

Public Document Pack

Planning and Highways Committee

Thursday, 20th April, 2023

6.30 pm

Council Chambers, Blackburn Town Hall

AGENDA

- | | | |
|-----|--|---------|
| 1. | Welcome and Apologies | |
| 2. | Minutes of the Previous Meeting | |
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| 4.2 | Planning Application 22/1152 | |
| | Land at Water Lane (between Clough Street and Spring Vale Garden Village) | 27 - 44 |
| 4.3 | Planning Application 22/1198 | |
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| | Land at Spring Meadows, Darwen | 65 - 70 |
| 4.5 | Planning Applications 23/0130 & 22/0131 | |
| | 9 - 15 Town Hall Street, Blackburn | 71 - 83 |
| 5. | Department for Levelling Up, Housing & Communities | |

Technical Consultation: Stronger performance of local planning authorities supported through an increase in planning fees.

To inform Members of current consultation by the Department for Levelling Up, Housing and Communities (LUHC) seeking views on improving performance of local planning authorities by:

- Increasing planning fees;
- Building capacity and capability;
- Introducing a more robust performance regime.

The report asks Members to note the proposed response to the consultation, which is attached to this report to be sent to the Secretary of State on behalf of Blackburn with Darwen Borough Council (BwDBC).

Planning committee report **84 - 96**

6. Appeals Monitoring Report

To present Members with an update of recently decided appeals since the last monitoring report in September 2022.

Report **97 - 107**
Appeal monitoring decisions report - Planning committee meeting 20th April 2023.pdf

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

7. Planning Enforcement Update

This report is to present to Members an overview of Planning Enforcement matters. The list of cases included in this report are in the main a list of cases where formal enforcement action is being taken and is not a list of every case, complaint or enquiry being dealt with.

PLANNING ENFORCEMENT UPDATE **108 -**
20 April 2023 Enforcement update Report.pdf **119**

8. Enforcement

Enforcement **120 -**
Location Plan **126**
Photo 1.jpg
Photo 2.jpg

Date Published: Wednesday, 12 April 2023
Denise Park, Chief Executive

PRESENT – Councillors, David Smith (Chair), Akhtar (Vice), Casey, Khan, J Slater, Browne, Marrow, Desai, Liddle, Imtiaz, McCaughran and N Slater.

OFFICERS – Gavin Prescott, Rabia Saghir, Shannon Gardiner

RESOLUTIONS

72 Welcome and Apologies

The Chair welcomed everyone to the meeting.

Apologies were received from Cllr Quesir Mahmood and Cllr Jon Baldwin who was substituted by Cllr Neil Slater.

73 Minutes of the Previous Meeting

RESOLVED – That the minutes of the previous meeting held on 16th February 2023 be agreed and signed as a correct record.

74 Declaration of Interest

RESOLVED – There were no Declarations of Interest received.

75 Planning Applications for Determination

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

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

75.1 Planning Application 22/0991

Applicant – Together Housing Group

Location and Proposed Development – Vacant Land corner of Shadsworth Road/ Dunoon Drive/ Orkney Close, Blackburn

Full Planning Application: Erection of 3no. 3 bed, 5 person terraced dwellings with 6 proposed new car parking spaces, together with 4 car parking spaces provided for the existing residents.

Decision under Town and Country Planning Acts and Regulations –

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

75.2 Planning Application 22/1202

Applicant – Rocplas Distribution Ltd.

Location and Proposed Development – Land off Carl Fogarty Way, Blackburn

Construction of a new mixed use (B8/E) building to provide showroom, warehouse and ancillary office space with formation of new access point from Carl Fogarty Way and associated car parking and landscaping works.

Decision under Town and Country Planning Acts and Regulations –

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

Based on the comments made in the Update Report, it was recommended that condition listed in paragraph 5.21 of the main report be amended to the following:

(21) Prior to the commencement of any above ground works on site, a scheme for the provision of electric vehicle charging points and associated cabling infrastructure shall have first been submitted to and approved in writing by the Local Planning Authority. The scheme should accord with the Blackburn with Darwen Planning Advisory Note: Air Quality. The development shall thereafter proceed in strict accordance with the approved scheme and shall not be brought into use unless and until the agreed measures have been provided in their entirety. Any measures installed shall thereafter remain in perpetuity with the development.

REASON: In order to ensure an adequate number of electric vehicle charging points are provided in support of the development, in the interests of minimising impacts on air quality, 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).

76 **Petition supporting an application for full planning permission for the following development: 'Demolition of the Farthings Public House and erection of 12 No. new industrial units (E(g), B2 and B8 Use) with new bin store areas, secure cycle and motorcycle areas, landscaping and new vehicular and pedestrian access – Ref: 10/23/0070, at The Farthings, Rosewood Avenue, Blackburn BB1 9SZ**

Members were informed of the receipt of a petition supporting a current planning application relating to the demolition of the Farthings Public House and erection of 12 No. new industrial units (E(g), B2 and B8 Use) with new bin store areas, secure cycle and motorcycle areas, landscaping and new vehicular and pedestrian access. The application premises is The Farthings, Rosewood Avenue, Blackburn, BB1 9SZ.

The planning application (Ref: 10/23/0070) was received by the Local Planning Authority (LPA) on 26th January 2023, and was subsequently registered on 31st January 2023. 92 notification letters were sent to the

neighbours and occupants of the closest adjacent properties. The statutory 21 day consultation period expired on 23rd February 2023 for those letter.

The petition was received by the LPA on 23rd February and the petition supports the application. The petition contained 22 signatures, which have been provided by residents and occupants of nearby addresses.

Members were advised that an assessment of the planning application was ongoing and that all material issues that must be considered in the decision making process will be addressed during the course of the application. 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 the delegated officer powers. The statutory 13 week determination date expires on 2nd May 2023.

RESOLVED – That the petition be noted.

77 Petition supporting an application for full planning permission for the following development: ‘Full Planning Application (Retrospective) for Rear dormer (retrospective) (amendments to previously refused application 10/21/1266)’, at 10 Brantfell Road Blackburn BB1 8DN

Members were informed of the receipt of a petition supporting a current planning application relating to a Full Planning Application (Retrospective) for rear dormer (retrospective) (amendments to previously refused application 10/21/1266) at No.10 Brantfell Road, Blackburn, BB1 8DN.

The current planning application (10/23/07776) was received by the Local Planning Authority (LPA). 5 neighbourhood letters of consultation were sent out on the date of registration to local addresses near the application site and a site notice and press notice displayed on 2nd February 2023 and 7th February 2023 respectively. The statutory 21 day consultation period expired on 21st February 2023

The petition was received by the LPA on 9th February 2023. The lead petitioner is the applicant of the current planning application. The petition is submitted specifically in support of dormer extensions to dwelling houses within the Conservation Area (CA) with specific reference made to Corporation Park. The petition also makes specific reference to inconsistencies on planning decisions when assessing planning applications within the CA. Further, it is stated the LPA offer no clear guidance or compromise during the course of an application.

Under Schedule 2, Part 1, Class B of The Town and Country Planning (General Permitted Development) (England) Order 2015 (as amended), rear dormers are not permitted development at dwellings located on Article 2(3) land (CA), hence the need for planning approval for all dormer extensions.

Members are advised that all material issues that must be considered in the decision making process are being currently assessed with the planning application, and this takes into account the previously refused planning application for a near identical proposal (ref: 10/21/1266), and in particular the subsequent appeal decision as this is a fundamental material planning consideration that forms an important part of the assessment of this

application. In addition, the Committee authorised Enforcement action to be taken for the removal of the dormer extension at their meeting on the 21st April 2022 (ref: 2021E0370). The Enforcement Notice was served on the 7th December 2022, which took effect on the 20th January 2023, having a compliance period of 6 months.

RESOLVED – That the petition be noted.

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: 20/04/2023

Application No	Applicant	Site Address	Ward	Application Type
10/22/1014	Opulwood Developments Walbury House 14 Dalton Court Commercial Road Darwen BB3 0DG	Land between Haslingden Road/Brandy House Brow & Old Bank Lane (Queens Park Gardens) Blackburn	Blackburn Central	Variation/Removal of Condition/Minor Material Amendment for Variation of Condition 30 "approved drawings" pursuant to planning application 10/21/1164 to allow for change of house types on plots 51 - 52 and 56 - 59, resulting in an increase in total unit numbers from 69 to 71.
RECOMMENDATION: Permits				
10/22/1152	Mr R Hancock 6 Clough Street Darwen BB3 2ER	Land at Watery Lane (between Clough Street and Spring Vale Garden Village) Darwen	Darwen South	Full Planning Application (Retrospective) for Erection of replacement 2m high fencing along the northeast and northwest site boundaries
RECOMMENDATION: Permits				
10/22/1198	Mr Steve Charnock 14 Tower Street Chapelton Bolton BL7 0EU	14 Tower Street Chapelton Bolton BL7 0EU	West Pennine	Full Planning Application for Proposed change of use to the land as side garden (Use Class C3) with 1.8m timber fence and erection of single storey rear extension
RECOMMENDATION: Permits				

Application No	Applicant	Site Address	Ward
Application Type			
10/23/0065			
Persimmon Homes Lancashire Persimmon House Lancaster Business Park Caton Road Lancaster Lancashire LA1 3RQ		Land at Spring Meadows Darwen	Darwen South
Variation/Removal of Condition/Minor Material Amendment for Variation of condition No. 2 pursuant to planning application 10/19/0317 "Erection of 168 no. Residential Dwellings, Associated Infrastructure and Public Open Space" to amend house types on plots 11-69			
RECOMMENDATION: Permits			
10/23/0130			
Blackburn with Darwen Borough Council Third Floor One Cathedral Square Blackburn BB1 1FB		9-15 Town Hall Street Blackburn BB2 1AG	Blackburn Central
Full Planning Application (Regulation 3) for New shop fronts			
RECOMMENDATION: Permits			
10/23/0131			
Blackburn with Darwen Borough Council Third Floor One Cathedral Square Blackburn BB1 1FB		9-15 Town Hall Street Blackburn BB2 1AG	Blackburn Central
Advertisement Application for Fascia and hanging signs			
RECOMMENDATION: Express Consent			

REPORT OF THE STRATEGIC DIRECTOR

Plan No: 10/22/1014

Proposed development: Minor Material Amendment for: Variation of Condition 30 "approved drawings" pursuant to planning application 10/21/1164 to allow for change of house types on plots 51 - 52 and 56 – 59, resulting in an increase in total unit numbers from 69 to 71.

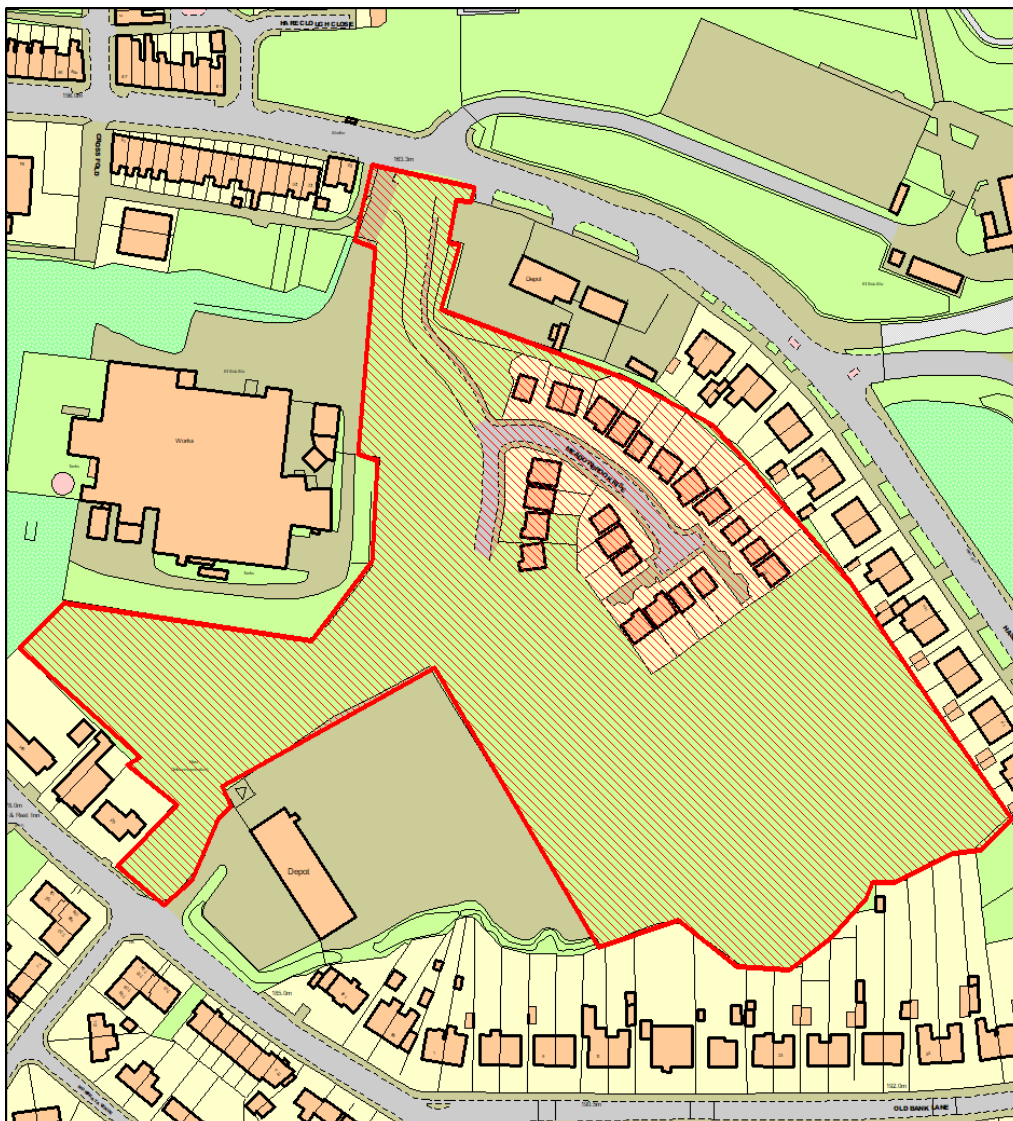
Site Address:

**Land between Haslingden Road/Brandy House Brow & Old Bank Lane (Queens Park Gardens)
Blackburn**

Applicant: Opulwood Developments

Ward: Blackburn Central

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



1.0 SUMMARY OF RECOMMENDATION

- 1.1 APPROVE – Subject to varying condition 30 and reproduction of all other conditions attached to the previous minor material amendment permission – ref. 10/21/1164 and to the original planning permission - ref. 10/09/0414.**

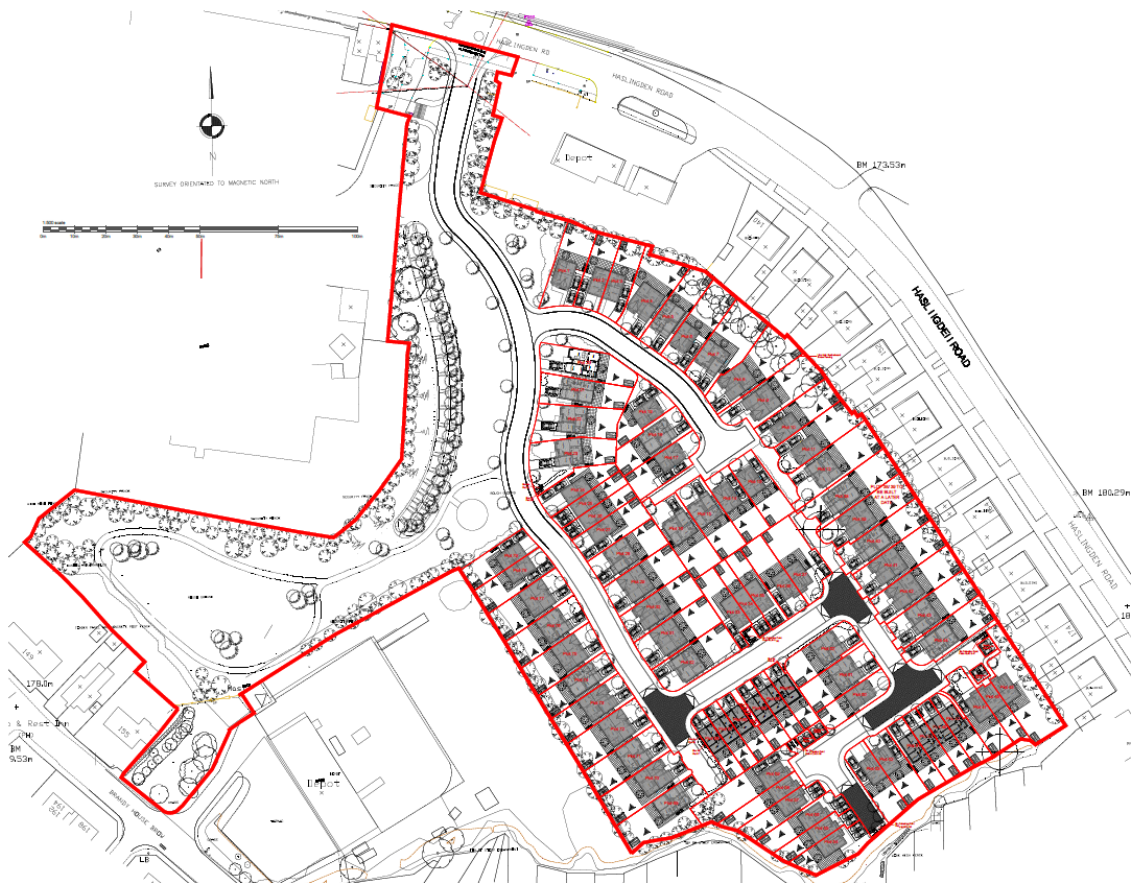
2.0 KEY ISSUES/SUMMARY OF PLANNING BALANCE

- 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), as a proposal to vary details previously secured via a condition attached to the previous grant of planning permission. Those details relate specifically to a change of house types on plots 51 - 52 and 56 - 59.
- 2.3** The amended houses are accepted as a type that correspond to the defining character of the approved development, which will continue to 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 an ongoing housing led development known as Meadowbrook Rise, located to the rear of properties which front on to Haslingden Road and Old Bank Lane, Blackburn. Access is taken from Haslingden Road.
- 3.1.2** The site is located within Blackburn's Inner Urban Area. It measures 3.45 hectares in area.
- 3.1.3** The site is defined by the submitted red edged location plan (Southworth Construction, 2018) extracted below.

