement from the Local Planning Authority.

REASON: To ensure that all reasonable steps have been taken to identify contamination at the site and to prevent unacceptable levels of water pollution, in accordance with Policy 8 of the adopted Blackburn with Darwen Borough Council Local Plan Part 2.

36. Prior to occupation of the development hereby approved, 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 Council Local Plan Part 2.

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

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

38. Construction phase of the development hereby approved shall only take place between the hours of 08:00 and 18:00 Monday to Friday, 09:00 to 13:00 on Saturdays and not at all on Sundays or Bank Holidays.

REASON: To protect the amenity of residents, in accordance with Policy 8 of the Blackburn with Darwen Borough Local Plan Part 2.

39. Prior to commencement of the development hereby approved, and notwithstanding details approved for Phase 1 of the development under condition 9, a Construction and Environmental Management Plan (CEMP) shall be submitted to and approved in writing by the Local Planning Authority. The CEMP shall provide for the following:

- management of construction traffic;
- the parking of vehicles of site operatives and visitors;
- loading and unloading of plant and materials;
- storage of plant and materials used in demolition and construction;
- the erection and maintenance of security hoarding including decorative displays and facilities for public viewing, where appropriate;
- 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;
- measures to control noise and vibration;
- measures to control the emission of dust; and
- a scheme for recycling / disposing of construction waste. Not included in submitted CEMP

Construction shall proceed in strict accordance with the approved detail for the duration of the works.

REASON: In order to safeguard protected habitat; to avoid the deposit of debris into watercourse and onto the highway, in order to protect the amenity of the occupiers of the adjacent properties and in order to protect the visual amenities of the locality, in accordance with Policies 8, 9 and 10 of the Blackburn with Darwen Borough Local Plan Part 2.

40. At least 10% of parking bays hereby approved for the apartment buildings will be provided with a mode 3 electric vehicle charging point, delivering a minimum charging rate of 3.6 kW via a Type 2 connector, prior to occupation of the apartments. The charging points shall be so retained.

REASON: In the interests of air quality management and protection of health, in accordance with Policies 8 and 36 of the Blackburn with Darwen Borough Local Plan Part 2.

41. Should pile driving works be required on site, prior to the commencements of those works, a programme for the monitoring of generated noise and vibration shall be 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. Noise and vibration levels shall not exceed the specified levels in the approved programme.

REASON: In order to safeguard neighbouring amenity, in accordance with Policy 8 of the Blackburn with Darwen Borough Local Plan Part 2.

42. Noise mitigation measures specified in Section 4.0 'Noise Assessment & Mitigation Scheme' (4.4 - 4.12 inc.) of the Hepworth Acoustics Report, No. P21-571-R01v1 (December 2021), shall be implemented in full prior to operational use of the development hereby approved and shall be so retained.

REASON: In order to safeguard residential amenity, in accordance with Policy 8 of the Blackburn with Darwen Borough Local Plan Part 2.

43. Prior to commencement of any above ground works hereby approved, a scheme shall be submitted to and approved in writing by the Local Planning Authority detailing provision of an electrical vehicle charging points for each dwelling. The approved scheme shall be implemented prior to first occupation of the development.

REASON: In the interests of air quality management and protection of health, in accordance with Policies 8 and 36 of the Blackburn with Darwen Borough Local Plan Part 2.

44. Gas fired domestic heating boilers shall not emit more than 40mgNO_x/kWh.

REASON: In the interests of improving air quality and to protect the health of resident, in accordance with Policy 36 of the Blackburn with Darwen Borough Local Plan Part 2.

45. Foul and surface water shall be drained on separate systems.

REASON: To secure proper drainage and to manage the risk of flooding and pollution, in accordance with the requirements of Policy 9 of the Blackburn with Darwen Borough Local Plan Part 2.

46. Prior to the commencement of any above ground works and notwithstanding the submitted details, details of a sustainable surface water drainage scheme and a foul water drainage scheme shall be submitted to an approved in writing by the Local Planning Authority. The drainage schemes shall be in accordance with the hierarchy of drainage options in the national planning practice guidance (or any replacement thereof) and the principles set out in the submitted Flood Risk Assessment and Drainage Strategy (prepared by Betts Hydro, ref. ER18, October 2019). The drainage schemes shall include:

- (i) A restricted rate of discharge of surface water agreed with the local planning authority;
- (ii) Levels of the proposed drainage systems including proposed ground and finished floor levels in AOD;
- (iii) Foul and surface water shall drain on separate systems;
- (iv) Details of how existing surface water flood risk will be managed and mitigated;
- (v) Details of the proposed foul water pumping arrangements; and
- (vi) Details of the attenuation ponds including cross section drawings; and volumes thereof.

The approved schemes shall also be in accordance with the Non-Statutory Technical Standards for Sustainable Drainage Systems (March 2015) or any subsequent replacement national standards and no surface water shall discharge to the public sewer either directly or indirectly. The approved drainage schemes shall be implemented in full prior to the occupation of the first dwelling, maintained and managed in accordance with the approved details, and retained thereafter for the lifetime of the development.

REASON: To promote sustainable development, to secure proper drainage and to manage the risk of flooding and pollution, in accordance with Policies 9 and 36 of the adopted Blackburn with Darwen Borough Council Local Plan Part 2.

47. Prior to occupation of the development hereby approved, a sustainable drainage management and maintenance plan for the lifetime of the development shall be submitted to the local planning authority and agreed in writing. The sustainable drainage management and maintenance plan shall include as a minimum:

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

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

REASON: To ensure that management arrangements are in place for the sustainable drainage system in order to manage the risk of flooding and pollution during the lifetime of the development, in accordance with the requirements of Policy 9 and 36 of the Blackburn with Darwen Borough Local Plan Part 2.

48. No site clearance or demolition or construction works on site shall be carried out during the bird nesting season (March to August), unless the absence of nesting birds has been confirmed by further survey work or on-site inspections

REASON: To ensure the protection of nesting birds, in accordance with the requirements of Policies 9 and 40 of the Blackburn with Darwen Local Plan Part 2.

49. Prior to commencement of any site works, an Arboricultural Method Statement, including a Tree Removal Plan as necessary and Tree / Hedgerow Protection Plan, shall be submitted to an improved in writing by the Local Planning Authority. The development shall be carried out in accordance with the approved detail. Specified tree protection measures shall be adhered to throughout the period of construction.

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

50. Prior to occupation of the apartments hereby approved, and notwithstanding the submitted details, a refuse storage scheme shall be submitted to provide for the following bin storage for each apartment:

- A store to accommodate at least 3 x 1100 litre bins for non-recyclable waste, plus a further 5 x 1100 bins for glass, cans, plastic recyclables; and
- Adequate storage areas(s) for bulky waste items such as furniture mattresses etc.

REASON: In order to secure adequate refuse storage for occupants of the apartments, in accordance with Policy 8 of the Blackburn with Darwen Borough Local Plan Part 2.

5.0 PLANNING HISTORY

- 5.1 10/21/1426: Hybrid planning application comprising - Full permission for the erection of 160 dwellings and 50 apartments in two blocks together with access roads and landscape treatment (Phase 1); and outline permission for the erection of 100 apartments in four blocks with all matters

reserved except for access (Phase 2). Approved by P&H Committee 21st April 20222.

6.0 CONSULTATIONS

6.1 BwD Highways

No objection.

6.2 Public consultation

Consultation was carried out by display of site notices and publication of a press notice. No comments were received.