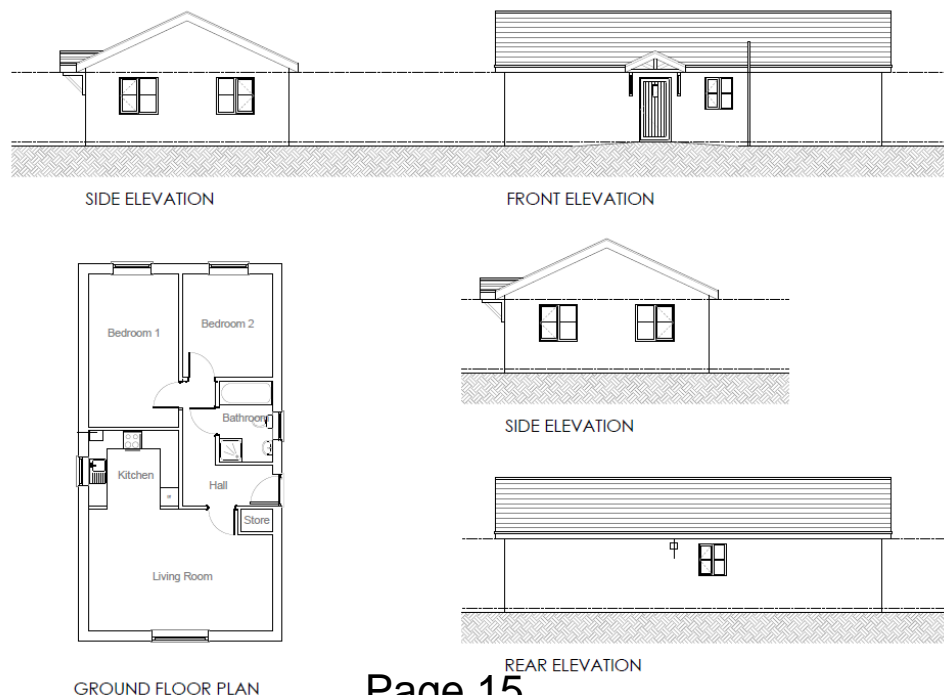


3.2 Proposed Development

3.2.1 The amendment proposes a change of house types on plots 51 - 52 and 56 – 59. Replacement houses are marketed as ‘The Hatfield’ and ‘The Avon’. The Hatfield is a 3 bedroom terraced / town house set within rows of three at plots 56 – 59, 59a & 59b which would replace 4 no. detached houses. The Avon is a two bedroom detached bungalow which would replace two storey dwellings at plots 51 and 52; resulting in an increase in total unit numbers from 69 to 71. Full details are set out in the submitted drawings and as extracted below:

Meadowbrook Rise : PHASE 2

HATFIELD



AVON



3.3 Development Plan

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

3.3.2 Core Strategy

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

3.3.3 Local Plan Part 2

- Policy 8. Development & People
- Policy 9. Development and the Environment
- Policy 10. Accessibility & Transport
- Policy 11. Design
- Policy 10: Accessibility and Transport
- Policy 18: Housing Mix

3.4 Other Material Planning Considerations

3.4.1 BwD Residential Design Guide SPD.

3.4.2 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.

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

3.4.4 National Planning Policy Guidance (NPPG).

3.5 **Assessment**

3.5.1 Assessment is limited to impacts arising from the proposed change of house types and the increase in the number of dwellings from 69 to 71. The principle of housing led development is already established via the original grant of planning permission.

3.5.2 With reference to the proposed increase in the total number of dwellings proposed; a previous minor material amendment, in 2022, approved a reduction in the total number from 79 originally approved in 2010, to 69. The proposed increase in the total number to 71, is accepted in principle.

3.5.3 Policy 18 requires require detached and semi-detached housing to be the principal element of the dwelling mix on any site that is capable of accommodating such housing and where such housing would make a positive contribution to the character of the local area.

3.5.4 Some town / terraced dwellings are previously approved. The proposed introduction of houses of the same type are acceptable, on account of the principle element of housing mix remaining that of detached and semi-detached.

3.5.5 Turning to the proposed bungalows; there is currently an evident demand within the borough. Moreover, the site is bounded by existing bungalows to the east. Accordingly, introduction of the bungalows are accepted as an alternative house type.

3.5.6 Accordingly, the amendment is found to be in accordance with the requirements of Policy 18 of the Local Plan Part 2.

3.5.7 The requisite separation distances and in-curtilage parking are maintained, in accordance with the Council's adopted standards and the requirements of Policies 8 and 10 of the Local Plan Part 2, respectively and The Framework.

3.5.8 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.

3.5.9 Proposed house types are well articulated, are proportionate to plot sizes, and are appropriate in appearance when assessed against the wider street scape.

3.5.10 Summary

This report assess the minor material amendment for a variation to condition 30 (approved drawings), attached to the host planning permission granted under application no. 10/21/1164, as described above. The relevant material matters have 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 condition 30 (approved drawings), as varied and application of all other conditions that are attached to the host planning permission:

1. The development hereby permitted shall be begun before the expiration of three years from the date of the original planning permission - ie. 23/03/2013.

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

2. Before any development takes place, 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 H4 of the Blackburn with Darwen Borough Local Plan, and the adopted Blackburn with Darwen Borough Local Plan and SPD: Residential Design Guide.

3. Before any development takes place, 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 ENV3 of the adopted Blackburn with Darwen Borough Local Plan.

4. Before any development takes place, a foul and surface water drainage and surface water regulation scheme shall be submitted to and approved in writing by the Local Planning Authority. The development shall be implemented in accordance with the approved details prior to the occupation of the approved development.

REASON: To ensure a safe form of development that poses no unacceptable risk of pollution to water resources or human health in accordance with Policy ENV1 of the Blackburn With Darwen Borough Local Plan and SPD: Residential Design Guide.

5. Before any development takes place, a ventilation scheme; complying with the performance specification given in Part 6 of Schedule 1 of the Noise Insulation Regulations 1975, shall be submitted to and approved in writing by the Local Planning Authority. The scheme shall ensure:

1. Ventilation to all habitable rooms of Plots 1, 20-24 and 79 which overlook the Blackburn Yarn Dyers site to the east.
2. Ventilation to all habitable rooms of Plots 69-79 which overlook the B & W Plant Hire site to the South West.

The approved scheme shall be implemented prior to occupation of plots 1, 20-24 and 69-79, and thereafter retained.

REASON: To provide an alternative source of ventilation, other than opening windows, whilst still providing a commensurate level of protection against noise intrusion, in accordance with Policy ENV4 of the Blackburn with Darwen Borough Local Plan of the adopted Blackburn with Darwen Borough Local Plan and SPD: Residential Design Guide.

6. Before any development takes place, a scheme for the detailed design of the acoustic earth bund and acoustic fence shall be submitted to and agreed in writing by the Local Planning Authority. The approved scheme shall be implemented prior to occupation of Plots 1, 20-24 and 79 and thereafter retained.

REASON: To protect the neighbouring premises from any adverse noise levels in accordance with Policy ENV4 of the Blackburn with Darwen Borough Local Plan of the adopted Blackburn with Darwen Borough Local Plan and SPD: Residential Design Guide.

7. Before any development takes place, a written scheme of archaeological investigation shall be submitted to and approved in writing by the Local Planning Authority. The scheme shall include a programme of building recording and analysis. The scheme shall be implemented in accordance with the approved details.

REASON: To ensure and safeguard the recording and inspection of matters of archaeological/historical importance associated with the site in accordance with Policy HD18 of the Blackburn with Darwen Borough Local Plan and SPD: Residential Design Guide.

8. Before any development takes place, a detailed scheme for the equipped play area as annotated on amended drawing number 1000/S (received on 12th February 2010) shall be submitted to and approved in writing by the Local Planning Authority. The scheme shall include type of equipment, seating and bin provision, surfacing and boundary treatment. The approved scheme shall be implemented within 1 month of completion of the development and thereafter retained.

REASON: To provide recreational facilities for children living on the development in accordance with Policies H4 and H5 of the Blackburn with Darwen Borough Local Plan of the adopted Blackburn with Darwen Borough Local Plan and SPD: Residential Design Guide.

9. Before any development takes place, a landscaping scheme shall be submitted to and approved in writing by the Local Planning Authority. Trees and shrubs shall be planted on the site in accordance with the landscaping scheme during the first available planting season. The scheme shall include details of materials to be used for hard surfaces, and details of species to be planted, with their siting and planting distances, and shall be implemented during the first available planting season after the commencement of 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.

REASON: To ensure that there is a well laid scheme in the interests of amenity in accordance with Policy HD9 of the Blackburn With Darwen Borough Local Plan of the adopted Blackburn with Darwen Borough Local Plan and SPD: Residential Design Guide.

10. Before any development takes place, a scheme of boundary treatment for the site curtilage and individual plots shall be submitted to and approved in writing by the Local Planning Authority. The scheme must detail the size, design and material for all boundary treatments. The development shall be completed in accordance with the approved scheme.

REASON: To ensure a satisfactory appearance to the development, in accordance with Policy H4 of the adopted Blackburn with Darwen Borough Local Plan and SPD: Residential Design Guide.

11. Before any development takes place, a detailed design for the construction of the newly created Haslingden Road, Blackburn Yarn Dyers and back street access points and off-site works of highway improvements shall be submitted to and approved in writing by the Local Planning Authority. The development shall be completed in accordance with the approved scheme.

REASON: To provide for the safety and convenience of users of the highway, for the free flow of traffic, in accordance with Policies H4 and T9 of the Blackburn with Darwen Borough Local Plan of the adopted Blackburn with Darwen Borough Local Plan and SPD: Residential Design Guide.

12. Before any development takes place, a scheme of traffic calming within the development shall be submitted to and approved in writing by the Local Planning Authority. The approved scheme shall be implemented within 3 months of completion of the development.

REASON: To provide for the safety of all users of the highway, in accordance with Policies H4 and T9 of the Blackburn with Darwen Borough Local Plan of the adopted Blackburn with Darwen Borough Local Plan and SPD: Residential Design Guide.

13. Before any development takes place, a scheme detailing the closure of the existing accesses shall be submitted to and approved in writing by the Local Planning Authority. The scheme shall detail the existing accesses being physically and permanently closed; and the existing verge and/or footway and kerbing of the former crossing being reinstated. The development shall be implemented in accordance with the approved details within 1 month of the formation of the new access.

REASON: To ensure the safe, efficient and convenient movement of all highway users in accordance with Policy T9 of the Blackburn with Darwen Borough Local Plan and SPD: Residential Design Guide.

14. Before any development takes place, full details of a wheel washing facility by which wheels of vehicles shall be cleaned before joining the public highway shall be submitted to and approved in writing by the Local Planning Authority. These details will include a method statement outlining how the developer intends to use and manage the facility. The approved wheel wash/es will be put in place at all vehicle access points onto the public highway when work commences and shall remain operational throughout the period of development.

REASON: To ensure the safe, efficient and convenient movement of all highway users, for the free flow of traffic, in accordance with Policy T9 of

the Blackburn with Darwen Borough Local Plan and SPD: Residential Design Guide.

15. Before any development takes place, 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 movement of construction vehicles to and from the site
- II) parking of vehicles of site operatives and visitors
- II) loading and unloading of plant and materials
- IV) storage of plant and materials

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 Policy T9 of the Blackburn with Darwen Borough Local Plan and SPD: Residential Design Guide.

16. Before any development takes place, a scheme for the suppression of dust control during the demolition and construction period has been submitted to and approved in writing by the Local Planning Authority. The scheme must include provision for all heavy good vehicles carrying materials into and out of the site to be sheeted. The approved measures shall be implemented and retained for the demolition and construction period.

REASON: To minimise disturbance of adjacent residents during construction of the development, in accordance with Policy H4 of the adopted Blackburn with Darwen Local Plan and SPD: Residential Design Guide.

17. Before any development takes place, a tree-planting scheme shall be submitted to and approved in writing by the Local Planning Authority. The scheme shall include tree size, species, location, method and aftercare. The agreed scheme shall be implemented in full within the first planting season (October to March) following the commencement of the development.

REASON: Trees represent a public benefit by way of visual amenity and should therefore be planted within new developments in accordance with Council Policy HD9 of the Blackburn with Darwen Borough Local Plan and SPD: Residential Design Guide.

18. Before any development takes place, 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 tree(s) to be retained on site and overhanging the site will be protected during demolition and/or construction works. The

agreed method statement shall be implemented in full prior to the undertaking of any on site works.

REASON: Trees represent a public benefit by way of visual amenity and should therefore be protected at all times in accordance with Council Policy HD8 of the Blackburn with Darwen Borough Local Plan and SPD: Residential Design Guide.

19. Before any development takes place, a habitat creation, enhancement and management plan shall be submitted to and approved in writing by the Local Planning Authority. The approved scheme shall incorporate recommendations made in PENNINE Ecological's report 'Habitat Creation & Retention: Queens Park Gardens, Haslingden Road, Blackburn' dated December 2009. The approved scheme shall be implemented within the first available planting season following commencement of development.

REASON: To protect the ecological value of the site, in accordance with Planning Policy Statement 9: Biodiversity and Geological Conservation.

20. 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 ENV3 of the adopted Blackburn with Darwen Borough Local Plan.

21. Notwithstanding the provisions of Article 3 and Schedule 2 of the Town and Country Planning (General Permitted Development) (Amendment No.2) (England) Order 2008, no development on Plots 4-45 of the type specified in Classes A, B, C, D, E and F of Part 1 of that Schedule shall be carried out unless planning permission has been granted first.

REASON: Due to the restricted nature of the site, whilst the dwelling as approved is acceptable, any further extensions or alterations normally permitted under the above provisions may in this case conflict with the interests of adjacent properties or the amenity of the area generally in accordance with Policy H8 of the Blackburn with Darwen Borough Local Plan of the adopted Blackburn with Darwen Borough Local Plan and SPD: Residential Design Guide.

22. All garages within the development hereby approved shall be retained and not converted.

REASON: To ensure the availability of off-street car parking in accordance with Policies H4 and T9 of the Blackburn with Darwen Borough Local Plan of the adopted Blackburn with Darwen Borough Local Plan and SPD: Residential Design Guide.

23. All habitable room windows shall have a weighted sound reduction index R_w of no less than 33dB.

REASON: To protect prospective occupants from any adverse noise levels from adjacent premises in accordance with Policy ENV4 of the Blackburn with Darwen Borough Local Plan of the adopted Blackburn with Darwen Borough Local Plan and SPD: Residential Design Guide.

24. Visibility splays shall not at any time be obstructed by any building, wall, fence, hedge, tree, shrub or other device exceeding a height not greater than 1 metre above the crown level of the adjacent highway.

REASON: To ensure the safe, efficient and convenient movement of all highway users, for the free flow of traffic, in accordance with Policy T9 of the Blackburn with Darwen Borough Local Plan of the adopted Blackburn with Darwen Borough Local Plan and SPD: Residential Design Guide.

25. Construction of the development hereby approved shall only take place between the hours of:
8am and 6pm Monday to Friday
9am and 1pm on Saturdays
and not on Sundays or Bank Holidays.

REASON: To safeguard the amenities of the adjoining premises and the area generally in accordance with Policy ENV4 of the Blackburn with Darwen Borough Local Plan.

26. Protective fencing shall be installed in accordance with the approved method statement and in accordance with British Standard 5837: Guide for trees in relation to construction. This fencing should be installed prior to the commencement of any building works, ground works, demolition works or storage of any machinery, equipment or materials on site. This fencing should remain intact and in place until all works are completed on the site. This fencing should be considered sacrosanct and no soil levels should be altered within the perimeter of this fence and no building materials or waste products should be stored inside the fence line. Any variation to this condition must be in line with British Standards 5837 trees in relation to construction and agreed in writing with the Councils Arboricultural Officer prior to implementation of any such variation.