7.0 CONTACT OFFICER: Nick Blackledge – [Principal Planner].

8.0 DATE PREPARED: 1st February 2023.

REPORT OF THE STRATEGIC DIRECTOR

Plan No: 10/22/1185

Proposed Development: Variation of Condition 2 pursuant to planning application 10/22/0921 'Temporary siting of modular accommodation for education use during period of works for refurbishment of the Victoria Building' to amend layout and position of the cabins

Site Address: Blackburn College, Blakey Moor, Blackburn, BB2 1LH

Applicant: The Department for Education

Ward: Blackburn Central

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



1.0 SUMMARY OF RECOMMENDATION

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

2.0 KEY ISSUES/SUMMARY OF PLANNING BALANCE

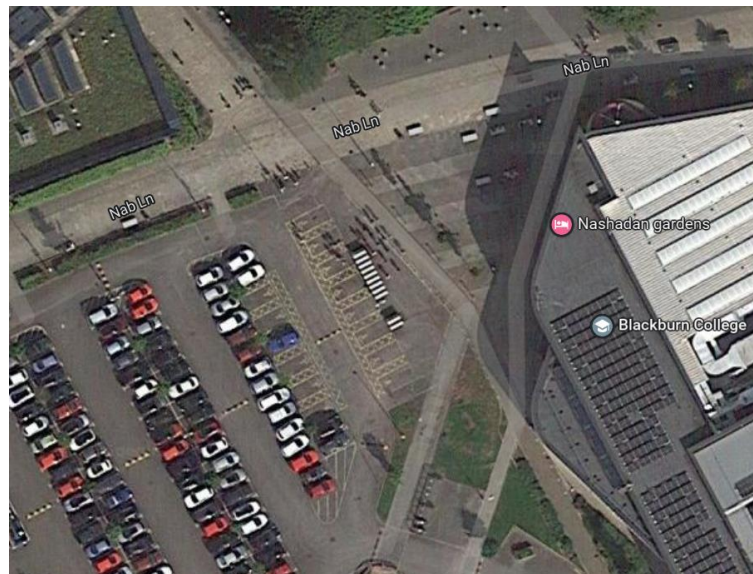
- 2.1 This application is presented to the Planning and Highways Committee, in accordance with the Council's scheme of delegation, and given that the previous application (10/22/0921) was presented to Committee for determination in November 2022. In addition, some of the land included within the application site boundary is within the ownership of the Council. No public comments have been received for the application so far. Should any comments be made ahead of the committee meeting, they will be presented as part of an Update Report.
- 2.2 The proposed development has been publicised through letters to residents and occupants of the nearest 45 adjacent properties, on 14th December 2022. In addition, a site notice was displayed outside of the site, on 21st December 2022.
- 2.3 The Council's development plan supports new educational development and associated works, provided they constitute sustainable development and accord with the development plan when taken as a whole.
- 2.4 This application is made under Section 73 of the Town and Country Planning Act (1990). The application involves various amendments to a modular accommodation building, approved under application 10/22/0921. The proposals would deliver temporary accommodation in support of the refurbishment of the adjacent Victoria Building. The submitted plans show a two-storey building providing 14 classrooms with ancillary functions. The development would be formed from a number of connected modular buildings.
- 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 of development
 - Assessing impacts on visual amenity
 - Assessing impacts on heritage assets
 - Safeguarded the residential amenities of the closest neighbours
 - Ensuring adverse impacts on the local highway network are avoided
 - Ensuring the parking capacity of the site is not adversely diminished
 - Finalising the foul and surface water drainage systems to be installed

3.0 RATIONALE

3.1 Site and Surroundings

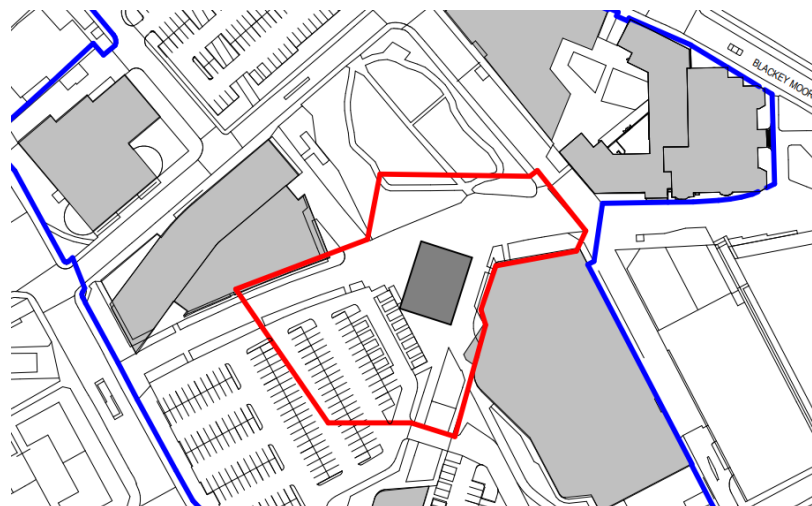
3.1.1 The application site forms part of a large carpark and open space areas that serve a tertiary educational building. The site is located within the defined Urban Boundary and Blackburn Town Centre. The Northgate Conservation Area is also positioned adjacent. Benches and planters are currently in place where the building is proposed together with a small number of mobility impaired parking bays.

Figure One – Satellite image of the site



3.1.2 The site covers an area of circa 1 acre. The remainder of the carpark is positioned to the south and west with a large leisure centre positioned directly to the east. Open amenity land is positioned to the north with a college building located further afield to the south. Land within the wider site is edged in blue on the submitted Location Plan.

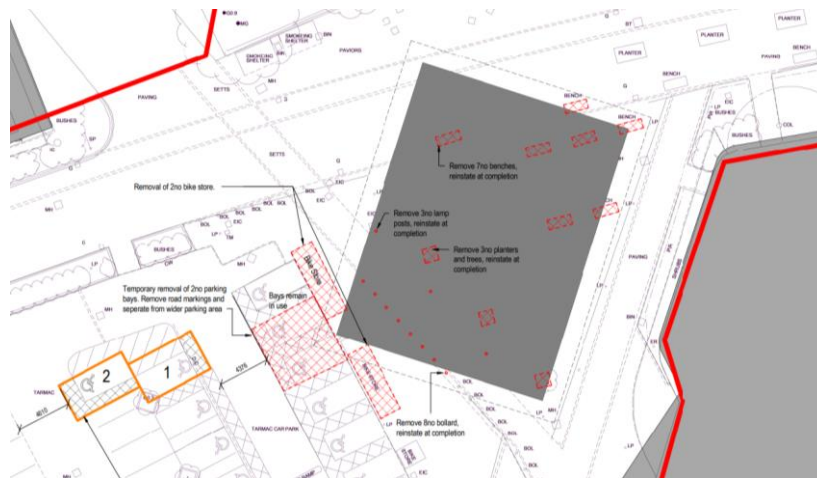
Figure Two – Location Plan showing the general extent of the site



3.2 Proposed Development

3.2.1 As detailed above, this application seeks to amend the size, design and general position of a temporary accommodation building for the provision of classrooms spread over a two-storey building. A small number of parking bays and amenity areas would be covered by the building. The provision is required in order to decant the teaching rooms of the Victoria Building, which is to undergo major refurbishment under applications 10/22/0912 and 10/22/0913. A requirement period of 22 months was detailed within the submitted Supporting Statement for application 10/22/0921 and a three-year temporary permission was applied for.

Figure Three – Amended Proposed Site Plan



3.2.2 The amended building would have a footprint of circa 440 square metres, a total height of 5.8m and a combined floorarea of circa 870 square metres. 14 classrooms would be provided together with toilet facilities and a staff room on the ground floor. Access to the first floor would be gained by a pair of black metal external staircases. The building would have a grey external coating with white uPVC doors and windows installed.

Figure Four – Amended Proposed Elevations



3.3 Case Officer Site Photos



3.4 Development Plan

3.4.1 Core Strategy Part 1 (2011):

- Policy CS2: Typology of Employment Land
- Policy CS11: Services and Facilities

3.4.2 Local Plan Part 2 (2015):

- Policy 1: The Urban Boundary
- Policy 7: Sustainable and Viable Development
- Policy 8: Development and People
- Policy 9: Development and the Environment
- Policy 10: Accessibility and Transport
- Policy 11: Design
- Policy 26 Town Centres – A Framework for Development
- Policy 39: Heritage

3.4.3 Blackburn with Darwen Parking Standards (2014)

- Further and Higher Education: 1 car space per 2 full-time staff

3.4.4 Conservation Areas Supplementary Planning Guidance (SPG)

4.0 **ASSESSMENT**

4.1 Principle of Development

- 4.1.1 The amended proposals would not effect the principle of development as the same type of the building is proposed in the same general location. The proposed amendments therefore comply with Policies CS2, CS11, 1 and 26.

4.1.2 In accordance with the presumption in favour of sustainable development detailed within 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 amended proposals involve a reduction in the height and overall scale of the modular building, thereby providing design improvements when compared with application 10/22/0921. Moreover, the same external materials are proposed.

4.2.2 A condition has been duplicated from the previous consent to limit the permission to a three-year period alone. Such a condition is necessary on design grounds in order to prevent the permanent siting of a visually inappropriate building. Subject to compliance with that condition, the proposed amendments would be acceptable with reference to design and visual amenity, in accordance with Policy 11.

4.3 Heritage Assets

4.3.1 As detailed above, the amended proposals involve design improvements. No comments have been provided by the BwD Heritage Advisor yet no objections were raised by them for application 10/22/0921. These amended proposals would ultimately have no additional impacts on the adjacent conservation when compared with the consent already in place.

4.3.2 The condition recommended to limit the timeframe of the development has been duplicated, which is also necessary on heritage grounds. Subject to compliance with that condition, the proposed amendments would be acceptable with reference to heritage assets, in accordance with Policy 39 together with the guidance of the Conservation Areas SPG.

4.4 Residential Amenity

4.4.1 The amended proposals would not lead to any additional impacts on the amenities of the closest residential neighbours. Conditions have been duplicated from the previous consent in order to control the logistics of the construction phase and construction working hours. Subject to compliance with those conditions, the proposed amendments would be acceptable with reference to residential amenity, in accordance with the relevant requirements of Policy 8.

4.5 Highways and Parking

4.5.1 The amended proposals would not lead to any additional impacts on the local highways network. No objections have been raised by BwD Highways. As detailed above, a condition has been duplicated from the previous consent in

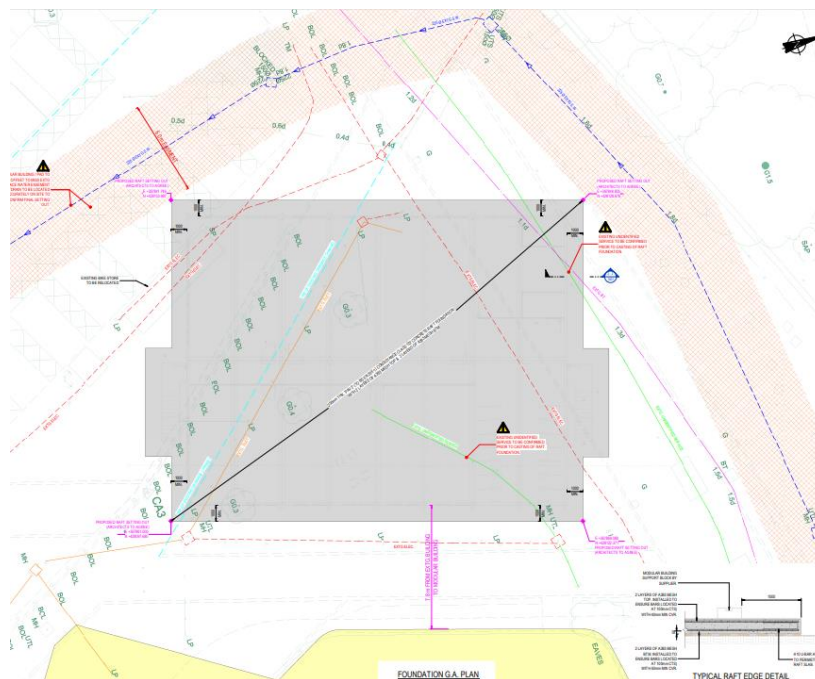
order to control the logistics of the construction phase, which is also necessary on highways grounds.

4.5.2 A modified version of a further condition is recommended to ensure temporary parking arrangements are provided in accordance with the submitted amended proposed site plan in order to maintain an adequate number of mobility impaired spaces on site. Subject to compliance with those conditions, the proposed amendments would be acceptable with reference to highways and parking, in accordance with Policy 10.

4.6 Flooding and Drainage

4.6.1 The amended proposals would not lead to any additional impacts in the way of flood risk. No objections have been raised by BwD Drainage. A review of the amended proposals has been undertaken by United Utilities and some initial concerns have been raised. However, submission of the plan below has partly addressed those concerns as it confirms the relationship between the amended foundations construction (grey) and the sewer easement zone (pink).

Figure Five – Plan showing foundations in relation to sewer easement zone



4.6.2 Conditions were imposed on the previous consent regarding the submission of a scheme to control foul and surface water drainage and prevent damage to sewerage infrastructure. Those conditions alongside a further condition concerning a water main have been advised by United Utilities following a review of the amended submission. Although some residual concerns have been identified by United Utilities, they are satisfied that any outstanding matters can be adequately controlled by planning conditions. That stance was also taken for application 10/22/0921.

4.6.3 It is recommended that all of those conditions are added in order to finalise the drainage design and ensure damage to sewers and water mains infrastructure is appropriately avoided. Subject to compliance with the attached conditions, the proposed amendments would be acceptable with reference to flooding and drainage, in accordance with the relevant requirements of Policy 9.

4.7 Arboricultural Assessments

4.7.1 The amended proposals would not lead to any additional impacts in the way of arboricultural degradation. No objections have been raised by the BwD Arboricultural Advisor. The condition duplicated from the previous consent is adequate in order to maintain that position and ensure the logistics of the construction phase do not cause harm to trees on site. Subject to compliance with that condition, the proposed amendments would be acceptable with reference to arboricultural assessments, in accordance with the relevant requirements of Policy 9.

4.8 Crime Management

4.8.1 The amended proposals would not lead to any additional impacts in the way of crime risk. An Informative Note was added to the previous approval regarding the need to implement the development in accordance with the Secured by Design standards, which will be duplicated. Subject to those obligations being followed, the proposed amendments would be acceptable with reference to crime risk, in accordance with the relevant requirements of Policy 8.

4.9 Proximity to the Leisure Centre

4.9.1 Concerns have been raised by BwD Leisure regarding the proximity of the building in relation to the Leisure Centre (refer to paragraph 7.6). The east edge of the proposed building would be circa 8m away from the Leisure Centre. However, these amended proposals involve a shorter building that is positioned further away from the Leisure Centre when compared with the location approved under application 10/22/0921, as shown below. Such an amendment would be an improvement when considering losses of light for the Leisure Centre.

Figure Six – Comparison of approved (left) and amended (right) building positions in relation to the Leisure Centre



4.9.2 The entrance points to the building would be positioned on the north and south elevations, which is shown above in Figure Four. Such an arrangement would minimise conflict with footfall associated with the Leisure Centre. The potential for congregations of students to gather around the building should be managed by the College. The same approach should also be taken should any antisocial behaviour be conducted around the building.

4.10 Summary

4.10.1 This application involves amendments to a temporary consent for the siting of modular accommodation for educational purposes. 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 with reference to design and visual amenity, heritage assets, highways and parking, flooding and drainage, arboricultural assessments, 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 planning permission, subject to the following conditions and informative note;

5.1 This permission covers a temporary 3 year period and the development hereby approved shall be entirely removed on or before 01/12/2025, unless otherwise agreed in writing by the Local Planning Authority.