REASON: The existing trees represent a public benefit by way of visual amenity and should therefore be protected at all times in accordance with

Council Policy HD8 of the Blackburn with Darwen Borough Local Plan and SPD: Residential Design Guide.

27. No existing trees or hedges within or overhanging the development site shall be lopped, topped, felled, uprooted, pruned, or sustain root severance, without prior written consent from the Local Planning Authority. Any tree works undertaken with written consent should be in line with British Standards 3998 & 5837. All existing trees that are not shown to be removed on the approved plan and all newly planted trees becoming diseased, severely damaged, removed or dying within the development period or within five years of the completion of the development shall be replaced with a tree of such size and species, and shall be planted at such time as may be specified in writing by the Local Planning Authority.

REASON: Trees represent a public benefit by way of visual amenity and should therefore be protected at all times and replaced when necessary in accordance with Council Policy HD8 and HD9 of the Blackburn with Darwen Borough Local Plan and SPD: Residential Design Guide.

28. Construction work shall not be carried out during the bird nesting season (between March and July), unless the absence of nesting birds has been confirmed to the Local Planning Authority by further survey work or on site inspections.

REASON: To ensure the protection of nesting birds on site, in accordance with Planning Policy Statement 9: Biodiversity and Geological Conservation.

29. Protected species mitigation measures as identified in paragraphs 8.1 and 8.2 of the Bat and Owl Survey undertaken by Stan Irwin Ecology Consultant (dated 15th June 2009) shall be implemented.

REASON: To ensure the protection of Protected Species, in accordance with Planning Policy Statement 9: Biodiversity and Geological Conservation.

30. This consent relates to the location plan and drawing numbers TG-WHI-PL1, WHI-OAK-PL01, MARL-PL01A, LANC-PL01A, GART-PL01A, FENT-PL01A, ELWI-PL01, DELA-PL01A, CHU-PL01A, BLE-PL01 received on 15th June 2009 and WHI-WIN-PL01 received on 15th February 2010 and amended site layout drawing number 1000/S received on 12th February 2010; and

Amended proposal received 14th October 2021, as detailed on drawings numbered: DP-00, 1980.LOC01, 1980-P-01 Rev A, 1980-P-02, 1980-P-03, 1980-P-04, 1980-P-05, 1980-P-06 and 1980-P-07; and

Amended proposal received 22nd November 2022, as detailed on drawings numbered: 1980-P-08, 1980-P-06, and 1980-P-01 Rev E;

any subsequent amendments approved in writing by the Local Planning Authority.

REASON: To clarify the terms of this consent.

5.0 RELEVANT PLANNING HISTORY

10/09/0414: Residential Development of 79 dwellings. Approved 23/03/2010.

10/21/1164: Variation of Condition No. 30 "approved drawings" pursuant to planning application 10/09/0414 " Residential Development of 79 dwellings" - revision of site plan relating to Phase 2 - reduction of number of dwellings to 69 dwellings (total) - Phase 2 (46 dwellings) and revision to house types. Approved 05/01/2022.

6.0 CONSULTATIONS

6.1 Consultation was limited to public consultation by letter, to 10 neighbouring properties, display of site notices and publication of a press notice. No comments were received.

7.0 CONTACT OFFICER: Nick Blackledge, Planning Officer

8.0 DATE PREPARED: 5th April 2022.

REPORT OF THE STRATEGIC DIRECTOR

Plan No: 10/22/1152

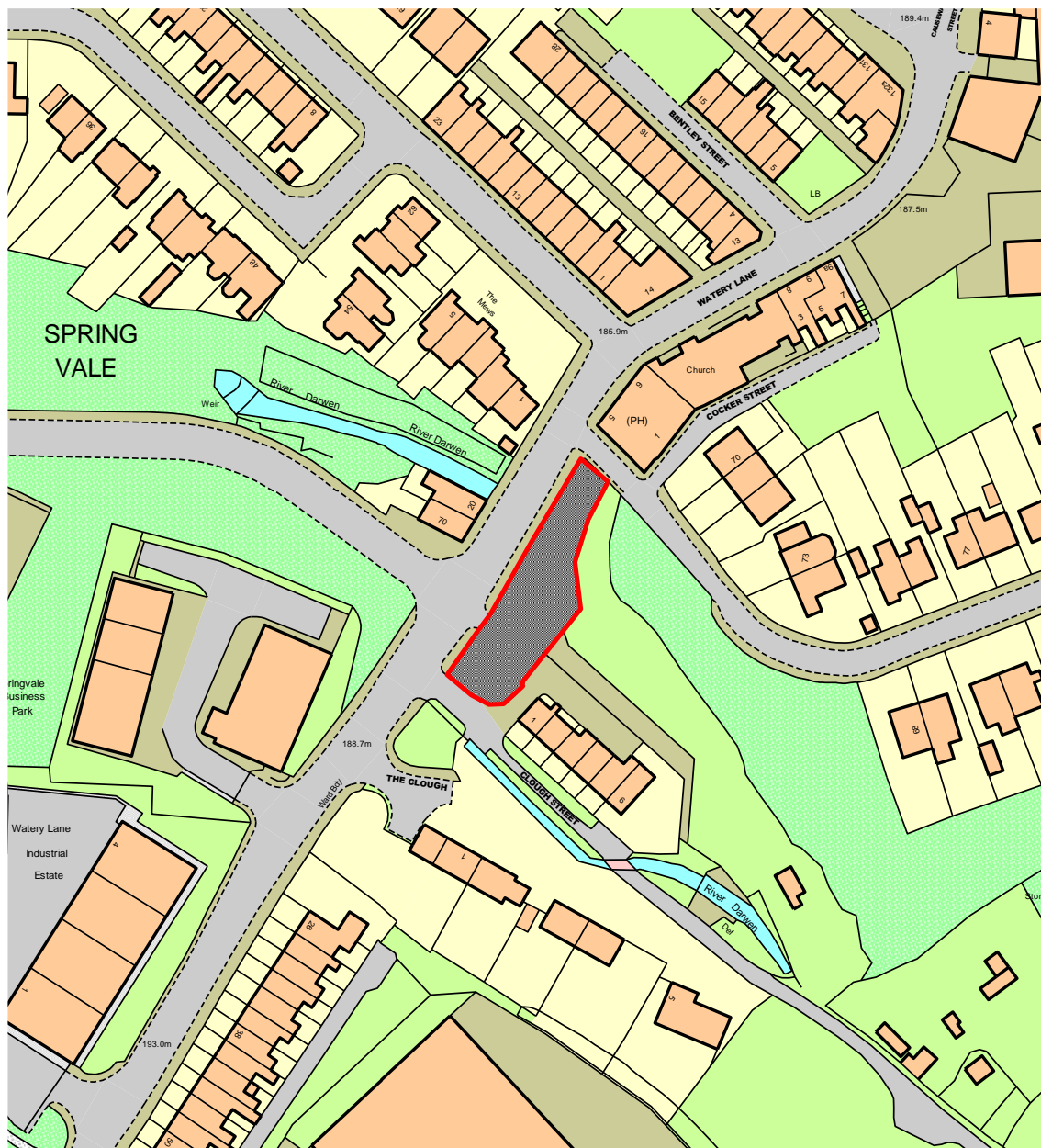
Proposed Development: Erection of replacement 2m high fencing along the northeast and northwest site boundaries

Site Address: Land at Watery Lane (between Clough Street and Spring Vale Garden Village), Darwen

Applicant: Mr R Hancock

Ward: Darwen South

**Councillor Kevin Connor
Councillor Matthew Jackson
Councillor Lilian Salton**



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

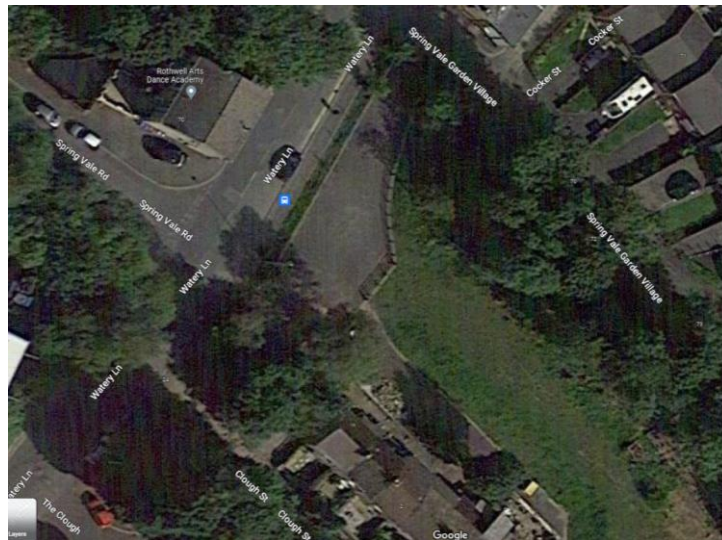
- 2.1 This application is presented to the Planning and Highways Committee, in accordance with the Council's Constitution, and given that a large number of objections have been received.
- 2.2 The proposed development has been publicised through letters to residents and occupants of the nearest 14 adjacent properties on 12th December 2022. Those neighbours were renotified on 25th January 2023 and 08th February 2023 given the receipt of amended information. A site notice was also displayed at the site access point on 19th December 2022.
- 2.3 Public comments have been received from 8 addresses objecting to the development. The objections received principally concern the temporary style of the fencing currently in place together with consequential visual impacts. Land ownership has also been cited as a concern. A summary of the objections received is detailed below in Section 7.6.
- 2.4 The Council's development plan supports new minor developments and associated works, provided they constitute sustainable development and accord with the development plan when taken as a whole.
- 2.5 This application involves the erection of replacement fencing around the northeast and northwest site boundaries. Temporary metal 'heras' style fencing is currently in place, which would be replaced by green 2m high weld-mesh fencing. Supplementary landscaping would also be provided along Watery Lane.
- 2.6 On balance, the proposals would be satisfactory from a technical point of view, with all issues having been addressed through the application process or capable of being controlled or mitigated through appropriately worded planning conditions.
- 2.7 The key issues to be addressed in determining this application are follows;
- Assessing any design and visual amenity impacts
 - Safeguarded the residential amenities of the immediate neighbours
 - Assessing any potential impacts on highway safety
 - Ensuring flood risk is not increased

3.0 RATIONALE

3.1 Site and Surroundings

- 3.1.1 The application site is a private carpark located within the settlement of Darwen. The site covers an area of circa 680 square meters. Dwellings and open landscaped areas surround to all sides. A culverted stretch of the River Darwen runs beneath parts of the site and the site is partly within Flood Zones 2 and 3 as a result.

Figure One – Satellite image of the site



- 3.1.2 The site has historically been used as a carpark yet it has been enclosed by fencing for around 2 years and a locked timber gate has been installed at the access point from Watery Lane. In addition to the temporary metal fencing, timber post and rail fencing of various heights define the site boundaries. A number of mature trees are also positioned adjacent.

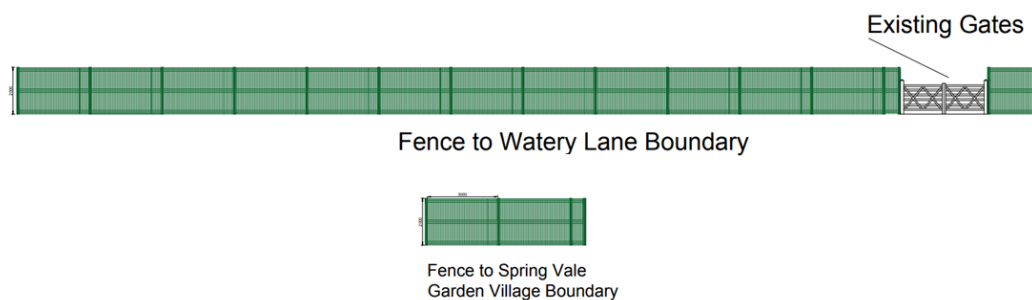
Figure Two – Submitted Location Plan/Proposed Site Plan (amended)



3.2 Proposed Development

- 3.2.1 As detailed above, this planning application involves the erection of replacement fencing. The temporary metal fencing currently in place would be entirely removed. Fencing is proposed along Watery Lane staggering the access point. The existing timber gate would remain in situ. A small stretch of fencing is also proposed along Spring Vale Garden Village.
- 3.2.2 The submitted Planning Statement identifies a need for the fencing in order to prevent antisocial behaviour in the form of fly tipping and congregations of vehicles. The application initially involved retaining the existing temporary metal fencing. However, amended plans have been received during the course of the application showing a more permanent form of fencing together with amendments to its position in order to avoid the culvert, which is shown above in Figure Two.
- 3.2.3 A green weld-mesh fencing is now proposed and the development description has been changed in order to reflect those amendments. The fence would have a height of 2m and it would be constructed from 3m wide perforated panels. Supplementary landscaping is also shown along Watery Lane in the form of 6 Alder trees.

Figure Three – Proposed Elevations Plans (amended)



3.3 Case Officer Site Photos



3.4 Development Plan

3.4.1 Local Plan Part 2 (2015):

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

4.0 **ASSESSMENT**

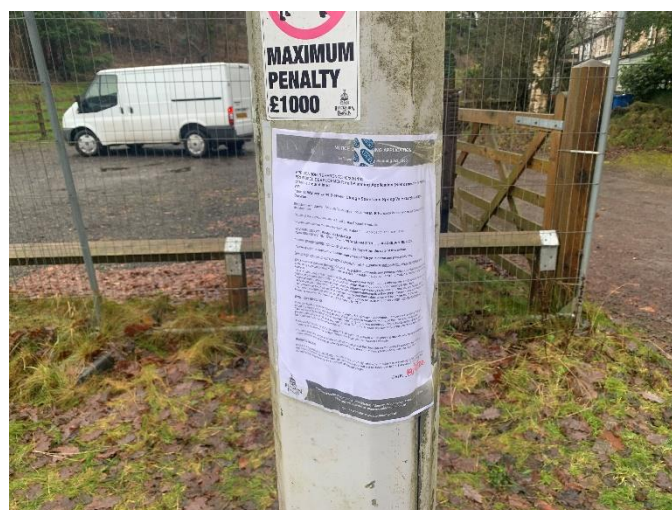
4.1 Procedural Matters

4.1.1 Concerns have been raised in public comments regarding land ownership. The application form initially submitted included the signing of Certificate A, which suggests the Applicant owns the full site. However, a Land Registry search was conducted during the course of the application and the land owners were identified.

4.1.2 The Agent subsequently submitted an amended application form and Certificate B has now been signed with notice served on both the landowners. Such an outcome is not uncommon with planning applications and the Agent has followed the correct procedures regarding land ownership and the serving of certificates following the issue with the application form initially being identified.

4.1.3 Public comments have also suggested that a site notice has not been displayed advertising the development. As detailed above in Section 2.2 and below in Figure Four however, such processes have been followed. A number of public comments have been received from addresses that were not notified by letter and the community as a whole is therefore aware of the application.

Figure Four – Photo of Site Notice (displayed 19/12/2022)



4.2 Design and Visual Amenity

- 4.2.1 The site is positioned within a location that has a relatively varied streetscene. In general terms, Policy 11 requires all development proposals to represent a good standard of design through demonstrating an understanding of the site's wider context and making a positive contribution to visual amenity. Concerns have been raised in public comments on design and visual amenity grounds.
- 4.2.2 As detailed above, the application initially involved retention of the temporary metal fencing currently in place. Such a style of fencing is designed to be used on a non-permanent basis and unacceptable implications would arise for the visual amenity of the area were the current fencing to be retained indefinitely.
- 4.2.3 Those concerns were discussed with the Applicant on site and were raised with the Agent following the site visit. Amended plans were subsequently secured during the course of the application showing a more visually sympathetic fence. Watery Lane and the surrounding highways are lined with boundary treatments of a variation of heights and styles. The erection of the fencing currently proposed would therefore not have a harmful impact upon the visual amenity of the area on that basis.
- 4.2.4 A condition is recommended to ensure the current fencing is removed and proposed fencing installed within a reasonable timeframe. A further condition is recommended to ensure the landscaping scheme shown on the submitted amended plans is implemented. Such a condition is necessary order to soften the expanse of the longest stretch of fencing from public vantage points along Watery Lane.
- 4.2.5 Subject to compliance with those conditions, 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 are positioned nearby and safeguarding the amenities of those neighbours is an important material planning consideration. Policy 8 states that all development proposals must secure a satisfactory level of amenity and safety for surrounding uses and for occupants or users of the development itself with reference to and the general relationship between buildings and structures. Concerns have been raised in public comments on residential amenity grounds.
- 4.3.2 Any impacts in the way of overshadowing caused by the proposed planting scheme would be intermittent and limited to certain times of the day. Such potential impacts would also be similar to those caused by existing mature trees in the immediate locality. Impacts on private views are not material planning considerations and there would be no losses of public views to the extent that would lead to the conclusion that the application should be refused, subject to the replacement fencing being installed, which has been conditioned.

4.3.3 Furthermore, the proposed replacement fencing would not be harmful to the living environments of the closest neighbours when the levels of separation are considered alongside the perforated nature of the fence. As proposed, the development is thus acceptable with reference to residential amenity, in accordance with Policy 8.

4.4 Highway Safety

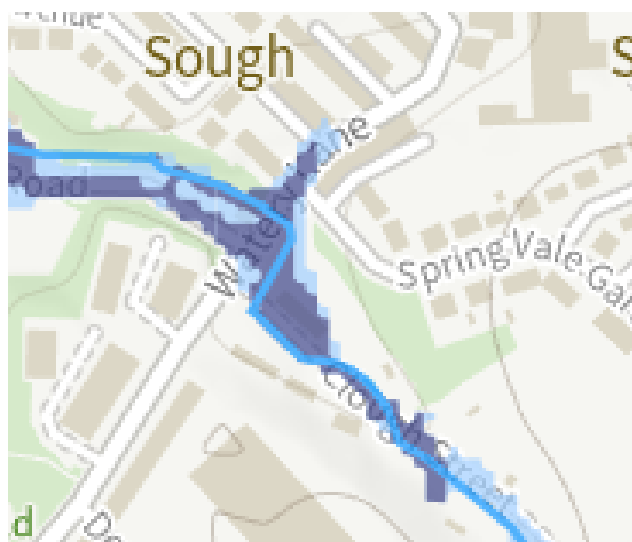
4.4.1 The site is currently accessed via a gated entrance point and those arrangements would remain unchanged. Policy 10 requires all development proposals to not prejudice road safety, or the safe, efficient and convenient movement of all highways users. Concerns have been raised in public comments on highway safety grounds.

4.4.2 However, those concerns relate to the blocks used to support the current fencing. Once the proposed fencing has been installed those potential issues would be removed. Furthermore, the proposed fencing would be sufficiently set back from the carriageway edge and adjacent junctions to ensure the visibility of highways users is adequately maintained. As proposed, the development is thus acceptable with reference to highway safety, in accordance with Policy 10.

4.5 Flood Risk

4.5.1 The site is located adjacent to a culverted stretch of the River Darwen and within Flood Zones 2 and 3, as shown below in Figure Five. Policy 9 requires all development proposals to avoid unacceptable impacts on environmental assets or interests, including flood risk. A brief Flood Risk Assessment has been submitted in support of the application.

Figure Five – Flooding Designations Plan



4.5.2 Both BwD Drainage and the Environment Agency have reviewed the submitted assessment and the merits of the application as a whole. BwD Drainage have raised no objections and that position was initially adopted by the Environment

Agency. However, given that amendments to the proposals have been submitted that include a permanent fence alongside associated ground works and landscaping, an objection from the Environment Agency was received given the presence of the culvert.

4.5.3 In response to those concerns the Agent has removed the fencing from the land adjacent to Clough Street. Furthermore, they have confirmed the construction techniques that would be applied to install the fencing together with the depth of the foundations. The submission of such information was adequate to enable the Environment Agency to remove their objection.

4.5.4 Their latest comments contain permitting requirements given that works are proposed within close proximity to the culvert. An Informative Note should therefore be added to any approvals issued raising awareness to those legal requirements. Subject to those obligations being followed, the proposed development would be acceptable with reference to flood risk, in accordance with Policy 9.

4.6 Wider Considerations

4.6.1 Further public comments have been received regarding a lack of functional purpose for the fencing, the potential for landscape maintenance to be obstructed around the site and the current presence of temporary fencing adjacent to the cottages on Clough Street.

4.6.2 As detailed above, the Agent has advised that the fencing is required in order to prevent antisocial behaviour. It is acknowledged that the solutions put forward seem like a costly solution to resolve those issues yet the application currently presented involves the erection of fencing that would not be harmful to the visual amenity of the area, as detailed above. No changes to the use of the land are proposed and the lawful use of the site is currently a private carpark. Any unauthorised deviations from that existing use would ultimately be unlawful, and liable to formal enforcement action.

4.6.3 Regarding landscape maintenance, erection of the fencing proposed would have a similar level of impact upon the maintenance regimes of the land when compared with the timber fencing that has historically been in place. Simply strimming around the fence would be a logical solution to overcome those potential issues.

4.6.4 Finally, the latest plans only include fencing along Watery Lane and Spring Vale Garden Village. This application does not involve any fencing outside of those locations and the fencing currently in place to the rear of Clough Street should be removed. The matter has been reported to the Enforcement Team and they will commence the necessary actions following the determination of this application.

4.7 Summary

- 4.7.1 This application involves the erection of replacement boundary fencing along the northeast and northwest site boundaries. Subject to appropriate conditions, the proposed development would be acceptable on all the relevant planning grounds, in accordance with the policies detailed in Section 3.4.
- 4.7.2 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 proposals would be acceptable in terms of design and visual amenity, residential amenity, highway safety and flood risk.
- 4.7.3 The proposed development therefore complies with the development plan. There is a positive presumption in favour of approving the development and there are no material reasons to object to the application.

5.0 **RECOMMENDATION:**

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

- 5.1 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), Site Plan (1:200) (amendment dated 16/03/2023), Fence to Spring Vale Garden Village Boundary (1:50) (amendment dated 16/03/2023) and Fence to Watery Lane Boundary (1:50) (amendment dated 16/03/2023).

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

- 5.2 Within 12 months from the date of this decision, any metal fencing within/enclosing the site must have been removed in its entirety and the replacement fencing as shown on the approved plans 'Site Plan (1:200) (amendment dated 16/03/2023), Fence to Spring Vale Garden Village Boundary (1:50) (amendment dated 16/03/2023) and Fence to Watery Lane Boundary (1:50) (amendment dated 16/03/2023)' must have been installed entirely in accordance with those plans.

REASON: In order to ensure the current fencing is replaced with a more visually sympathetic alternative, in the interests of the visual amenity, and to comply with the requirements of Policy 11 of the Blackburn with Darwen Borough Local Plan Part 2.

- 5.3 Within the first available planting season following the issuing of this decision, the landscaping scheme as shown on the approved plan 'Site Plan (1:200) (amendment dated 16/03/2023)' must have been implemented in its entirety. Any tree that is lost, felled, removed, uprooted, dead, dying or diseased or is

substantially damaged within a period of ten years thereafter shall be replaced with a specimen of a similar species and size, during the first available planting season following the date of loss or damage.

REASON: In order to ensure soft landscaping measures are provided in support of the development, in the interests of the visual amenity, and to comply with the requirements of Policy 11 of the Blackburn with Darwen Borough Local Plan Part 2.

Case specific Informative Note

5.4 The Environmental Permitting (England and Wales) Regulations 2016 require a permit to be obtained for any activities which will take place:

- on or within 8 metres of a main river (16 metres if tidal)
- on or within 8 metres of a flood defence structure or culverted main river (16 metres if tidal)
- on or within 16 metres of a sea defence
- involving quarrying or excavation within 16 metres of any main river, flood defence (including a remote defence) or culvert
- in the floodplain of a main river if the activity could affect flood flow or storage and potential impacts are not controlled by a planning permission.

For further guidance please visit <https://www.gov.uk/guidance/flood-risk-activities-environmental-permits> or contact our National Customer Contact Centre on 03708 506 506.

The applicant should not assume that a permit will automatically be forthcoming once planning permission has been granted, and we advise them to consult with us at the earliest opportunity.

6.0 PLANNING HISTORY

6.1 No relevant planning history.

7.0 CONSULTATIONS

7.1 BwD Arboricultural Advisor – The development would not have any particular or notable impact on trees or shrubs.

7.2 BwD Drainage – No objections.

7.3 Environment Agency – We have no objection to the retention of the existing temporary fencing around the site. The Environment Agency's Flood Map for Planning indicates that the site lies within Flood Zones 2 and 3. The site may act as a route for overland flows during a flood and therefore we would recommend that, should the applicant wish to replace the existing temporary fencing with a more permanent solution, any proposed permanent fence should

be open structured at the bottom or at least a mesh style fence to allow the free passage of water.

Should the proposals be modified to include a permanent fence or other development, we would remind the applicant of the flowing requirements additional to planning approval.

(Update) The River Darwen, Watery Lane and Clough Street Bypass Culvert passes underneath the site and this watercourse is a designated, statutory, main river. We therefore object to the development as currently proposed.

Reason – The proposed replacement V -mesh fencing for the temporary Hera type fencing specification requires ground excavation and a 600mm dug foundation to fix the posts. The excavations required could compromise the integrity of the culvert beneath the site, no details regarding the excavations have been provided.

Overcoming the objection – The applicant should provide construction details and a methodology to demonstrate there will be no detriment to the integrity of the culvert.

(Update) Following confirmation of foundation details we remove our objection to this application on flood risk grounds, however the works still involve erecting a structure (whether temporary or permanent) in, over or under a main river. The proposals also include tree planting over the culvert. A permit may therefore be required as part of the Environmental Permitting (England and Wales) Regulations 2016.

7.4 Darwen Town Council

7.5 Ward Cllrs

7.6 Summary of Public Responses

- The Applicant may not own the land
- A site notice has not been displayed advertising the application
- The existing fencing looks unsightly
- Private views are effected by the existing fencing
- The proposed trees may overshadow adjacent property once mature
- The existing fencing is only for temporary use
- A trip hazard is caused by the blocks supporting the fencing
- There is no functional purpose for the fencing
- Landscape maintenance is prevented by the fencing
- The existing fencing runs adjacent to the cottages on Clough Street

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

9.0 **DATE PREPARED:** 04th April 2023

10.0 SUMMARY OF REPRESENTATIONS

Objection – Rachel Nicholson, 1 The Clough, Darwen. Received: 28/12/2022.

I have received notice of an application to retain the fence on land at Watery Lane.

My concern is that the current fence is a temporary metal fence left by the environment agency when the work was done on the culvert a few years ago. It is not very aesthetically pleasing to look at and if this was to become a permanent fence I feel a more suitable structure should be put in its place in keeping with the surrounding area rather than looking like a building site which it currently looks like.

I would be grateful if my concerns could be noted on this matter.

Objection – Nicola Howarth, 1 The Mews, Thompson Street, Darwen. Received: 27/01/2023

Hi thanks for the information.

How do I go about opposing the planting of 6 native alders.

These grow very quickly to approximately 20-30 m.

This will result in blocking light onto my house and gardens.

Objection – Maxine Walsh, The Old Function Room, Darwen. Received: 03/02/2023.

Good morning

I would like to oppose the planning for the construction of a fence around the plots of land between Spring Vale Gardens and Clough Street Darwen. The fence has been there already for around two years. It is an eyesore and doesn't look very secure.

I run the local pub next door, and as you can imagine this has had an impact on my business.

I have rented this car park over the last eight years for my business and my landlord and the church have used it prior to this. We have concerns over the ownership of the land.

Objection – Amanda, 20 Watery Lane, Darwen. Received: 06/02/2023.

Hi it's Amanda from 20 Watery Lane. We objected to the fencing across the road. It will spoil the view from my front windows.

Objection – Abby Conlon, 65 Spring Vale Garden Village, Darwen. Received: 13/02/2023.

Hello, I would like to formally object to Planning Application 10/22/1152 - for retention of fencing on the land at the bottom of Watery Lane. I have included photos of the railings for your reference.

Please note, my objection is not to the wooden fencing in place which already prevents cars entering the land - by this, I refer to the knee height wooden fencing around the perimeter, the padlocked 5ft double wooden gate or large boulders in place where wooden fencing isn't - I only object to the metal 'temporary' railings.

I have attached photos showing the railings, the wooden fencing and gate and the obstruction of the footpath.

Structure of the railings

- The metal railings have been in situ for well over a year. This would indicate that they are now a permanent fixture. They are intended for temporary use - and are sold under Bloknmesh fencing where the website clearly states that they are 'temporary'. [Temporary Fencing | Buy or Hire | Blok 'N' Mesh \(bloknmesh.com\)](#) Temporary fencing is intended for construction sectors or other industries. The land is in a residential area, has a row of cottages backing onto it, and facing it and is used for neither construction or industrial purposes.

As a result of only being temporary fencing, since it has been in place, several issues have arisen:

- The lightweight rubber bases extend onto the footpath on the hill next to the Function Room pub - creating a trip hazard. They move fairly frequently, so in Winter when it is dark their location cannot be predicted.
- The bases prevent the council maintaining the strip of grass between the land and the pavement. Until last summer, this was well maintained via strimming and weed control. This has resulted in overgrown weeds and grass in the summer, thus affecting the visual amenity of the area.
- Two weeks ago, two panels opposite the Function Room pub came down, obscuring the road, meaning they had to be moved back onto the land and the land owner reassembled them, leaving the rubber base in the footpath again.
- The panels are not sturdy enough to consistently withstand poor weather, as discussed above. This again is an indication that they should not be used long term.
- The railings have gaps at either end that are large enough to fit a person through and the existing wooden fencing and gate would already prevent a vehicle entering the land. Therefore this indicates that there is no 'functional' or security purpose that the railings serve.
- No wind load calculation has been carried out – the railings are dangerous, not permanently fixed and if they fall again will continue to create a trip hazard.

The Design of the railings

- The bottom of Watery Lane has a number of properties and cottages. It is a residential area. Temporary metal railings are not in keeping with the character of the area due to being intended for construction and industrial purposes. Some of the railings run directly behind the row of cottages on Clough Street and by comparison to the local area, they ignore local design.
- There are no other temporary metal railings where works are not taking place in the area. Therefore these stand out and as well as looking ugly affect the visual amenity of the area.

- The materials of the temporary railings do not match the long standing and current aesthetic of the area which is brick and stone walls or wooden fencing.
- A visual amenity assessment has not been carried out to consider the impact the railings are having on the local area.

The Land

Many residents and myself included were under the impression that the land was owned by the council and that the railings had been put up and forgotten about. Since finding out that the land is in fact privately owned, the local councillor has expressed concern, as have other residents about the temporary railings staying.

Residents have not been sent letters notifying them of the submission of the application which would have provided them the opportunity to object.

Concluding Points

I fully appreciate and respect the right to fence off and protect land and property.

However, as previously stated, the existing wooden fencing (to which I have no objection) prevents vehicles from entering and the land is left as a closed car park - nothing is stored or left on there, no one has reason to access it other than the owner of the land. This therefore negates the need for the temporary metal fencing. Due to poor quality and gaps at either end, the temporary metal railings (which I do object to), do nothing in addition to the wooden fencing and would not stop a person entering the site if they so wished on foot.

The temporary metal railings do not fit in with the existing aesthetic or local design of the area, they are not being used within the manufacturer's recommendations as they are no longer 'temporary', they have not been risk assessed for wind load, they are flimsy and the bases are prone to movement - particularly onto the path opposite the pub, creating a trip hazard. The temporary metal fencing prevents the maintenance of the strip of grass between the land and the pavement at the bottom of Watery Lane, which again affects the aesthetic of the area, and I suspect some parts of the fence or bases may also encroach onto council land.

Neither the structure or design of the railings are fit for purpose or the environment in which they are being used, and I would request that planning permission for their retention is denied and that it is the metal fencing that is specified within the denial.

Please acknowledge receipt of this objection email.





Objection – Janet Knowles, 45 Jacks key Drive, Darwen. Received: 14/02/2023.

To whom it may concern,

I have been made aware via Facebook of an application to erect high metal fencing on land at the bottom of Watery Lane, Darwen.

I wish to lodge my objection for the reasons listed below:

1. A metal fence is not in keeping with the design of other structures in this area, which are predominantly brick, stone and wood.
2. If the aim is to prevent cars from parking on this land, then the wooden fence, boulders and gate currently in place are sufficient to achieve this.
3. The applicant has stated that there has been an issue with fly-tipping at the site but neither I, nor anyone else I have spoken to about this, has ever seen fly-tipping here. In addition, the proposed wooden gate is only 5 feet high, so there doesn't appear to be a rationale for having the fence built higher. The adjacent pub has CCTV too, which would be a deterrent to any future fly-tipping.
4. The cottages on Clough Street, the Function Room and the other houses in the vicinity are quaint in style, completely different in nature from this proposed fencing, which would adversely affect the visual amenity of the area.
5. Although I don't live in the immediate vicinity, I enjoy walking my dog in this area and have thought for many months what an eyesore this high metal fence is, and how it spoils this residential area. I have no objection whatsoever to the wooden fence remaining, or even the erection of a more sturdy wooden fence, but I feel that it is wholly inappropriate to have a permanent structure of this industrial nature at this location.

I was surprised, when I saw on Facebook last weekend, that this planning application had been submitted. No notices have been posted, either on the fence or nearby lampposts for example, to inform residents; neither has anyone received notification to their home address to inform them of the application and their right to object. I find this concerning as the deadline for lodging an objection is next week.

Objection – Brad Langford, Cranberry Meadows, Darwen. Received: 21/02/2023.

Good morning.

I have noticed a planning application for the owner of a plot of land on Watery Lane Darwen to erect a permanent metal perimeter fence ref 10/12/1152.

I am a resident and home owner on the Cranberry Meadows development on Cranberry Lane. I pass by this plot daily and would like to object to this fencing becoming permanent.

There is currently a wooden small boundary in place around this plot and a locked wooden gate that is much more in keeping with the local environment and aesthetics. I feel a metal fence on a permanent basis makes the area look untidy and would likely result in the plots upkeep being neglected over the long term such as uncontrolled undergrowth making its way over the pavement.