REASON: In order to ensure the development is not retained indefinitely, in the interests of visual amenity and preventing harm to the setting of the conservation area, 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).

5.2 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 (ADP-TA-00-D A-0920 – Revision P3), ADP-TA-00-D A-0925 – Revision P1, ADP-TA-00-D A-0930 – Revision P3, 111184-D-001A, 111184-D-002A and FE013-CUR-TA-F1-D-S-1601 Revision P03.

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

- 5.3 The external materials to be used for the construction of the development hereby approved shall be as stated on the submitted application form and approved drawings and those materials shall not be varied without the prior written consent of the Local Planning Authority.

REASON: Those materials are acceptable for this development and site, in the interests of visual amenity, and to comply with the requirements of Policy 11 of the Blackburn with Darwen Borough Council Local Plan Part 2, Site Allocations and Development Management Policies (Adopted 2015).

- 5.4 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, which shall provide for but not be exclusively limited to the following;

- a) The parking of vehicles of site operatives and visitors;
- b) Details of the sizes and types of vehicles to be visiting the site;
- c) The loading and unloading of plant and construction materials;
- d) The siting of any required cranes;
- e) The storage of plant and construction materials;
- f) Wheel washing facilities;
- g) A scheme for the recycling/disposing of waste, where relevant, and;
- h) Details of the type, position and height of any required external lighting.

The development shall thereafter be implemented in strict accordance with all of the measures detailed within the approved Construction Method Statement, unless otherwise agreed in writing.

REASON: In order to control the logistics of the construction phase, in the interests of residential amenity, preventing harm to mature trees, and minimising disruptions on the local highway network, and to comply with the requirements of Policies 8, 9 and 10 of the Blackburn with Darwen Borough Council Local Plan Part 2, Site Allocations and Development Management Policies (Adopted 2015).

- 5.5 All construction works associated with the development hereby approved shall only take place between the following hours;

- a) Monday – Friday: 08:00 – 18:00 hours
- b) Saturday: 09:00 - 13:00 hour
- c) No such works shall take place on any Sundays or Bank Holidays

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

- 5.6 Prior to the siting of any modular accommodation on site, the revised parking layout as detailed on the approved plan 'ADP-TA-00-D A-0930 – Revision P3' shall have been provided entirely in accordance with that plan. Any revised parking provided shall thereafter remain in perpetuity with the development, unless otherwise agreed in writing by the Local Planning Authority.

REASON: In order to ensure an adequate level of mobility impaired spaces are provided, 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).

- 5.7 No development shall commence on site unless and until, details of the means of ensuring the public sewer that is laid within the site boundary is protected from damage as a result of the development have first been submitted to and approved in writing by the Local Planning Authority. The details shall outline the potential impacts on the public sewer from construction activities and the impacts post completion of the development on the wastewater infrastructure that crosses the site and identify mitigation measures to protect and prevent any damage to the public sewer both during construction and post completion of the development. Any mitigation measures shall be implemented in full in accordance with the approved details.

REASON: In order to ensure adequate protection is afforded to the public sewer network, 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).

- 5.8 No development shall commence on site unless and until, details of the means of ensuring the water main that is laid within the site boundary is protected from damage as a result of the development have first been submitted to and approved in writing by the Local Planning Authority. The details shall outline the potential impacts on the water main from construction activities and the impacts post completion of the development on the mains water infrastructure that crosses the site and identify mitigation measures to protect and prevent any damage to the water main both during construction and post completion of the development. Any mitigation measures shall be implemented in full in accordance with the approved details.

REASON: In order to ensure adequate protection is afforded to the water main, 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).

5.8 No development shall commence on site unless and until, details of a sustainable surface water drainage scheme and a foul water drainage scheme

have first been submitted to and approved in writing by the Local Planning Authority. The drainage schemes must as a minimum include:

- 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 and finished floor 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 unless information is provided that adequately confirms such a system is not feasible.

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

Prior to occupation of the proposed development, the drainage schemes shall be completed in accordance with the approved details and retained thereafter for the lifetime of the development.

REASON: In order to ensure proper drainage and to manage the risk of flooding and pollution, 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).

Case Specific Informative Note

- 5.9 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' and 'New Schools 2014' Design Guides. Further details about Secured by Design, including application forms and security specifications can be found at www.securedbydesign.com.

6.0 RELEVANT PLANNING HISTORY

- 6.1 10/22/0921 – Temporary siting of modular accommodation for education use during period of works for refurbishment of the Victoria Building – Approved, with conditions (committee decision) – November 2022.
- 6.2 10/22/0912 – Comprehensive refurbishment and partial remodelling to address minor changes to the elevations and roof and internal alterations – Approved, with conditions (committee decision) – November 2022.

- 6.3 10/22/0913 – Comprehensive refurbishment and partial remodelling of the Grade II listed Victoria Building to address minor changes to the elevations and roof and internal alterations – Approved, with conditions (committee decision) – November 2022.

7.0 CONSULTATIONS

- 7.1 BwD Highways – The proposal would not raise any highway concerns, as such, we would therefore raise no objection to the proposal on highway safety grounds.
- 7.2 BwD Arboricultural Advisor – There are no new landscape or tree considerations. As per previous comments you may wish to consider a condition for tree protection.
- 7.3 BwD Drainage – No objections.
- 7.4 BwD Cleansing – No objections.
- 7.5 BwD Property Services – No objections.
- 7.6 BwD Leisure – The edge of the building is still less than 10m from the front door of the Leisure centre.

It is not known where the entrance to the classroom building is, this needs to be at the opposite side of the proposed build to the Leisure centre, otherwise in the case of an emergency evacuation both buildings will be evacuating people into the same area and it will cause issues.

In addition to the emergency evacuation, if the classroom entrance is opposite the Leisure centre entrance, we will get students congregating in the entrances and making it difficult for people to access the Leisure centre, plus if they are smoking (and it's not always just cigarettes) then we do not want this smoke/smell drifting into the Leisure centre which is there to promote healthy living.

Finally, having the building in this area and so close to the Leisure centre will result in natural light being taken away from the entrance area to the centre and also take the natural light from both the small and large swimming pools which is unfortunate.

- 7.7 United Utilities – Due to the proximity of proposed development to United Utilities assets and apparatus, our current position is that we must OBJECT to this scheme. To overcome this objection, the applicant must contact our Developer Services team to investigate a satisfactory resolution. Evidence of any proposed agreement or resolution of this matter, agreed between the applicant and our Developer Services team, should be submitted to the Local Planning Authority before our objection can be removed.

All other comments made within this letter should be taken into consideration but do not override our current objection. Should the Council be minded to grant permission for this scheme, please note our request for specific planning conditions to be added, which relate to the provision of a foul and surface water drainage strategy, a scheme for the protection of sewerage infrastructure and a scheme for the protection of a water mains.

(Update) A public sewer crosses the site and we will not permit building over it. We require an access strip for maintenance or replacement and this access must not be compromised in any way. The minimum distances that might be acceptable to United Utilities are detailed within Part H of the Building Regulations however, we recommend the applicant determines the precise location, size, depth and condition of the pipeline as this is likely to influence the required stand-off distance from any structure.

Following our review of the amended site layout ADP-TA-00-D-A-0930 Rev P3 and the drawing of Foundation G.A. Plan, ref: FE013-CUR-TA-F1-D-S-1601 Revision P03 dated 28/11/2022, we can confirm that the proposal is now acceptable and our wastewater objection can be removed. The conditions recommended above should be imposed on any approvals issued.

We have noted that there are conditions relating to construction management, drainage and foundations on the decision notice. Please could you consult with United Utilities on these applications when they are submitted?