Objection – Jennifer Saul, 15 Crosby Close, Darwen. Received: 21/02/2023.

Good evening

I'm writing to object against the above planning application.

This Harris type security fencing is not fit to be a permanent fixture. These flimsy fences are not safe to be used long term.

REPORT OF THE STRATEGIC DIRECTOR

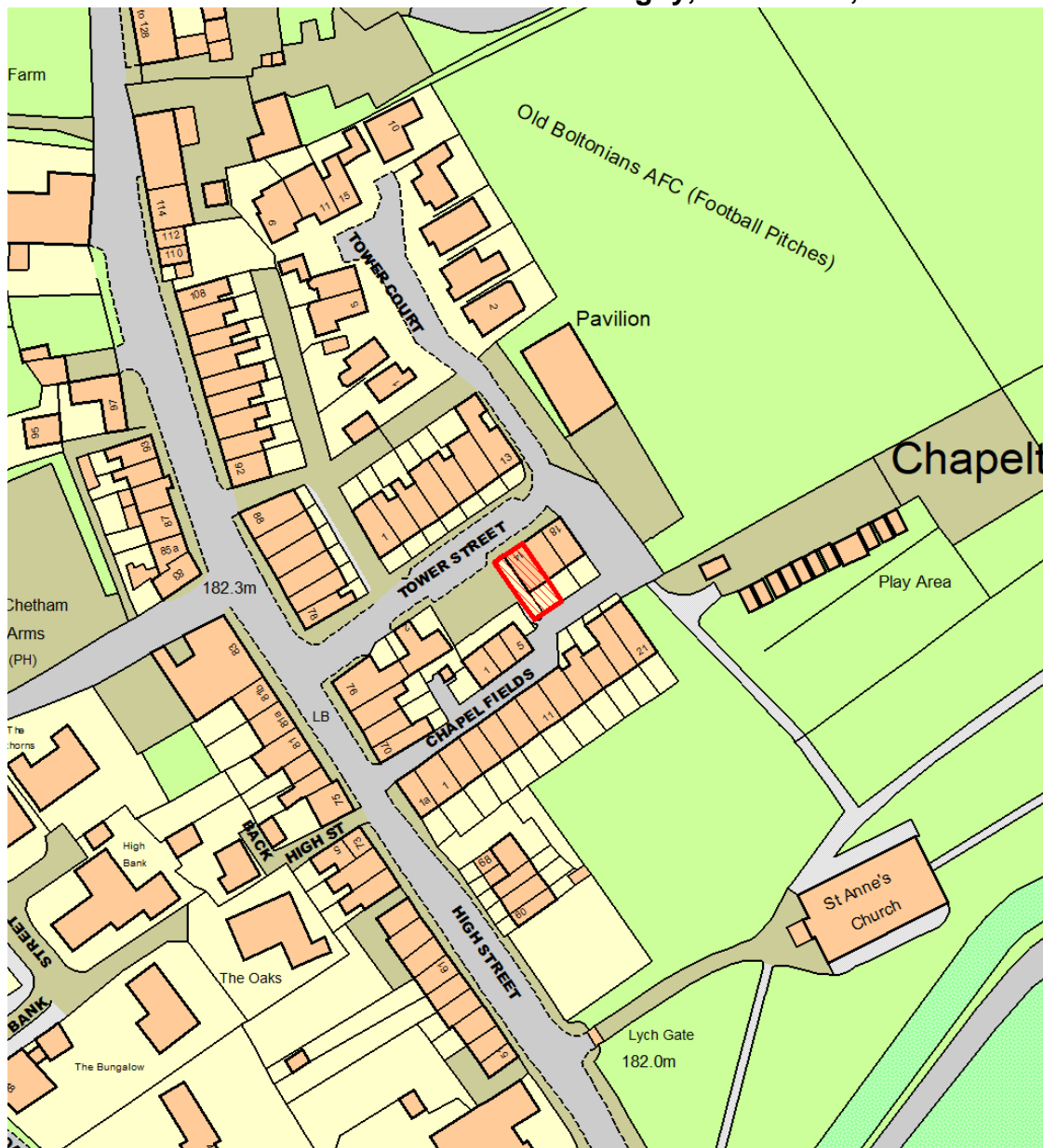
Plan No: 10/22/1198

Proposed development: Full Planning Application for Proposed change of use to the land as side garden (Use Class C3) with 1.8m timber fence and erection of single storey rear extension

Site Address:
14 Tower Street
Chapelton
Bolton
BL7 0EU

Applicant: Mr Steve Charnock

Ward: West Pennine: Councillors: Jean Rigby, Neil Slater, Julie Slater



1.0 SUMMARY OF RECOMMENDATION

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

2.0 KEY ISSUES/SUMMARY OF PLANNING BALANCE

- 2.1 This application is presented to the Planning and Highways Committee, in accordance with the Scheme of Delegation, due to the receipt of an objection to the proposals from North Turton Parish Council.
- 2.2 The proposal seeks to change the use of a small strip of land to the side of No.14 Tower Street to garden area (Use Class C3), and enclosing it with the installation of a 1.8m high timber fence. A single storey rear extension limited to the existing rear yard area is also proposed.
- 2.3 The key issues in the assessment of the application are the principle of the development, impact upon the character and appearance of the Chapeltown Conservation Area and setting of listed buildings, design / visual amenity issues, and potential harm of the extension on residential amenity. In arriving at the recommendation, all material matters have been considered, in the context of relevant Development Plan policies and The Framework, as set out in the Assessment section of this report. In summary, assessment of the application finds the proposal is acceptable, subject to control of certain matters through the use of appropriately worded conditions.

3.0 RATIONALE

3.1 Site and Surroundings

- 3.1.1 The application site relates to a two storey cottage at the end of a row of three on the southern side of Tower Street off High Street, within the Chapeltown Village Boundary. The host dwelling constructed in the mid-late 19th Century has stone elevations to the front and rear, a rendered side gable elevation and a slate roof. The site lies within the Chapeltown Conservation Area.
- 3.1.2 To the immediate west is an area of paved open space with planters and three single trees followed by two dwellings which are set-back. A short distance away to the north-east is Old Boltonians AFC pavilion and football pitches.

3.1.3 Figure 1 presents an aerial view of the site and its surroundings.

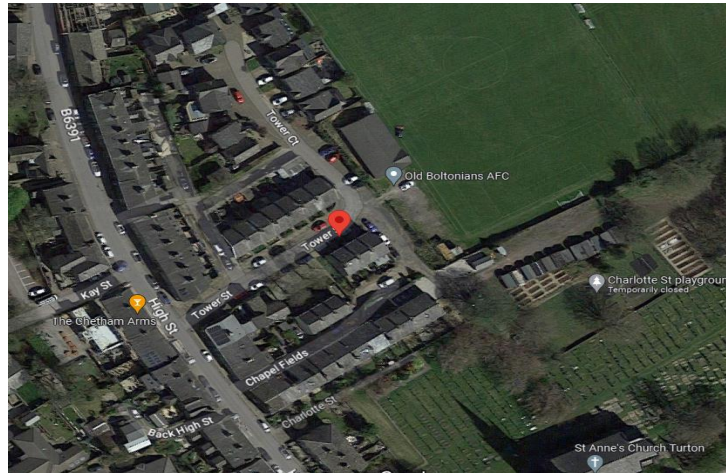


Figure 1: Google aerial view of the application site

3.2 Proposed Development

- 3.2.1 The strip of soft landscaped land to the gable elevation of the host property despite proven to be within the ownership of the applicant was determined during previous planning applications not to be within the residential curtilage associated with No.14 Tower Street.
- 3.2.2 Planning permission is sought to change the use of this aforementioned area to be used as garden (Use Class C3). To enclose the land a 1.8m high timber close boarded fence is proposed.
- 3.2.3 The proposal also seeks consent to erect a single storey lean-to extension at the rear of the property to create additional living space to provide a family room and open plan kitchen and dining area and to relocate the stairs.
- 3.2.4 The proposed single-storey extension will span most of the rear elevation at 4.6m in width and project out circa 3.7m into the existing garden/yard area, leaving a small area for access. It will have a mono-pitch roof with an eaves height of 2.5m and 3.8m the ridge. The proposed extension will have full-length windows on its rear elevation, an entrance doorway to the side, and two roof lights.
- 3.2.5 As part of the works, the existing stone boundary wall that currently continues from the side elevation will be replaced by the side elevation of the proposed extension. The proposed extension will be finished in render and quoins with a slate roof to match the existing. There are no material details provided for the proposed windows and door.
- 3.2.6 Figure 2 shows the proposed site plan and proposed ground floor plan. Figures 3 and 4 demonstrates the submitted elevation drawings for the proposed rear extension and extent / height of the proposed timber fencing.

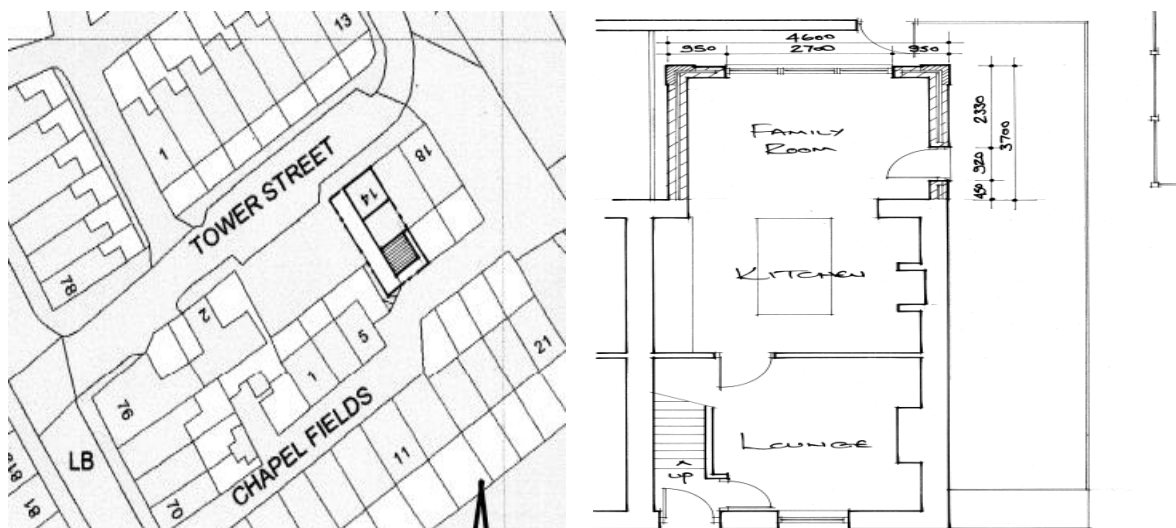


Figure 2: Proposed Site Plan (left) and Proposed Ground Floor Plan (right)

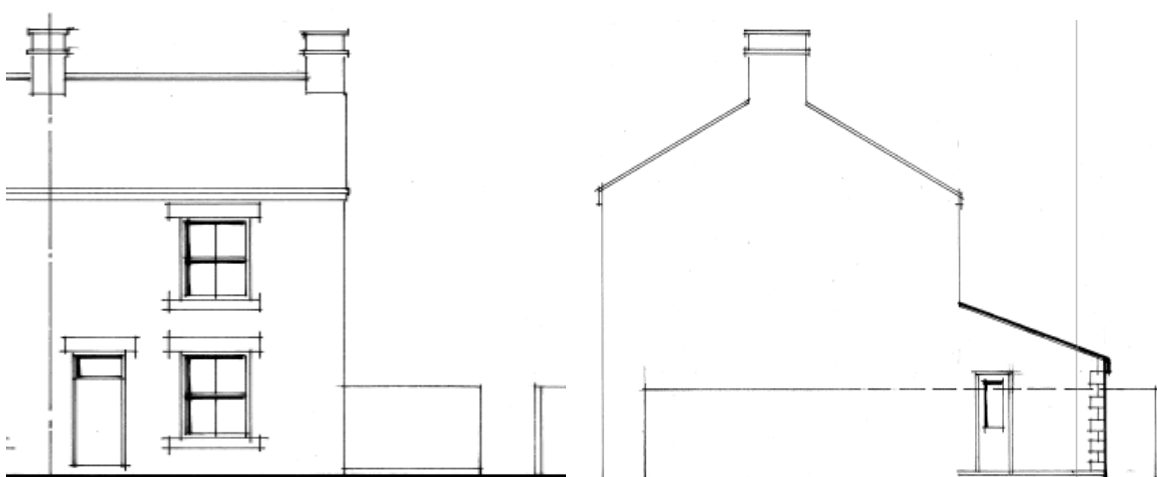


Figure 3: Proposed Front Elevation (top left), Proposed Side Elevation facing No.5 Chapel Fields (top right).

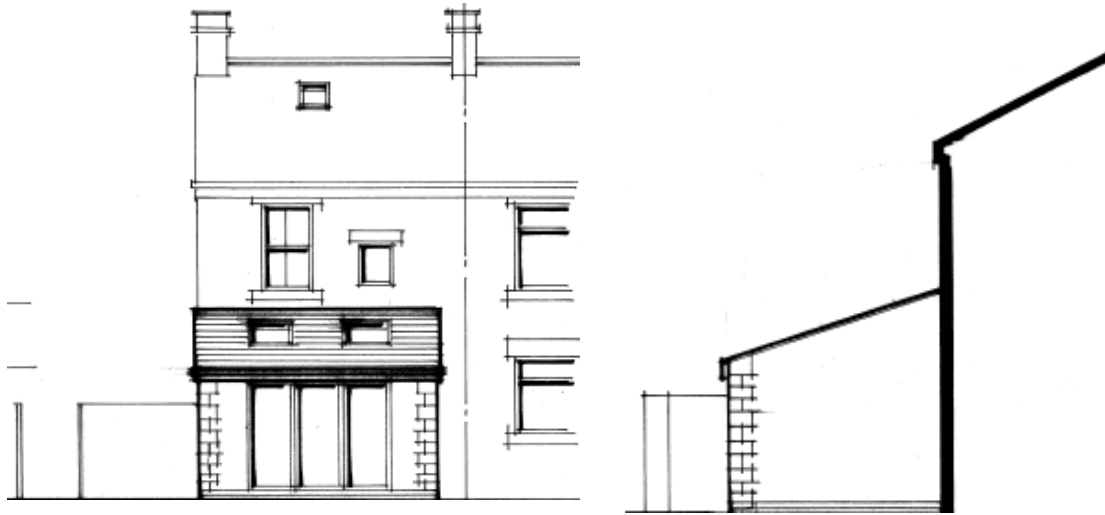


Figure 4: Proposed Side Elevation facing No.16 Tower Street (bottom right)

3.3 Case Officer Photos



3.4 Development Plan

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

3.4.2 The 'Development Plan' comprises the adopted Core Strategy DPD (2011) and adopted Local Plan Part 2 – Site Allocations and the Development Management Policies (2015). The following policies are considered relevant in assessment of the proposed development;

3.4.3 Core Strategy

- Policy CS16 – Form and Design of New Development
- Policy CS17 – Built and Cultural Heritage

3.4.4 Local Plan Part 2

- Policy 7 – Sustainable and Viable Development
- Policy 8 – Development and People
- Policy 10 – Accessibility and Transport
- Policy 11 – Design
- Policy 25 – Residential Curtilages
- Policy 39 – Heritage

3.5 Other Material Planning Considerations

3.5.1 The Town and Country Planning (Listed Buildings and Conservation Areas) Act 1990, as Amended – Section 72(1)

3.5.2 National Planning Policy Framework (NPPF)

- Section 12: "Achieving Well-Designed Places"
- Section 16: "Conserving and enhancing the historic environment"

3.5.3 Residential Design Guide Supplementary Planning Document

3.5.4 Chapeltown Conservation Character Appraisal

4.0 ASSESSMENT

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

- Principle of Development
- Impact to the Chapeltown Conservation Area and the Setting of nearby Listed Buildings
- Design/Visual Amenity
- Residential Amenity

- Highways

4.2 Principle of Development

4.2.1 The proposed garden extension involves a very modest encroachment into land to the west of the dwelling. This strip of land has been established to be within the ownership of the applicant, but has never formed part of the residential curtilage associated with No.14. It is an unenclosed area largely comprising of overgrown vegetation which is already read in connection with the host dwelling.

4.2.2 As such, in land use terms, the principle of the change of use to garden (C3) is accepted, together with the domestic extension proposed in accordance with the presumption in favour of sustainable development detailed in the NPPF and LPP2, Policy 7, which proposals should proceed without delay, unless impacts which significantly and demonstrably outweigh the benefits of a proposal are identified; subject to assessment of the following matters:

4.3 Impact to the Chapeltown Conservation Area and the Setting of nearby Listed Buildings

4.3.1 The first consideration in the assessment of this application is the Planning (Listed Buildings and Conservation Areas) Act 1990. Section 72 (1) of the Planning (Listed Buildings and Conservation Areas) Act 1990 states that in the exercise of planning functions special attention shall be paid to the desirability of preserving or enhancing the character or appearance of a conservation area.

4.3.2 Policy 39 of the Local Plan Part 2 requires development with the potential to affect any designated or non-designated heritage asset, either directly or indirectly including by reference to their setting, will be required to sustain or enhance the significance of the asset.