7.8 Lancashire Fire and Rescue

7.9 Lancashire Constabulary

7.10 Ward Cllrs

7.11 No public responses received

8.0 CONTACT OFFICER: Christian Barton – Planning Officer

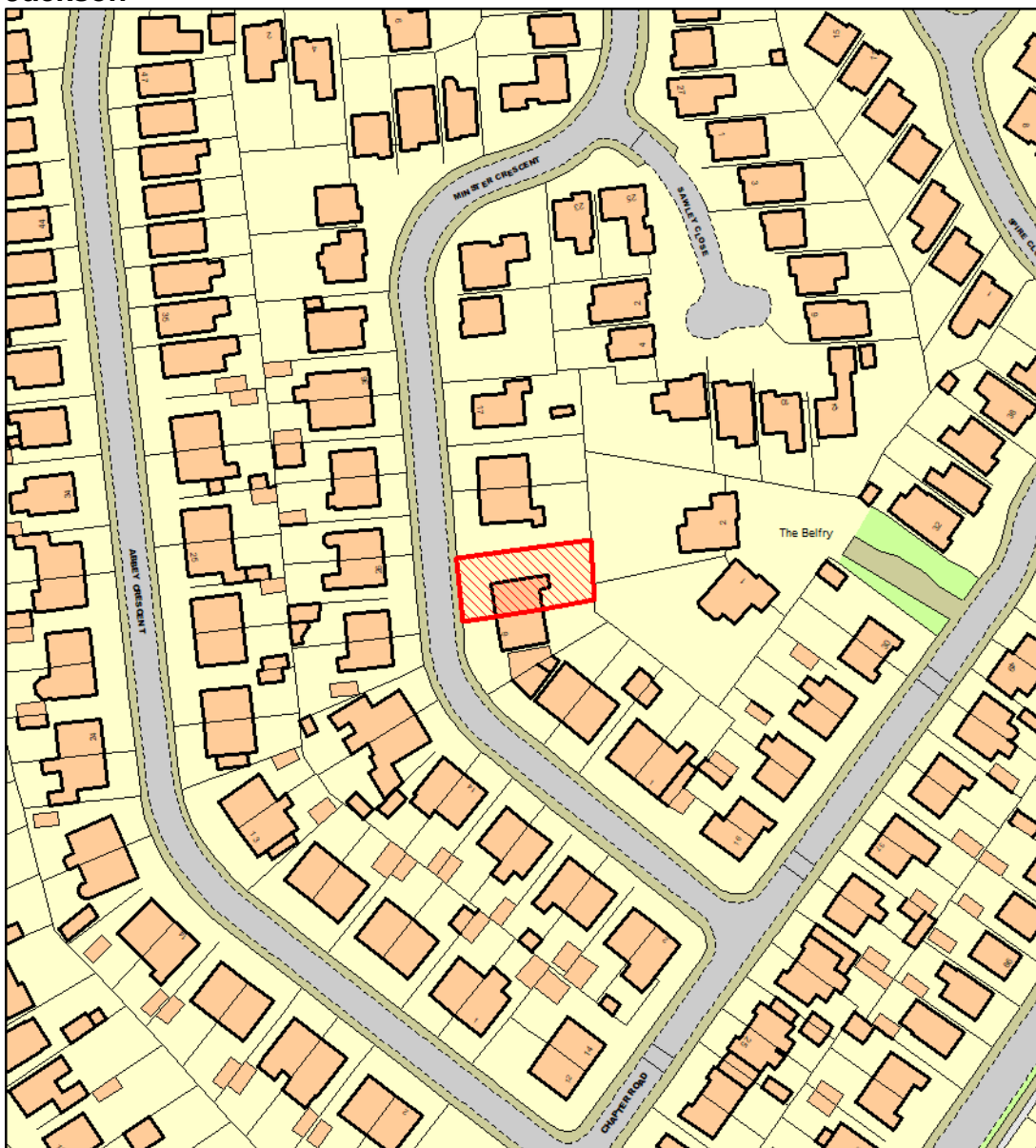
9.0 DATE PREPARED: 3rd February 2023

Proposed development: Full Planning Application for Proposed side / rear single storey extension following demolition of existing conservatory

**Site address:
11 Minster Crescent
Darwen
BB3 3PY**

Applicant: Mrs Jacqueline Slater

Ward: Darwen South: Councillors: Kevin Connor, Lilian Salton, Matthew Jackson



1.0 SUMMARY OF RECOMMENDATION

1.1 **APPROVE** – Subject to conditions

2.0 KEY ISSUES/SUMMARY OF PLANNING BALANCE

2.1 The planning application is presented to Committee in accordance with the Scheme of Delegation of the Council's Constitution, in which the applicant for the application is Councillor Jacqueline Slater.

3.0 RATIONALE

3.1 Site and Surroundings

3.1.1 The application site relates to a semi-detached, bungalow located on the eastern side of Minster Crescent, Darwen. The host dwelling is situated on a generous sized plot with front and rear gardens.

3.1.2 Minster Crescent can be reached off of Priory Crescent and then Chapter Road. The immediate street scene in which the application site is located is characterised by brick semi-detached bungalows which also have some feature brickwork to the front elevations. To the north of the application site lies a varying size and design of detached houses erected under planning application 10/94/0045.

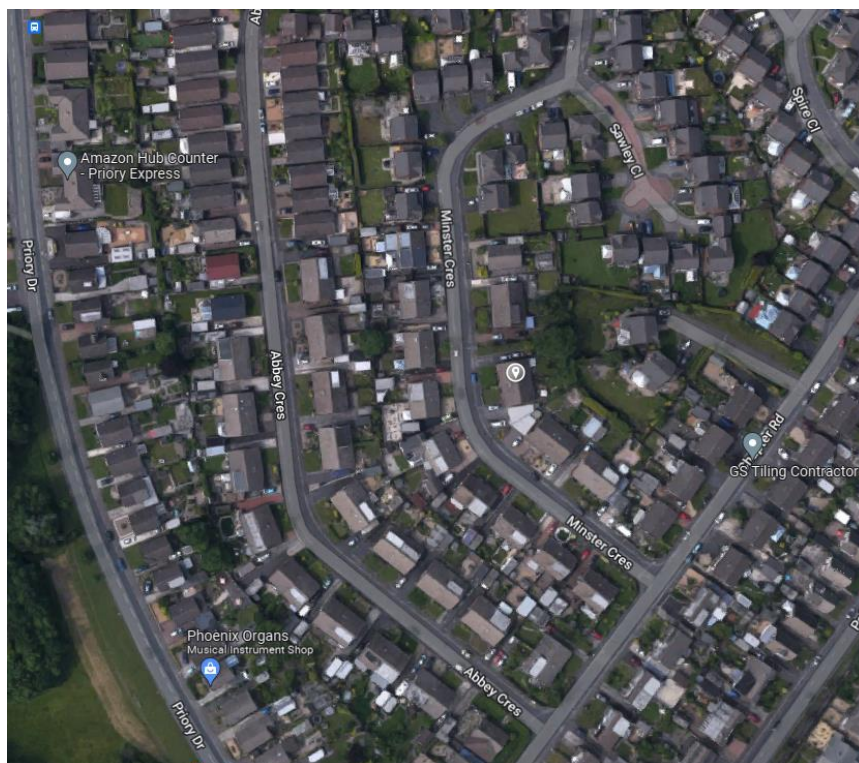


Figure 1: Google aerial view of the application site

3.2 Proposed Development

3.2.1 The proposal relates to a householder planning permission for the demolition of existing conservatory and erection of single storey side/rear extension.

3.2.2 The proposed single storey rear extension will project 4m off of the rear wall of the dwellinghouse once the existing conservatory has been demolished. The single storey rear extension will measure 5m wide and overhang to the side of the property by 2.4m. Height to the ridge of the proposal will be 3.5m and height to eaves 2.4m.