4.3.3 The Council's Conservation Officer (CO) has reviewed the submitted proposals and offers no objections. The full assessment from the heritage advisor can be viewed at paragraph 7.4 of this report.

4.3.4 It was noted that the proposed rear extension is to be on a secondary elevation which is of lesser significance. In addition, several properties in the immediate area have benefitted from similar extensions to that proposed under this application. These include one within the same row as the application site. The dwellings with lean-to single storey rear extensions (of various styles) which were visible on my site visit together with supporting images are presented below:



Figure 5: 18 Tower Street (left), 19 and 21 Charlotte Street (middle), 70 High Street (right),

- 4.3.5 With regards to the materiality of the extension, some concern is offered to the proposed rendering of the rear elevation, however it was concluded it would result in no discernible harm and the render would tie in with that of the existing gable elevation. Notwithstanding this, written and illustrative details of the walling, roofing, window, and door materials to be used in construction of the extension will be secured by condition prior to their use in the development.
- 4.3.6 Concerns are raised by the North Turton Parish Council that the proposal would result in the closure of the historic bypass in between the application site and No.5 Chapel Fields. However, it should be pointed out access for this thoroughfare will be maintained by virtue of a circa 1.2m gap being left, and thus will allow continued use. It is also worth noting that the applicant could enclose the piece of land to the side with a 2m high fence without the need of planning permission, albeit consent is required for use as garden area. Taking this fall-back position into account, the proposal would result in no greater impact than that which could be carried out through permitted development under Part 2, Class A of the GPDO.
- 4.3.7 In regards to the timber fencing proposed to enclose the garden extension, whilst accepted that fencing is not a typical feature with the CA it is not totally an alien feature. It is also recognised that the fencing mirrors the arrangements at the neighbouring property, No.5 Chapel Fields. A condition is to be attached to control the exact type of fencing to be used with details required to be submitted prior to its installation.
- 4.3.8 In summary, the CO points out;

‘The proposal put forward for the lean-to single storey rear extension is of an appropriate design/scale and is an improvement on the earlier application, which was refused. The extension mirrors similar extensions/additions to properties seen within the immediate CA. As such, I do not think there will be any substantive harm to either the

character or appearance of the Chapeltown Conservation Area as a result of the proposed works’.

- 4.3.9 The proposed location is sited within close proximity to several Grade II listed buildings, most notably The Chetham Arms, 87 and 89 High Street, 75 High Street and the Church of St. Anne. Therefore, the proposal will be assessed in relation to the impact on the listed buildings setting.
- 4.3.10 The assessment from the CO identifies that there are only limited views from the host property to the listed Chetham Arms with no visual connection to any of the other above-mentioned listed buildings. As such, the proposal will not impact upon the setting of those nearby Grade II listed buildings.
- 4.3.11 Subject to compliance with those conditions, the proposed development would meet the statutory test to ‘preserve’, causing no substantive harm to either the character or appearance of the Chapeltown Conservation Area, nor to the contribution made by the setting to the significance of any nearby Grade II Listed building. Thereby, the proposal complies with the core objectives of Policies CS17 and 39 together with Chapter 16 of the NPPF.

4.4 Design / Visual Amenity

- 4.4.1 Policy 25 of the LPP2 states ‘an extension to a residential curtilage will only be permitted where it will not, in isolation or in combination with other committed or completed development, lead to any detriment to visual amenity or to the character of the surrounding landscape. In appropriate cases the Council will remove permitted development rights in order to protect the character and amenity of the landscape’.
- 4.4.2 The garden extension amounts to a circa 2.3m extension to the land at the side which measures 14m from front to back. The subsequent change of use is not considered to be detrimental to visual amenity or landscape character. Indeed the extended curtilage will be read in conjunction with the existing dwelling, and enclosed by a timber fence which is similar to the arrangements at No.5. It should also be pointed out that at present this strip of land has an untidy appearance by virtue of overgrown vegetation, and thus the proposal will lead to an improvement.
- 4.4.3 Policies CS16 and 11 require development proposals to be of a high standard of design through demonstrating an understanding of the sites wider context and making a positive contribution to visual amenity.
- 4.4.4 RES E7 require that materials used, roof shape and fenestration details for any single storey rear extensions reflect the appearance of the existing dwellinghouse.

4.4.5 The proposal has been appropriately designed through the use of a mono-pitched roof which harmonises with the main roof form. As discussed in the above heritage sub-section, whilst acknowledged the use of stone would harmonise better with the existing rear elevation. However, render is largely prevalent on the dwelling and within the street scene, and thus is not considered to be unduly harmful upon visual amenity of the property itself or surrounding area. The proposed two velux rooflights cause no concern given they are a common feature in the area.

4.4.6 Subject to the imposition of conditions relating to the materials and fencing to be used, the resultant scheme is considered to acceptable in design / visual terms, complying with Policies CS16, 11, 25, and RES E7 of the Design SPD.

4.5 Residential Amenity

4.5.1 Policy 8, amongst other criteria, requires successful proposals to secure satisfactory levels of amenity for users of the development and surrounding uses, with reference to matters including; light, privacy/overlooking and the relationship between buildings. These matters are reinforced within the Design SPD.

4.5.2 It was noted on my site visit that a habitable room window was positioned within the rear elevation of No.16 Tower Street in close proximity to the common boundary. When measuring the 45 degree rule on a horizontal plane, the proposed rear extension would breach against this ground floor window at the neighbouring property. The proposal does accord on a vertical plane.

4.5.3 Whilst accepted, the proposed extension may have a slight impact upon this window in terms of loss of light it is not considered to result in a significantly overbearing and dominant addition. The proposal would also see the removal of the existing high stone structure in the rear yard area along its boundary. Therefore, it is likely to result in a slight betterment to the living conditions in terms of light and outlook of the rear kitchen window at No.16.

4.5.4 With regards to No.5 Chapel Fields, the gable side elevation of this property features a blank wall with no window openings. The positioning, massing and design of the single storey rear extension will therefore cause no undue impacts in terms of dominance etc. A door opening that is partly glazed is to be inserted in the side of the extension facing towards No.5, however this will not result in privacy concerns given the relationship to the front window at No.5 which only allows for oblique views. The proposed boundary treatment will also act as a screen.

4.5.5 The proposed rear extension includes floor-to-ceiling windows in the rear elevation which directly face towards rear of the properties adjacent on Charlotte Street. Given the proximity of the extension to the existing stone boundary wall at the host property, limited views would be afforded to the first

floor windows adjacent and vice versa, thus mitigating against any detrimental privacy impacts.

- 4.5.6 RES E5 states extensions should be designed to allow sufficient amenity space and not constitute over development of the plot. Despite, the proposed rear extension covering a large proportion of the rear backyard, resultant of the inclusion side area as garden it is determined adequate space is provided for bin storage, and general use of outdoor space including drying of washing etc.
- 4.5.7 For the reasons above, the proposal is found to be acceptable from an amenity perspective, in accordance with LPP2, Policy 8, as well as guidance contained with Design SPD.

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:
 - Site Location Plan; and
 - Drawing No. TS/PL/22/001 A – Existing and Proposed Plans and Elevations - Received 22nd April 2022

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

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

REASON: To ensure that the external appearance of the development is satisfactory; in accordance with Policies 11 and 39 of the Blackburn with Darwen Borough Local Plan Part 2 and the adopted Blackburn with Darwen Design Guide Supplementary Planning Document.

4. Prior to installation of the fencing hereby permitted, details confirming the exact height, materials and design shall have first been submitted to and approved in writing by the Local Planning Authority. The agreed boundary

treatment shall then be provided in full accordance with the approved details before the proposed garden extension hereby approved is first brought into use and remain in perpetuity thereafter, unless otherwise agreed in writing.

REASON: To ensure a satisfactory form of development is achieved, in the interests of visual amenity, and to comply with the requirements of Policies 11 and 39 of the Blackburn with Darwen Borough Council Local Plan Part 2.

5. 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.

6.0 PLANNING HISTORY

- 10/20/0845 – Proposed single storey side and rear extension. Withdrawn, 5th November 2020.
- 10/20/1066 – Extension of residential curtilage to side and proposed single storey side/rear extension. Refused, 12th January 2021 for the following reasons;
 1. The proposals, by virtue of their scale, design, massing, siting and materials, are considered contrary to Policies 8, 11 and 39 of the Blackburn with Local Plan Part 2 (2015), the Council's Residential Design Guide SPD and Conservation Areas SPG and the National Planning Policy Framework. The proposals would be unsympathetic and incongruous additions, out of keeping with the style, character and appearance of the original dwelling and locality, that will neither preserve nor enhance the character, appearance or significance of Chapeltown Conservation Area.
 2. The loss of the open area to the side of the property will result in the enclosure of one of the historic thoroughfares from Tower Street to St Anne's CofE Church which are fundamental to the intrinsic character of Chapeltown Conservation Area. The proposed enclosure of this area of land would thus be detrimental to the character and appearance of the Conservation Area and would lead to the setting of a dangerous precedent which would cause visual harm and harm to the significance of the Conservation Area. The proposal is therefore contrary to Policies 8, 11 and 39 of the Blackburn with Local Plan Part 2 (2015), the Council's Conservation Areas SPG and the National Planning Policy Framework.

The decision was appealed (ref. APP/M2372/W/21/3269504), and subsequently dismissed. See Appendix 1 for attached appeal decision.

7.0 CONSULTATIONS

7.1 Statutory Consultation

7.2 North Turton Parish Council

The Parish Council objects to this planning application on the following grounds:

- Issue with the loss of right of way currently at the side of the house that has historically been in use for many decades. This would see not only a loss of amenity for the residents of Chapeltown but the loss of a heritage asset intrinsic to the preservation of the Chapeltown Conservation Area.
- The type of extension planned would be inappropriate and not in keeping with the current street view.
- Contravenes policy numbers 8, 11 and 39 of the local plan (part 2, 2015).

7.3 Public Protection

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

Condition – Unforeseen Contamination

If during any works on site, contamination is suspected or found, or contamination is caused, the Local Planning Authority shall be notified immediately. Where required, a suitable risk assessment shall be carried out and/or any remedial action shall be carried out in accordance to an agreed process and within agreed timescales to the approval of the Local Planning Authority.

Reason

To secure the satisfactory development of the site in terms of human health and the wider environment and pursuant to Planning Policy Statement 23 – Planning and Pollution Control.

7.4 Conservation Officer

Impact to the Conservation Area

The issues from a conservation perspective is whether the proposal will harm the character and appearance of the Chapeltown Conservation Area.

The Chapeltown CA was originally designated in 1970, making it the oldest Conservation Area in the Borough. The character and appearance of the Conservation Area is largely derived by the special interest of its historic core formed by its linear road pattern and rows of 18th and 19th Century stone built terraces of similar design, which demonstrate Chapeltowns transition from a rural economy to a more industrialised economy with the development of mills and bleach works.

The significance of the property is moderate, which positively contributes to the character and appearance of the CA through its natural stone materials, built form and uniform design along with the other groups of terraces on Tower Street and the other linear terraces within the CA.

The property is an end-terraced property that is set significantly forward of the adjacent terraced row to its southwest, with a dominant side gabled elevation when viewing from the west, looking east along Tower Street. The proposed extension will be located on the rear elevation of the property; I note that the rear of the property is a secondary elevation and therefore, considered to be of lesser significance. However, there are clear views from Tower Street of the of the side elevation including the stone boundary wall that serves the rear garden, where the proposed extension will be located.

Nevertheless, in this part of the CA a large majority of terraced houses have had lean-to single-storey rear extensions erected (of various styles), particularly those where the rear elevation runs along Chapel Fields and those along High Street, where the rear elevations are easily viewed from the public realm on Tower Street.

In regards to the proposed windows for the new extension, the proposed material and design has not been provided. However, in this area, there is already a heavy use of uPVC in a range of styles and colours. The CAA notes that uPVC windows have replaced many of the traditional timber window frames in many of the unlisted buildings and must be considered to be a negative influence. Nevertheless, whilst I would prefer to see the use of traditional window materials, there is already a wide variety of windows throughout the CA, all of which are of differing colours and styles. Although, the material and style has not been disclosed, if the intention is to install uPVC, composite or Aluminium, I do not think this will cause any additional harm to the CA.

In regards to the proposed fencing that will enclose the side of the property and provide a narrow garden area. Whilst boundary fencing is not a common feature within the CA, they are not totally absent; whilst set back further than the host dwelling, the adjacent property (No.5) has timber fencing running along its rendered side elevation, set back marginally from the front elevation. The proposed fencing would be similar. In addition, the (historic) gap for the bypass access route between the application site and No.5 Chapel Fields will be retained, although slightly narrower. Therefore, I do not think this part of the proposal will result in any substantive harm to the CA.

My only slight concern is the rendered finish to the proposed extension. In this part of the CA, whilst there are some rendered gable ends, stone remains the dominant material, including on modern extensions. I do also acknowledge that the side elevation of the dwelling is already and historically rendered and that the extension will be screened to some extent by the proposed boundary fencing. In this context, whilst I would prefer to see a stone finish on the proposed extension, particularly along the side elevation, that will replace the existing stone boundary wall, I do not feel the use of stone could be insisted upon.

Similarly, I do not object to the proposed use of rooflights, which are located on the rear elevation of the extension. In this part of the CA most of the rear extensions and elevations contain rooflights, even on the rooflines, which are easily seen from public vantage points.

In my view, the proposal put forward for the lean-to single storey rear extension is of an appropriate design/scale and is an improvement on the earlier application, which was refused. The extension mirrors similar extensions/additions to properties seen within the immediate CA. As such, I do not think there will be any substantive harm to either the character or appearance of the Chapeltown Conservation Area as a result of the proposed works.

Impact on the Setting of the Listed Buildings

The issue from a heritage viewpoint is whether the proposal would harm the setting of the adjacent Grade II listed buildings, which are of high significance.

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, from No.14 Tower Street there is only a glimpsed and partial view of the Grade II Listed Chetham Arms, which is located to the west of the No.14 Tower Street. There is no visual connection from the proposal site itself, nor to any other of the Grade II Listed buildings within close proximity, due to screening from intervening properties and mature trees. Therefore, the proposals will have no impact on the contribution made by the setting to the significance of those nearby Grade II Listed Buildings.

Conclusion / recommendation

As I am required to do so, I have given the duty's imposed by s.66(1) and s.72(1) of the P(LBCA) Act 1990 considerable weight in my comments.

I consider the proposal would meet the statutory test 'to preserve', causing no substantive or discernible harm to either the character or appearance of the Chapeltown Conservation Area, nor to the contribution made by the setting to the significance of any nearby Grade II Listed building. Therefore, no balancing exercise is required as per NPPF P.202 and the proposal meets the objectives of Chapter 16 of the NPPF and accords with the policies of the Local Plan.

7.5 Public Consultation

Neighbourhood consultation letters were sent out on 23rd January 2023, to 14 properties surrounding the application site. In addition, a Site Notice was displayed on 27th January 2023 positioned on High Street. Also, given the sites position within the Chapeltown Conservation Area the application was advertised in the local newspaper on 7th February 2023. In response to the public consultation, no comments or objections have been received.

8.0 CONTACT OFFICER: Jamie Edwards, Planning Officer

9.0 DATE PREPARED: 29 March 2023

**APPENDIX 1: APPEAL DECISION DATED 16TH AUGUST 2021 –
APP/M2372/W/21/3269504 – 14 TOWER STREET, CHAPELTOWN**



Appeal Decision

Site Visit made on 6 July 2021

by K Savage BA(Hons) MPlan MRTPI

an Inspector appointed by the Secretary of State

Decision date: 16 August 2021

**Appeal Ref: APP/M2372/W/21/3269504
14 Tower Street, Chapelton, Bolton BL7 0EU**

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a refusal to grant planning permission.
 - The appeal is made by Mr Steven Charnock against the decision of Blackburn with Darwen Borough Council.
 - The application Ref 10/20/1066, dated 9 November 2020, was refused by notice dated 12 January 2021.
 - The development proposed was originally described as 'change of use of the land to the side to garden and a single storey side/rear extension.'
-

Decision

1. The appeal is dismissed.

Application for costs

2. An application for an award of costs is made by Mr Steven Charnock against Blackburn with Darwen Borough Council. This is subject to a separate decision.

Preliminary Matters

3. The revised National Planning Policy Framework (the Framework) was published on 20 July 2021. The main parties have been provided with the opportunity to comment on the relevance of this revision to the Framework to their respective cases.
4. The Council amended the original description of development to '*extension of residential curtilage to side and proposed single storey side/rear extension.*' However, 'curtilage' is a legal concept and not a use of land. From the evidence before me, the proposal seeks to use land to the side of the dwelling for residential purposes, both as the site of the side extension and as a garden. Accordingly, I consider the appellant's description more accurately describes the proposal. However, despite this change, the Council's reasons for refusal refer not to the acceptability of the change of use of this land, but to the effect of the loss of the open area to the side on the character and appearance of the Chapelton Conservation Area (CCA). I have therefore considered the appeal on this basis.

Main Issue

5. The main issue is the effect of the proposal on the character and appearance of the CCA, both in respect of the design of the proposed extension and the development and enclosure of the open land to the side of the property.