3.2.3 The existing and proposed plans and elevations are shown below:



3.3 Case Officer Photos



3.4 Development Plan

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

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

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

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

- RES E1: Materials
- RES E2: 45 Degree Rule
- RES E3: Separation Distances
- RES E7: Rear Extensions
- RES E8: Single Storey Side Extensions

3.5 Other Material Planning Considerations

3.5.1 National Planning Policy Framework (NPPF)

4.0 Assessment

Residential Amenity

4.1.1 Local Plan Part 2, Policy 8 ii) requires new development to “*secure a satisfactory level of amenity and safety for surrounding uses and for occupants or users of the development itself, with reference to noise, vibration, odour, light, dust or other pollution or nuisance, privacy/overlooking and the relationship between buildings*”.

4.1.2 Policy RES E7 of the Residential Design Guide (RDG) states that rear extensions should not have an unacceptable impact on neighbouring amenity.

- 4.1.3 Policy RES E8 of the RDG also states that privacy distances should be retained between neighbouring properties in line with Policy RES E3 and that access to the rear of the property is also maintained.
- 4.1.4 The existing conservatory currently measures a depth of 2.5m and a width of 2.4m. The proposed rear single storey extension is proposed to measure a depth of 4m and an increased width of 5m which will overhang to the side of the property by 2.4m. The proposal will be set in from the boundary with No.9 Minster Crescent by 4.6m, this ensures that the proposal accords with the 45 degree rule and as such the proposal will not result in a loss of light for the occupants of No.9. Furthermore, orientation is also favourable ensuring no overshadowing. Access to the rear is also maintained at the application site.
- 4.1.5 No windows will be inserted within the side elevation facing towards No.9 Minster Crescent and as such this further guards against any privacy/overlooking concerns.
- 4.1.6 A set of patio doors and two full length windows are proposed within the side elevation which faces towards No.13 Minster Crescent. Existing boundary treatments and mature hedgerow/trees will screen the proposal. However, whilst trees cannot be relied on as mitigation, if these trees were ever removed, the proposal would still not pose any amenity impacts to the neighbouring occupants of No.13.
- 4.1.7 Policy RES E3 of the RDG requires that 21m is maintained between facing windows of habitable rooms. Two sets of windows are proposed within the rear elevation of the proposal, a sufficient separation distance of approximately 27m will be maintained between the application site and properties to the rear on 'The Belfry'.
- 4.1.8 The proposal is considered to meet the requirements of Policy 8 of the LLP2 (2015) and supporting SPD Policies.

Design and Visual Amenity

- 4.1.9 Policy 11 of the Blackburn with Darwen Local Plan Part 2 (2015) (LPP2) requires all new development to "present a good standard of design and will be expected to:
- i) Demonstrate an understanding of the wider context; and
 - ii) Make a positive contribution to the local area.
- 4.1.10 Policy RES E8 of the RDG requires proposals for single storey side extensions to meet the following criteria:
- i) The extension is subordinate in design to the original property;
 - ii) The materials used, roof shape, style and proportion of windows and doors of the extension reflects and adds to the appearance of the house and its surroundings

4.1.11 The external materials to be used in the construction of the proposed single storey rear and side extension is brickwork to match the existing dwellinghouse. Lightweight tiles will be used for the roof whilst windows and doors will be uPVC. The proposed single storey side and rear roof will form of a joined up hipped roof. It is considered that this will appear subordinate to the host property and the side extension will also be set back considerably from the front elevation and as such only partially visible from the street scene.

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

Highways

4.1.13 Policy 10 of the LPP2 (2015) requires that road safety and the safe, efficient and convenient movement of all highway users is not prejudiced and that appropriate provision is made for vehicular access, off-street servicing and parking in accordance with the Council's adopted standards.

4.1.14 Whilst the proposal will overhang to the side of the property by 2.4m it will not reduce the size of the existing driveway to the front/side elevation and as such adequate off-street parking will still remain.

4.1.15 Compliance with Policy 10 of the LPP2 (2015) is achieved.

Other Matters

4.1.16 The application site is within a High Risk Coal Area. The Coal Authority were consulted on the planning application. As the proposal is a "householder application", they have confirmed they have no comments to make other than inserting the comments in para 7.2 as an informative on any subsequent decision notice.

5.0 RECOMMENDATION

5.1 Approve subject to the following conditions:

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

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

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

Drawing No. 1, Existing and Proposed Floor Plans and Elevations - Received 13th December 2022

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

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

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

6.0 PLANNING HISTORY

- 6.1 10/11/1137 – Side extension, rear dormer and rear conservatory
- 6.2 10/12/1150 – Discharge of conditions 2,3,5 and 6 of Planning Application

7.0 CONSULTATIONS

- 7.1 Public Consultation has taken place once; letters were posted to 7 neighbouring properties on the 21st December 2022 and no comments were received.
- 7.2 Coal Authority comments 6th February 2023:



Informative Note

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

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

www.gov.uk/government/publications/building-on-or-within-the-influencing-distance-of-mine-entries

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

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

www.gov.uk/government/organisations/the-coal-authority

Informative Note valid from 1st January 2023 until 31st December 2024

8.0 CONTACT OFFICER: Emily Colebourne, Assistant Planning Officer

9.0 DATE PREPARED: 6th February 2023

Proposed development: Variation/Removal of Condition/Minor Material Amendment for Variation of Condition No.14 "land contamination" pursuant to planning application 10/20/0324 "Demolition and redevelopment of Petrol Filling Station and Head Office" - to enable prior demolition of building

**Site address:
Grimshaw Park Service Station
Grimshaw Park
Blackburn
BB2 3AG**

Applicant: The Kay Group (UK) Ltd

Ward: Blackburn Central Councillors: Mahfooz Hussain, Samin Desai, Zamir Khan



1.0 SUMMARY OF RECOMMENDATION

- 1.1 APPROVE** subject to the amendment of the wording of condition 14 imposed upon extant planning approval 10/20/0324

2.0 KEY ISSUES/SUMMARY OF PLANNING BALANCE

- 2.1 This application is before the Planning & Highways Committee, in accordance with the Council's adopted Scheme of Delegation, as it relates to a variation to a major planning application on an unallocated site. The proposal seeks to amend the wording of condition 14 (land contamination) of planning approval 10/20/0324. There are no changes to the approved scheme's use, design or layout.
- 2.2 Planning permission 10/20/0324 "Demolition and redevelopment of Petrol Filling Station and Head Office" was approved subject to 18 planning conditions. Subsequently, the Council has assessed condition discharge application 10/21/1436. During that assessment it was only agreed to partially discharge condition 14 as further site investigation was required. To be able to complete the testing regime, certain parts of the existing development on the site would need to be demolished/removed in order to access and test the ground. However, the existing pre-commencement wording of condition 14 prevents demolition occurring. The current application seeks to amend the condition to allow a phased approach and demolition to be undertaken to address that issue.
- 2.3 The proposed amendment is considered essential to allow for the safe re-development of the site. The proposal will continue to deliver a high quality commercial scheme consistent with the Council's planning strategy for growth. The proposal also remains satisfactory from a technical point of view, with all issues having been addressed through the assessment of the application, or capable of being controlled or mitigated through planning conditions.

3.0 RATIONALE

3.1 Site and Surroundings

- 3.1.1 The application site occupies land at the corner of Grimshaw Park and Haslingden Road and currently accommodates a petrol filling station with convenience store and first floor office use. The site also extends to the east to include an open parcel of land up to Gillies Street.



3.2 Proposed Development

3.2.1 Extant approval 10/20/0324 allows for redevelopment of the site to provide for a new petrol filling station, convenience store and self-contained office development, along with associated car parking and infrastructure.



View from Orinshaw Park



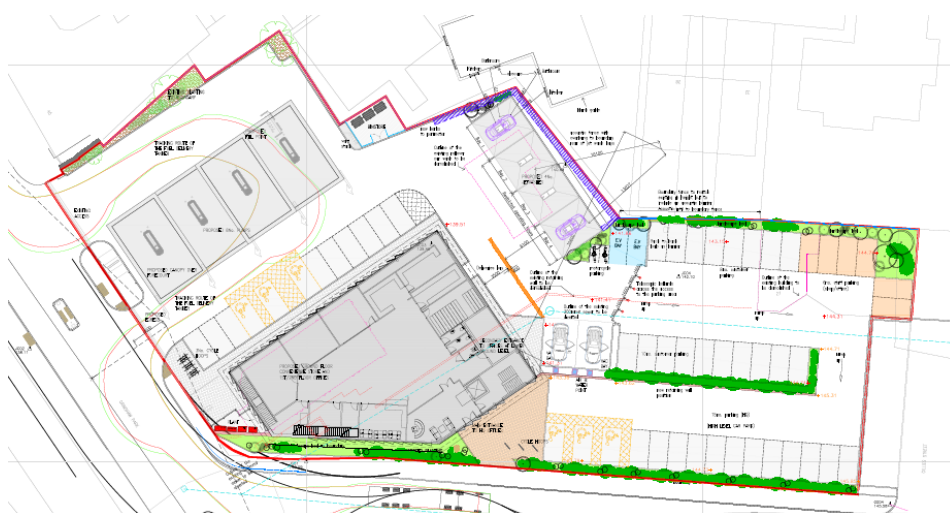
View from Roneout



View from Brandy House Brow



View from Haslingden Road



3.2.2 The current application seeks to amend condition 14 of the approval, as detailed below;

Existing wording:

Prior to the commencement of development hereby approved, the developer must submit to the Local Planning Authority for written approval:

(i) Two copies of a comprehensive desk study report, including a preliminary conceptual site model (CSM) in text, plan and cross-section form. Where necessary, detailed proposals for subsequent site investigation should also be included, clearly based on the CSM.

(ii) Two copies of the findings of the approved site investigation work (where necessary), including an appropriate assessment of risks to both human health and the wider environment, from contaminants in, on or under the land (including ground gas). If unacceptable risks are identified, a remedial options appraisal and detailed remediation scheme should be presented, along with an updated CSM. No deviation shall be made from this scheme without the written agreement from the Local Planning Authority.

Proposed wording:

Prior to the commencement of the **phased development with the exception of demolition**, hereby approved, the developer must submit to the Local Planning Authority for written approval:

(i) Two copies of a comprehensive desk study report, including a preliminary conceptual site model (CSM) in text, plan and cross-section form. Where necessary, detailed proposals for subsequent site investigation should also be included, clearly based on the CSM.

(ii) Two copies of the findings of the approved site investigation work (where necessary), including an appropriate assessment of risks to both human health and the wider environment, from contaminants in, on or under the land (including ground gas). If unacceptable risks are identified, a remedial options appraisal and detailed remediation scheme should be presented, along with an updated CSM. No deviation shall be made from this scheme without the written agreement from the Local Planning Authority

3.3 Development Plan

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

3.3.2 Local Plan Part 2

- Policy 8 – Development and People

3.4 Assessment

3.4.1 Extant planning approval 10/20/0324 allows for redevelopment of the site and is subject to control by 18 planning conditions. Given the previously developed

nature of the site and the existing use as a petrol filling station the Council's standard land contamination conditions were imposed.

- 3.4.2 Through the assessment of condition discharge application 10/21/1436 concerns in relation to the land contamination condition were identified by the Council's Public Protection Team and led to a partial discharge of condition 14 of 10/20/0324. Specifically the concerns were in relation to the 'phase 2 investigation' with the following comments offered at that time;

"It is apparent that the phase 2 investigation was carried out to the best of the abilities of the consultants at the time who are clearly very experienced at the investigation of fuel stations. However, they were hampered at the time by the presence of the active Petrol Station and therefore the number of boreholes, eight, is a very limited number for a site of this size and type. Large areas of the centre of the site were not available due to the roof etc. The workshop area was also presumably not available for sampling and where some indications of fuel contamination were found (e.g. BH005 close to the tanks) further delineation and sampling was not carried out. POQ 012

However, as stated above the report does go on to state further intrusive investigation will be carried out at a later date when demolition and site closure has improved access. I'm in agreement that a significant amount of further investigation is required. As such, I'm not able to recommend discharge condition 14 part (ii) until this pre-agreed further investigation work is completed and remedial options (if required) agreed upon with this department".

- 3.4.3 It is therefore agreed by all parties that additional site investigation works will be necessary before condition 14 can be fully discharged. This raises an issue given the existing condition wording requires site investigation works be agreed prior to development commencing (see section 3.2.2 for precise wording).
- 3.4.4 The current application seeks to modify the wording of condition 14 to enable a phased approach and the exclusion of demolition works from the 'pre-commencement' restriction. The effect of which will be to allow for the removal of the structures within the site to facilitate borehole sampling. In all other regards the original condition
- 3.4.5 The Council's Public Protection team have offered no concerns with the proposed amendment to condition 14's wording. Indeed, they consider it essential to allow for a comprehensive site investigation to be undertaken. They advise;

"The last consultation on this site was in relation to condition discharge application 10/21/1436 and only partial discharge of condition 14 was recommended, because we were in agreement with the proposals of the phase 2 report that additional investigation work is required post-demolition of the garage buildings on site. As such, there are no objections to the proposed changes to enable commencement of the demolition before full discharge of

condition 14. In fact it is essential for the required additional site investigation in order to fully discharge 14”.

- 3.4.6 Accordingly, the proposed amendment is considered to be necessary to facilitate the implementation of the extant planning approval 10/20/0324. Furthermore, the proposal is considered to remain consistent with Policy 8 (part iii) of the Local Plan, which seeks to ensure land is remediated to a standard which provides for a safe environment for occupants and users and will not displace contamination.

4.0 RECOMMENDATION

APPROVE subject to imposing all conditions attached to 10/20/0324 (see appendix one), save for those previously discharged in writing and the amended wording of condition 14, as follows;

14. Prior to the commencement of the phased development with the exception of demolition, hereby approved, the developer must submit to the Local Planning Authority for written approval:

(i) Two copies of a comprehensive desk study report, including a preliminary conceptual site model (CSM) in text, plan and cross-section form. Where necessary, detailed proposals for subsequent site investigation should also be included, clearly based on the CSM.

(ii) Two copies of the findings of the approved site investigation work (where necessary), including an appropriate assessment of risks to both human health and the wider environment, from contaminants in, on or under the land (including ground gas). If unacceptable risks are identified, a remedial options appraisal and detailed remediation scheme should be presented, along with an updated CSM. No deviation shall be made from this scheme without the written agreement from the Local Planning Authority

REASON: To ensure that all reasonable steps have been taken to identify contamination at the site in accordance with Policy 8 of the adopted Blackburn with Darwen Borough Local Plan Part 2

5.0 PLANNING HISTORY

10/21/1436 - Discharge Condition Nos 4 "materials", 5 "Construction Method Statement", 7 "acoustic barriers scheme", 8 "lighting scheme", 10 "scheme for electric vehicle charging points", 13 "Construction Phase Management Plan", 14 "desk study", and 17 "scheme for disposal of foul and surface water drainage" pursuant to planning application 10/20/0324 (Partial Discharge) – 10th January 2023.

10/20/0324 - Demolition and redevelopment of Petrol Filling Station and Head Office (Approved) – December 2020. Refer to Appendix One of this report for details of planning approval.