Reasons

6. The CCA is characterised by rows of traditional two-up, two-down stone worker's cottages and later terraced houses centred on High Street and several small streets leading off it. The significance of the CCA lies in its organic built form which reflects the transition of the area from a mainly rural economy to an more industrialised one in the mid to late nineteenth century, and in the predominant use of sandstone, consistent roof forms, small, enclosed yards and open spaces which together contribute to a highly coherent and attractive townscape.
7. The appeal site forms part of a short group of three cottages on the southern side of Tower Street. The dwellings to the west are set significantly back behind an area of mainly paved open space populated by several street trees, which creates an more open character and gives the flank elevation of the appeal building a particular prominence in the street scene.
8. The appellant indicates that the land to the side of the appeal dwelling is within his ownership, comprising an unenclosed area of overgrown vegetation alongside the side wall and the first row of flagstones beyond this. A narrow route between Tower Street and Chapel Fields is possible between the vegetation and the side fence of 5 Chapel Fields, though passage was blocked at the time of my visit by wheelie bins. It is indicated by interested parties that this route is a public right of way; however, the Council states that it is not a public right of way or an adopted public footpath. Rather, the Council's concern relates to the effect of the loss of what it considers to be an important feature of the CCA. The Council points to the Chapeltown Conservation Area Appraisal (March 2006) which states that 'the alleyways and narrow paths and roads, contribute greatly to the character of the Conservation Area.' I agree that the small and, in parts, unmade lanes and back streets surrounding the appeal site give it a distinctive, traditional and organic character.
9. The proposed single storey extension would span across virtually the full width of the rear elevation and would extend just over 3 metres out to the side, wrapping around the host dwelling and extending forward along to the approximate midpoint of the existing side wall. The space between the front of the proposed extension and the front building line would be enclosed to form a small garden area. The extension would almost wholly infill the gap between the appeal dwelling and the side garden wall of 5 Chapel Fields.
10. I saw a number of examples of rear extensions to neighbouring properties. These take the form of simple lean-to structures sitting within the existing width of the dwellings. Though visible from the public realm, they are modest additions which respect the simple form of the cottages and the rhythmic layout of the terraces. The proposed extension would stand in contrast to this established pattern. Although the depth of the rear projection would generally match that at No 18, the wraparound form of the extension would widen the footprint of the dwelling and disrupt the rhythm of the terrace in which it sits. Moreover, the forward projection along the side wall would form an uncharacteristic offshoot to the building which would appear discordant against the substantial side gable wall due to its offset alignment and introduction of a secondary pitched roof and gable with an atypical triangular window. The proposal would also upset the plan form of the site, and the rhythm of the group, by removing part of the existing side garden wall and creating a wider site relative to its immediate neighbours.

11. The appellant points to the side and rear elevations of dwellings in the CCA being more understated in appearance and of lesser significance as a result. However, in this case, the side and rear elevations are in clear view from public areas of the CCA, and they form an important part of the built form in their own right. The extension would be a highly visible feature that would intrude upon and detract from the simple arrangement and understated appearance of the adjacent open space on Tower Street. Moreover, it would infill the existing physical and visual gap between the appeal site and 5 Chapel Fields which serves to separate two groups of dwellings, and has acted historically as a cut-through, notwithstanding its lack of status as a public right of way. The existing layout of small terraces and narrow streets and gaps adds to the organic quality of the built form. However, as a result of the proposal, the groups from 14-18 Tower Street and 1-5 Chapel Fields would be less legible as separate terraces which would diminish their presence in the street scene and erode the historic layout of the street and wider CCA.
12. In reaching a view, I note the use of render is not wholly uncharacteristic of the CCA, given its presence on a number of side gables, including the appeal site. However, this does not alter my view that the extension would be harmful in terms of its location and overall form.
13. For these reasons, I find that the proposal would represent an incongruous addition within a longstanding townscape gap that would detract from the historic urban grain and would harm the character and appearance of the CCA. This would conflict with Policies Policy CS17 of the Core Strategy (January 2011) and Policies 8, 11 and 39 of the Local Plan Part 2 (December 2015), which together require development to present a good standard of design that takes advantage of opportunities to integrate with and promote the Borough's cultural assets, including enhancing the setting and views of buildings through appropriate layout of new development; designing new development to fit and strengthen the urban grain created by historic buildings; and to sustain or enhance the significance of designated heritage assets.
14. The harm identified to the significance of the CCA would be less than substantial, in the language of the Framework. Paragraph 202 advises that where a development proposal will lead to less than substantial harm to the significance of a designated heritage asset, this harm should be weighed against the public benefits of the proposal, including securing its optimum viable use.

Other Matters

15. I note the appellant's point that the land to the side could be enclosed under permitted development rights, which I take to mean a fence or wall. However, such works would not be comparable to an extension in terms of scale or massing, and would not have the same enclosing effect on the townscape gap. Therefore I do not regard this as a significant fall-back position and I afford this argument only limited weight.
16. The appeal building is already in its optimum viable use as a dwelling, and there is no indication that this use would be under threat were the appeal to be dismissed. Therefore, I am not persuaded that an extension is necessary to

secure its long-term future. Ultimately, the additional accommodation would be a largely private benefit for the appellant, with only a modest public benefit in terms of adding to the size of accommodation generally. Some modest, and temporary, economic benefits would arise for local contractors in building the development.

17. Taken together, these limited benefits would not outweigh the less than substantial harm to the significance of the designated heritage asset, to which I must give significant weight. Accordingly, the Framework does not indicate the proposal would amount to a sustainable form of development.

Conclusion

18. The proposal would result in conflict with the development plan, taken as a whole, which is not outweighed by other material considerations, including the Framework.
19. Therefore, for the reasons given, the appeal should be dismissed.

K Savage

INSPECTOR

REPORT OF THE STRATEGIC DIRECTOR

Plan No: 10/23/0065

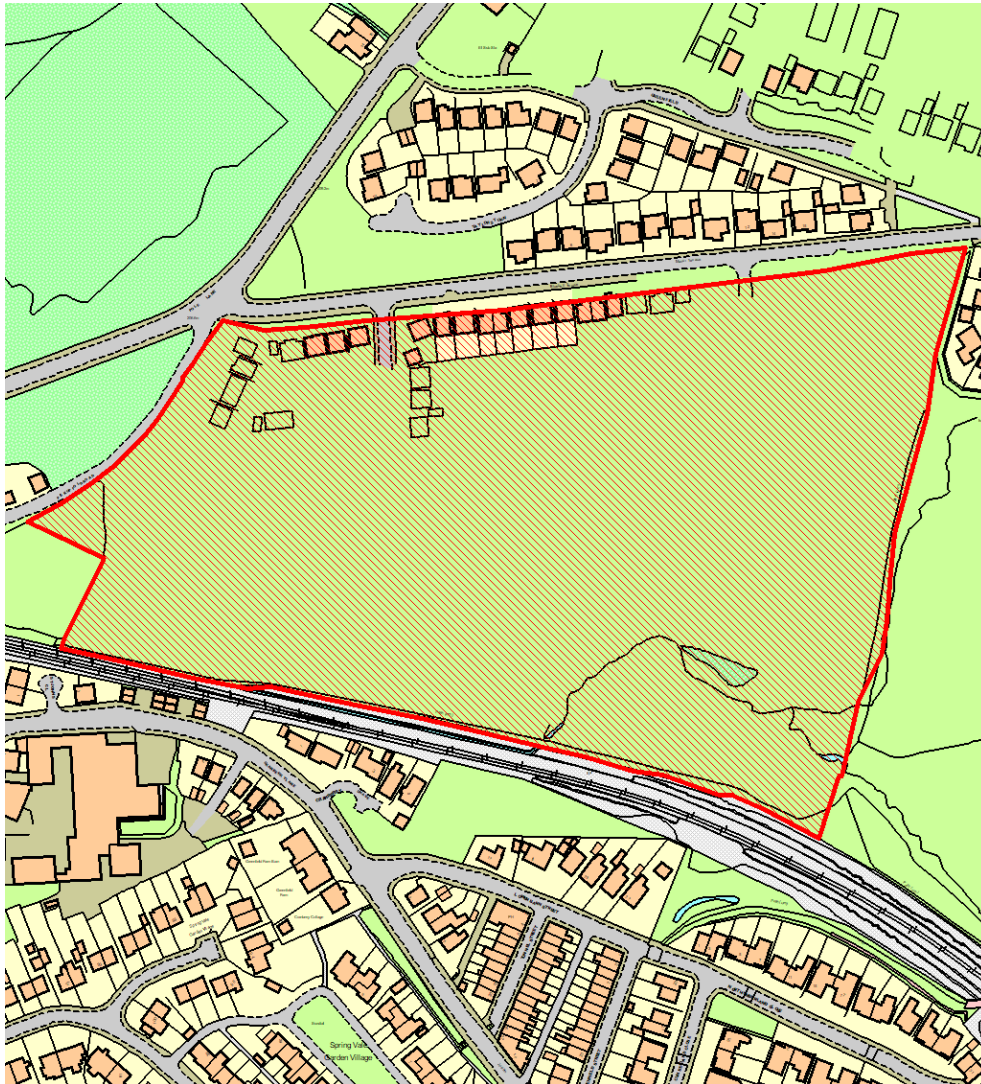
Proposed development: Variation/Removal of Condition/Minor Material Amendment for Variation of condition No. 2 pursuant to planning application 10/19/0317 "Erection of 168 no. Residential Dwellings, Associated Infrastructure and Public Open Space" to amend house types on plots 11-69

**Site Address:
Land at Spring Meadows
Darwen**

Applicant: Persimmon Homes Lancashire

Ward: Darwen South

**Councillors: Kevin Connor, Lilian Salton,
Matthew Jackson**



1.0 SUMMARY OF RECOMMENDATION

- 1.1 APPROVE** subject to the amendment of condition 2 (approved drawings) imposed upon extant planning approval 10/19/0317

2.0 KEY ISSUES/SUMMARY OF PLANNING BALANCE

- 2.1** This application is before the Planning & Highways Committee as it represents an amendment to a major residential planning application. The proposal seeks to amend condition 2 (approved drawings) of planning approval 10/19/0317: *“Erection of 168 no. Residential Dwellings, Associated Infrastructure and Public Open Space”*.
- 2.2** The amendments represent modest changes to the previously approved development. The amended scheme 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 forms the north eastern corner of the active Persimmon residential development, as approved under 10/19/0317 and previously amended through 10/20/1258. The eastern boundary is partially formed by existing residential properties forming a cul-de-sac from Spring Meadows. To the north, on the opposite side of Spring Meadows, is the Tilia Homes development that is currently under construction to provide 126 dwellings.

3.2 Proposed Development

- 3.2.1** The current application seeks to modify condition 2 imposed upon the extant permission 10/19/0317. Condition 2 identifies the approved drawings for the development. The proposed changes are primarily related to a change of house type, to reflect the developer's new house range. There are no changes proposed to the number of units, or number of bed spaces within the affected plots.
- 3.2.2** The proposed development will continue to provide a net density of approximately 40 units per hectare, with the appearance of dwellings complimenting those already being constructed.



Fig 1: Proposed layout under consideration within 10/23/0065

3.2 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

- CS16 – Form and Design of New Development

3.3.3 Local Plan Part 2

- Policy 8 – Development and People
- Policy 10 – Accessibility and Transport
- Policy 11 – Design
- Policy 18 – Housing Mix

3.4 Other Material Planning Considerations

3.4.1 Residential Design Guide Supplementary Planning Document

This document provides targeted advice to ensure high quality new homes. It aims to ensure that new development reflects the individual and collective

character of areas of the Borough and promotes high standards of design. The document also seeks to ensure a good relationship between existing and proposed development in terms of protecting and enhancing amenity.

- 3.4.2 The National Planning Policy Framework 2021, has been updated since the previous permissions, but the amendments have not impacted the compliancy of the proposals and they should therefore be determined expeditiously.

3.5 Assessment

- 3.5.1 Condition 2 amendment: Condition 2 of 10/19/0317 requires development to proceed in accordance with the identified approved drawings. The current proposal seeks to revise the approved house types, to reflect recent changes to Persimmon's housing range.
- 3.5.2 Policy 11 of LPP2 is of relevance and requires all new development to present a good standard of design. Development will be expected to demonstrate a good understanding of the wider context and make a positive contribution to the local area, including enhancing/ reinforcing the established character of the locality. Similar requirements are also set out within Policy CS16
- 3.5.3 The new property types are broadly consistent with those approved under 10/19/0317 and subsequent amendment, 10/20/1258. They are considered to have a modern appearance and are principally constructed with red brick walling and grey roof tiles to reflect the vernacular form, though elements of render offer variety and visual interest. Generally the proposals are considered to assimilate well with the prevailing character of the area.
- 3.5.4 Policy 18 of the Local Plan Part 2 illustrates that the Council requires a detached and semi-detached housing offer to be the principal element of the dwelling mix on any site that is capable of accommodating such housing. Given the intended mix across the development area the proposal remains compliant with this requirement.
- 3.5.5 The proposed property types have carefully considered internal layouts to offer a variety of configurations to appeal to families of varying sizes and needs. The house types represent an appropriate variety of styles and, together with their orientation, will create varied and attractive street scenes.
- 3.5.6 Consequently, compliance with policies 11, 18 and CS16 is achieved.
- 3.5.7 Local Plan Policy 8 supports new development that secures a satisfactory level of amenity for surrounding uses and for occupants/ users of the development itself. The Council's adopted residential design guide SPD provides additional guidance with particular reference to separation distances between dwellings to ensure the amenity of residents is protected.
- 3.5.8 The Residential Design Guide SPD indicates an appropriate separation of 21 metres between facing windows of habitable rooms of two storey dwellings, unless an alternative approach is justified to the Council's satisfaction. Where

windows of habitable rooms face a blank wall or a wall with only non-habitable rooms a separation of no less than 13.5 metres shall be maintained, again unless an alternative approach is justified to the Council's satisfaction. The development remains consistent with these requirements, both in relation to the relationship to properties within the site and those on the periphery. Compliance with Policy 8 and the SPD is achieved.

4.0 RECOMMENDATION

Approve subject to reapplication of all conditions imposed upon planning permission 10/19/0317 and amendment to conditions 2, to read as below;

Condition 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 within;

SMD.PL01 rev X, received 15th June 2022

6X3GD-01; 6019.05 rev A; SMD.302 rev D; and SMD.EVCL rev B, received 21st December 2020

House Types; as identified on document MS-R21-213, received 21st October 2022 and the amended house type drawings received 24th January 2023

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

5.0 PLANNING HISTORY

10/16/0266 - Outline planning application for erection of 134 dwellings , with associated infrastructure and landscaping (Approved July 2016)

10/17/0250 - Works to straighten and upgrade Spring Meadows road so that it can be adopted (Approved May 2017)

10/19/0317 - Full Planning Application for Erection of 168 no. Residential Dwellings, Associated Infrastructure and Public Open Space

10/20/1258 - Partial re-plan of development site known as Spring Meadows (approved under application reference 10/19/0317) involving 24 homes creating an additional 7no. new homes

10/22/0593 - Variation of Conditions No.2 and 14, pursuant to application 10/20/1258; replan of 24 homes creating an additional 7no. new homes" - update of house types to R21 range and materials

6.0 CONSULTATIONS

6.1 Public Consultation: A press notice has been issued and site notices displayed. No representations have been received.

7.0 CONTACT OFFICER: Martin Kenny, Principal Planning Officer

8.0 DATE PREPARED: 6th April 2023

REPORT OF THE STRATEGIC DIRECTOR

Plan No: 10/23/0130 & 10/23/0131

Proposed development: Full Planning Application (Regulation 3) for New shop fronts and Advertisement Application for Fascia and hanging signs

Site Address:

9-15 Town Hall Street

Blackburn

BB2 1AG

Applicant: Blackburn with Darwen Borough Council

Ward: Blackburn Central

Councillors: Zamir Khan, Samin Desai, Mahfooz Hussain



1.0 SUMMARY OF RECOMMENDATIONS

- 1.1 APPROVE, subject to the conditions recommended within Paragraphs 6.1 and 6.2 of this report.

2.0 KEY ISSUES/SUMMARY OF PLANNING BALANCE

- 2.1 The applications are presented to the Planning and Highways Committee, in accordance with the Scheme of Delegation, as the applicants of the submission is Blackburn with Darwen Borough Council. The planning application has been submitted under Regulation 3 of the Town & Country Planning Regulations 1992.
- 2.2 The proposals involve replacement shop fronts to four commercial properties along Town Hall Street within Blackburn Town Centre. New fascia and hanging signs are also proposed to three of the units, with the other property as part of the shop front works opting to retain their existing signage.
- 2.3 In summary, assessment of the applications finds the proposed new shop fronts and new signage to be acceptable, with all material planning considerations and issues having been addressed throughout section 4 and 5 of this report.