10/10/0068 – Shop Extension (Approved)

10/06/0914 – Shop Extension (Approved)

10/02/0726 – Proposed LPG Tank Compound (Approved)

10/95/0186 – Redevelopment for Service Station, Shop and Office (Approved)

6.0 CONSULTATIONS

6.1 Public Protection:

The last consultation on this site was in relation to condition discharge application 10/21/1436 and only partial discharge of condition 14 was recommended, because we were in agreement with the proposals of the phase 2 report that additional investigation work is required post-demolition of the garage buildings on site. As such, there are no objections to the proposed changes to enable commencement of the demolition before full discharge of condition 14. In fact it is essential for the required additional site investigation in order to fully discharge 14

7.0 CONTACT OFFICER: Martin Kenny, Principal Planner

8.0 DATE PREPARED: 2nd February 2023

Appendix One

Full list of conditions imposed upon extant planning approval 10/20/0324:

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

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

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

M20_03_02 REV03, received 10th December 2020

M20_03_04; M20_03_05; M20_03_06; M20_03_07; and GRI2001_PP01, received 25th March 2020

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

3. The construction of the development hereby permitted shall not take place outside the hours of 08:00 and 18:00 Monday to Friday, 09:00 to 15:00 on Saturdays and not at all on Sundays or Bank 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.

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

4. Prior to the commencement of development hereby approved, samples of all external walling, roofing materials, and their colour to be used in the construction of the building work shall be submitted to and approved in writing by the Local Planning Authority. The development shall be implemented in 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

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

- I) the parking of vehicles of site operatives and visitors
- II) loading and unloading of plant and materials
- III) storage of plant and materials used in constructing the development
- IV) the erection and maintenance of security hoarding including decorative displays and facilities for public viewing, where appropriate
- V) wheel washing facilities
- VI) measures to control the emission of dust and dirt during construction
- VII) a scheme for recycling/disposing of waste resulting from demolition and construction works

REASON: In order to avoid the possibility of the public highway being affected by the deposit of mud/or loose materials which could create a potential hazard to road users, in order to protect the amenity of the occupiers of the adjacent properties, in order to protect the visual

amenities of the locality and to comply with Policies 8 and 10 of the Blackburn with Darwen Borough Local Plan Part 2.

6. Visibility splays, as detailed on drawing no. M20-03-02 rev 03, received 10th December 2020, shall not at any time be obstructed by any building, wall, fence, hedge, tree, shrub or other device exceeding a height greater than 1 metre above the crown level of the adjacent highway.

REASON: To ensure the safe, efficient and convenient movement of all highway users, for the free flow of traffic, in accordance with Policy 10 of the Blackburn with Darwen Borough Local Plan Part 2.

7. Prior to first use of the development hereby approved, a scheme detailing the construction specification, appearance and timing for their construction of the acoustic barriers bounding the northern edge of the site shall be submitted to and approved in writing by the Local Planning Authority. The development shall be in accordance with the agreed details.

Reason: To safeguard the amenity of adjacent residents, in accordance with the requirements of Policy 8 of the Blackburn with Darwen Borough Local Plan Part 2

8. Prior to the commencement of development, a lighting scheme demonstrating that light from the development shall not exceed the recommended maximum parameters for the control of obtrusive light specified for an E4 environmental zone, as detailed in Guidance Note 01/20 'Guidance notes for the reduction of obtrusive light' produced by the Institution of Lighting Professionals, shall be submitted to and approved in writing by the Local Planning Authority. The development shall be in accordance with the agreed details and thereafter retained.

Reason: To safeguard the amenity of adjacent residents, in accordance with the requirements of Policy 8 of the Blackburn with Darwen Borough Local Plan Part 2 and paragraph 180 of the National Planning Policy Framework 2019

9. Spray or mist emanating from the jet wash bays detailed drawing no. M20-03-02 rev 03, received 10th December 2020, shall be contained within the site boundary.

Reason: To safeguard the amenity of adjacent residents, in accordance with the requirements of Policy 8 of the Blackburn with Darwen Borough Local Plan Part 2

10. Prior to commencement of the development hereby approved, a scheme for the provision of electronic vehicle charging points shall be submitted to and approved in writing by the Local Planning Authority. The approved scheme shall be implemented prior to first occupation of the development and retained thereafter.

Reason: To help safeguard air quality, In accordance with the requirements of Policy 36 of the Blackburn with Darwen Borough Local Plan Part 2 and Paragraph 110 of the National Planning Policy Framework 2019

11. Jet wash bays 2, 3 and 4, as detailed on drawing M20-03-02 rev 03, received 10th December 2020, shall not be operated from 11pm to 7am daily

Reason: To safeguard the amenity of adjacent residents, in accordance with the requirements of Policy 8 of the Blackburn with Darwen Borough Local Plan Part 2

12. The telescopic bollards, as detailed on drawing no. M20-03-02 03, received 10th December 2020, shall be operational between the hours of 9pm and 8am to prevent public access to the car park

Reason: To safeguard the amenity of adjacent residents, in accordance with the requirements of Policy 8 of the Blackburn with Darwen Borough Local Plan Part 2

13. Prior to the commencement of development, a construction phase management plan identifying measures to control noise, dust, vibration and smoke shall be submitted to and

approved in writing by the Local Planning Authority. The agreed details shall be employed throughout the demolition and construction phases of the development

Reason: To safeguard the amenity of adjacent uses, in accordance with the requirements of Policy 8 of the Blackburn with Darwen Borough Local Plan Part 2

14. Prior to the commencement of development hereby approved, the developer must submit to the Local Planning Authority for written approval:

(i) Two copies of a comprehensive desk study report, including a preliminary conceptual site model (CSM) in text, plan and cross-section form. Where necessary, detailed proposals for subsequent site investigation should also be included, clearly based on the CSM.

(ii) Two copies of the findings of the approved site investigation work (where necessary), including an appropriate assessment of risks to both human health and the wider environment, from contaminants in, on or under the land (including ground gas). If unacceptable risks are identified, a remedial options appraisal and detailed remediation scheme should be presented, along with an updated CSM. No deviation shall be made from this scheme without the written agreement from the Local Planning Authority.

REASON: To ensure that all reasonable steps have been taken to identify contamination at the site in accordance with Policy 8 of the adopted Blackburn with Darwen Borough Local Plan Part 2

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

REASON: To ensure that all reasonable steps have been taken to identify contamination at the site, that the risks it presents have been appropriately assessed, and that the site can be made 'suitable for use', as such, does not pose a risk to future users of the site or the wider environment in accordance with Policy 8 of the adopted Blackburn with Darwen Borough Local Plan Part 2

16. 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.

17. Prior to the commencement of development, 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) separate systems for the disposal of foul and surface water;

(ii) Full design details of the surface water drainage scheme.

The following restrictions will be required;

- No surface water from the garage forecourt area is to be allowed to discharge into the existing culverted watercourse. The details must show how the run off from the forecourt area is to be contained within this area.

- Surface water runoff from the rest of the development must be restricted to 50% of the existing runoff into the watercourse for the peak rates for a 1 in 1, 1 in 30 and 1 in 100 year return period storm plus an allowance of 40% for climate change.

- Surface water runoff from the forecourt area must be discharged into the combined sewer via a suitably designed petrol interceptor, with United Utilities approval needed for the connection.

The 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 of the Blackburn with Darwen Borough Local Plan Part

18. Trees and shrubs shall be planted on the site in accordance with the details set out within drawing GRI2001_PP01: Planting Plan and Schedule, received 25th March 2020 during the first available planting season following completion of the works, and thereafter retained. Trees and shrubs dying or becoming diseased, removed, or being seriously damaged within five years of planting shall be replaced by trees and shrubs of similar size and species to those originally required to be planted during the first available planting season after the loss of the trees and/or shrubs. The landscaping shall be maintained and retained thereafter to the satisfaction of the local planning authority.

REASON: To ensure that there is a well laid scheme of healthy trees and shrubs in the interests of amenity in accordance with Policies 9 and 40 of the Blackburn with Darwen Borough Local Plan Part 2.