3.0 RATIONALE

3.1 Site and Surroundings

- 3.1.1 The proposal site spans across four different premises located within two late Victorian - early C20, three-storey buildings, constructed from red brick and stone dressings, including, eaves cornice and band courses. The two properties are of differing styles. The ground floor consists of shop fronts, in differing styles, some more modern than others, with modern signage.
- 3.1.2 The separate stores for this application are the Care Network Hub (9 Town Hall Street), Pelle Menswear (11 Town Hall Street), Emporium menswear (13 Town Hall Street) and Mad Hatters Tea Room (15 Town hall Street).
- 3.1.3 The buildings are situated on the north side of Town Hall Street, between Northgate and King William Street, opposite the Blackburn with Darwen Central Library.
- 3.1.4 The sites are located to the north of Blackburn Town Centre and to the south of the A666 in a commercial area, containing a mostly attractive period and some modern properties. They also fall within the designated Northgate Conservation Area. Figure 1 illustrates an aerial view of the site and surroundings.



Figure 1: Google aerial view of the application site

3.2 Proposed Development

3.2.1 The proposals consist of two separate applications. Firstly, planning permission is sought to carry out works to 4No. shop facades at 9-15 Town Hall Street (ref. 10/23/0130). The second is for advertisement consent to install new signage at 11, 13, and 15 Town Hall Street (10/23/0131).

3.2.2 The shop front refurbishment works involve the installation of secondary glazing, and decoration to the front of the properties and to existing roller shutters, localised replacement of entrance tiling, replacement of entrance door, installation of a retractable awning and replacement of material to a retractable awning. All four properties will have a translucent anti slip coating applied to the ceramic entrance floor tiles as well as the installation of secondary glazing to all windows to match existing windowpanes in terms of size.

3.2.3 The below presents a description of the proposed works to be undertaken at each property;

- **9 Town Hall Street (Care Network Hub)** – The works involve decoration of pilasters and plinths, decoration of timber window frames, in white to match existing. One damaged windowpane will also be replaced. The appearance and signage will remain the same and unaltered.
- **11 Town Hall Street (Pelle Menswear), 13 THS (Emporium), 15 THS (Mad Hatters Tea Room)** – Will all have the existing façade signage lettering and Dibond back board removed and replaced with a timber

backboard painted in a heritage colour to match the newly decorated pilasters and plinths and fascia's. Any defective timbers will be repaired or replaced. New façade signage 3D lettering, gold in colour will be installed and the façade signage will not be illuminated. New flag (projecting) signage will also be provided and this will be similar in size to the existing flag signage to the Care Network Hub. The flag signage will be double sided and illuminated via a double trough light. At No.11 the retractable awning will be retained but a new awning material, with No.15 have a similar feature installed and replacement timber door. The existing façade lighting at No.13 will be removed and not re-instated.

3.2.4 The proposed front elevation of the properties together with the labelled work is shown below at figure 2. The appearance of the proposed fascia signs and positioning of the hanging signs are included at figure 3.

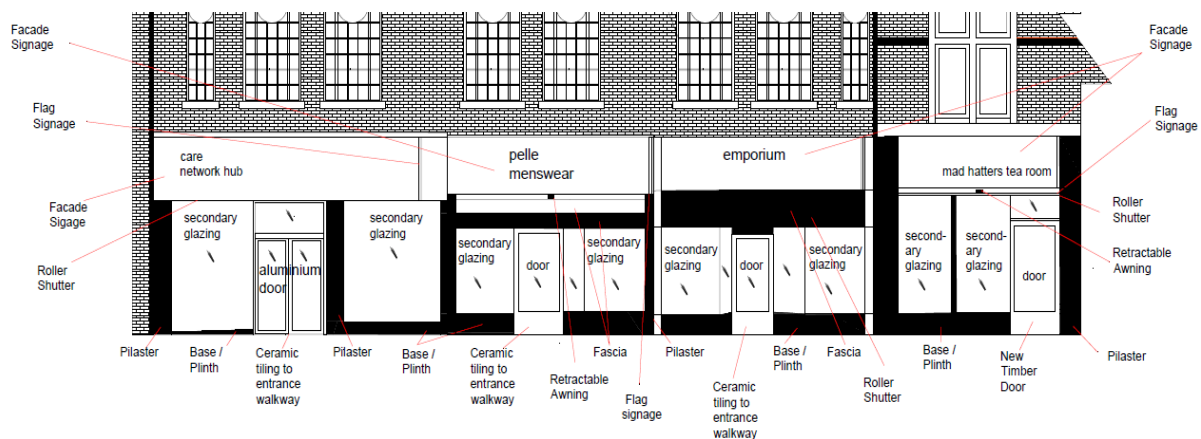


Figure 2: Proposed replacement shop front work details



Figure 3: Proposed fascia signs and positioning of hanging signs

3.3 Case Officer Photos



3.4 Development Plan

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

3.4.2 The 'Development Plan' comprises the adopted Core Strategy DPD (2011) and adopted Local Plan Part 2 – Site Allocations and the Development Management Policies (2015). The following policies are considered relevant in assessment of the proposals;

3.4.3 Core Strategy

- Policy CS16 – Form and Design of New Development
- Policy CS17 – Built and Cultural Heritage

3.4.4 Local Plan Part 2

- Policy 8 – Development and People
- Policy 11 – Design
- Policy 26 – Town Centres – A Framework for Development
- Policy 31 – Development in Defined Shopping Frontages
- Policy 39 – Heritage
- Policy 43 – Outdoor Advertisements

3.5 Other Material Planning Considerations

3.5.1 The Town and Country Planning (Listed Buildings and Conservation Areas) Act 1990, as Amended – Section 72(1)

3.5.2 National Planning Policy Framework (NPPF)

- Section 12: "Achieving Well-Designed Places"

- Section 16: “Conserving and enhancing the historic environment”

3.5.3 National Planning Practice Guidance (NPPG)

3.5.4 The Town and Country Planning (Control of Advertisements) (England) Regulations 2007 (as amended) - Part 1, Regulation 3

3.5.5 Northgate Conservation Area Character Appraisal

3.5.6 Northgate Conservation Area Development Guide

3.5.7 Supplementary Planning Guidance (Outdoor Advertisements & Signs)

4.0 **ASSESSMENT – Shop Fronts**

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

- Principle of Development
- Heritage Impacts / Design
- Amenity

4.2 Principle of Development

4.2.1 As the proposal relates to external alterations by way of creating new shop fronts and does not involve any change to the existing uses of the premises, the balance of uses within the shopping frontage is unaffected; and therefore no conflict with Policies 26 or 31 arises. Active frontages will be maintained and therefore the character and vitality of the town centre, streetscene and immediate area will be retained.

4.2.2 Accordingly, the principle of the development is accepted in accordance with the NPPF's presumption in favour of sustainable development, unless demonstrable adverse impacts which significantly outweigh the benefits of a proposal are identified. These are assessed in more detail below.

4.3 Heritage Impacts / Design

4.3.1 The first consideration in the assessment of this application is the Planning (Listed Buildings and Conservation Areas) Act 1990. Section 72 (1) of the Planning (Listed Buildings and Conservation Areas) Act 1990 states that in the exercise of planning functions special attention shall be paid to the desirability of preserving or enhancing the character or appearance of a conservation area.

4.3.2 Point v) of Policy 39 states in conservation areas, the wider setting and significance of the area and the extent to which the development will retain

and conserve open space, landscape elements, historic surfaces and other features that contribute positively to the significance of the conservation area.

- 4.3.3 Policies CS16 and 11 require all new development to present a good standard of design, demonstrating an understanding of and making a positive contribution to the local area, though measures including enhancing and reinforcing established character.
- 4.3.4 A Heritage Statement and Design & Access Statement are submitted in support of the application. The Council's Heritage and Conservation consultee has reviewed the submitted details and proposals, and provides the following comments:

Impact to the Conservation Area

The issues from a conservation perspective is whether the proposal will harm the character and appearance of the Northgate Conservation Area.

Located within the northern part of the Northgate CA, No.9 – 15 Town Hall Street are highlighted in the CA Appraisal as being notable and positive unlisted buildings that make an important contribution to the area's special character.

I do not object to the application of the translucent anti slip coating, which is to be applied to the ceramic entrance floor tiles. This will be unnoticeable to the eye and have no impact on the immediate surroundings. Nor do I object to the decoration of pilasters and plinths and decoration to timber window frames, in white to match at No.9 Town Hall Street.

Similarly, I do not object 'in principle' to the installation of secondary glazing to all windows, as they are to match existing windowpanes in terms of size. However, no details have been provided in relation to the secondary glazing, including frames and fixings, to ensure these are appropriate. I recommend that details are provided or secured via a suitably worded Condition. Likewise, this also applies to the proposed replacement entrance door at No.15.

The proposed installation of the new awning to No.15 Town Hall Street is satisfactory. Whilst not a common feature of the streetscene there is already an existing awning in place at No.11, which is to be repaired. The installation of such an awning will provide outdoor shading to clientele, when seated outdoors. However, no details have been submitted. I recommend that details are provided or secured via a suitably worded Condition.

As such, subject to securing further details or Conditions, it is my view that the proposal will be an improvement on the existing and will enhance the buildings special interest, and benefit the character and appearance of this part of the CA.

Impact to the contribution made by the setting to the significance of the nearby listed building

Whilst there are several nearby listed buildings, on viewing the site, it is evident that the proposal site is only visually connected to the Grade II Listed Central Police Station and Court House. When looking west along Town Hall Street from the proposal site the view is terminated by Central Police Station and Court House and therefore, to some extent is an important one.

Nevertheless, the views where both the proposal site and listed building will be experienced in the same context are solely from the junction of King William Street, until passing the proposal site on Town Hall Street. Additionally, the proposal sites have existing modern signage, and as noted above, the proposed works and advertisements should be seen as a positive and welcome change that provides a positive impact to the area. As such, the proposal will cause no harm to the contribution by the setting to the nearby Grade II Listed buildings.

Conclusion / recommendation

As I am required to do so, I have given the duty's imposed by s.66(1) and s.72(1) of the P(LBCA) Act 1990 considerable weight in my comments.

I consider the proposal would meet the statutory test 'to preserve' and would cause no harm to either the character or appearance of the Northgate Conservation Area, nor to the contribution made by the setting to the contribution made by the setting to the nearby listed buildings.

Therefore, no balancing exercise is required as per NPPF P.202. As such, the proposal meets the objectives of Chapter 16 of the NPPF and accord with the policies of the Local Plan.

- 4.3.5 The alterations to the shop front are considered to be sympathetic and overall will significantly improve the appearances of the host building. Details as per the above requests have been submitted during the course of the application process to demonstrate the secondary glazing frames which are deemed acceptable. The awning that will be installed to The Mad Hatters Tea Room is a recess awning i.e. the Weinor N 2000 with grey stripe material. The existing victorian awning that will be repaired to Pelle Menswear, arms of the awning painted in a grey colour with the new awning grey stripe or plain grey. These alterations are considered to appropriate from a visual perspective.
- 4.3.6 On that basis, the proposed shop front works will cause no harm to designated heritage assets nor visual amenity, which is entirely consistent with the aims and objectives of Policies CS16, 11 and 39 of the Development Plan.

4.4 Amenity

- 4.4.1 Point i) of Policy 8 states development will be permitted where it can be demonstrated 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 proposal poses no threat to surrounding amenity and is considered to contribute positively to the physical and economic character of the area, thus complying with Policy 8.

5.0 **ASSESSMENT – Signage**

- 5.1 The Town and Country Planning (Control of Advertisements) (England) Regulations 2007 (as amended) at Part 1, Regulation 3 requires that local planning authorities control the display of advertisements in in the interests of amenity and public safety, taking into account the provisions of the development plan, so far as they are material; and any other relevant factors.

5.2 Amenity

- 5.2.1 Policy 43 of the Local Plan Part 2 (2015) signifies that the number of existing signs in an area is a factor that detracts the amenity of an area by way of cluttering or excessive advertising.
- 5.2.2 Although 'amenity' has no exhaustive definition in planning law, NPPG sets out that it includes aural and visual amenity and factors relevant to amenity include the general characteristics of the locality, including the presence of any feature of historic, architectural, cultural or similar interest.
- 5.2.3 The Council's Conservation Officer has given the following assessment in reference to the proposed signage and impact upon the Northgate CA.

Furthermore, the removal of the existing signs and the installation of timber fascia signs, with gold unlit lettering, is largely satisfactory. In my view, they are simple in their design and of an appropriate material (fascia's), size and colour, which are acceptable.

Nevertheless, I note that no material detail has been provided for the gold 3D lettering. The Outdoor Advertisements & Signs, Supplementary Planning Guidance states 'traditional materials such as painted timber, wrought iron and bronze will be more appropriate than acrylics and other types of plastics, especially within conservation areas'. However, this is a minor point and I acknowledge that the existing signage and that of other surrounding commercial units contain modern fascia signage that is out of context with the character with the CA. The advertisement proposal to install timber backboards in a

heritage colour with individual gold letters should be seen as a positive and welcome change that provides a positive impact to the area.

In regards to the projecting signs, no design or material details have been provided. However, according to the submitted drawings that are to be located in suitable position at fascia height. I note that the Outdoor Advertisements & Signs, Supplementary Planning Guidance states 'Hanging signs on metal brackets are preferable to projecting box signs. The underlying requirement is that the appearance and materials used, including that of the fixing bracket, should be in keeping with the character of the shopfront. Acceptable materials would be painted timber or metal with a moulded edging'. I recommend that details are provided or secured via a suitably worded Condition.

- 5.2.4 The new fascia signage as concluded in the above section are considered to be appropriate in terms of design and appearance. The proposed hanging signage will match the existing one at No.9 in terms of fixing, size and materials and will be double sided and have 2Nr trough lights. However, details at this stage regarding the end-designs, colours to be used etc. are not known. These are to be secured via condition prior to their installation. The size and positioning of the signs relate well to the host properties and do not represent incongruous additions nor create visual clutter.

5.3 Public Safety

- 5.3.1 Policy 43 requires that the proposal should not obscure visibility or distract the attention of users of the highway. Additionally, colours and illumination should not obscure or reduce the clarity of traffic signs. Any advert should also not hinder pedestrian movement.
- 5.3.2 The proposed fascia signs will not be illuminated, and therefore pose no concerns. The hanging signs will be lit to both sides with trough lights. Similar arrangements are present at No.9, and the minor scale of lighting to be used ensures no detrimental harm will arise. The proposed signage will also be fixed to the shop front, and will therefore not impede pedestrian movements
- 5.3.3 The proposed advertisements would be acceptable on public safety grounds, in line with the above requirement of Policy 43.

6.0 RECOMMENDATIONS

6.1 **New Shop Fronts (10/23/0130) - 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 and supporting document:

- Drawing No. WDP 9-15THS 5688 003 – Location Plan;
- Drawing No. WDP 9-15THS 5688 003 – Proposed Elevations; and
- Design and Access Statement – Received 14th February 2023
- Drawing No. GSG 003-1003 – LO-A2 – Standard LO / Subframe;
- Drawing No. GSG 004-1003 – HS2-A0-LH – Horizontal Slider / Subframe;
- Drawing No. GSG 005-1009 – HU-R-HD-RF Through / Subframe; and
- Drawing No. GSG 003-1022 – HU-HD-DH- Double Glazed / Subframe – Received 4th April 2023

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

3. The materials to be used on the external surfaces of the development as indicated on Proposed Elevations - Drawing No. WDP 9-15THS 5688 002 received on the 14th February 2023 shall be implemented as indicated unless otherwise agreed in writing by the Local planning Authority.

REASON: To ensure that the external appearance of the shop fronts is satisfactory in accordance with Policies 11 and 39 of the Blackburn with Darwen Borough Local Plan Part 2.

6.2 Fascia and hanging signs (10/23/0131) – Express Consent Approve subject to the following conditions:

1. No advertisement is to be displayed without the permission of the owner of the site or any other person with an interest in the site entitled to grant permission.

REASON: Required to be imposed in pursuant to Schedule 2 of the Town and Country Planning (Control of Advertisements) (England) Regulations 2007.

2. No advertisement shall be sited or displayed so as to-
 - (a) endanger persons using any highway, railway, waterway, dock, harbour or aerodrome (civil or military);
 - (b) obscure, or hinder the ready interpretation of, any traffic sign, railway signal or aid to navigation by water or air; or
 - (c) hinder the operation of any device used for the purpose of security or surveillance or for measuring the speed of any vehicle.

REASON: Required to be imposed in pursuant to Schedule 2 of the Town and Country Planning (Control of Advertisements) (England) Regulations 2007.

3. Any advertisement displayed, and any site used for the display of advertisements, maintained in a condition that does not impair the visual amenity of the site.

REASON: Required to be imposed in pursuant to Schedule 2 of the Town and Country Planning (Control of Advertisements) (England) Regulations 2007.

4. Any structure or hoarding erected or used principally for the purpose of displaying advertisements shall be maintained in a condition that does not endanger the public.

REASON: Required to be imposed in pursuant to Schedule 2 of the Town and Country Planning (Control of Advertisements) (England) Regulations 2007.

5. Where an advertisement is required under these Regulations to be removed, the site shall be left in a condition that does not endanger the public or impair visual amenity.

REASON: Required to be imposed in pursuant to Schedule 2 of the Town and Country Planning (Control of Advertisements) (England) Regulations 2007.

6. 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 and supporting document:

- Drawing No. WDP 9-15THS 5688 003 – Location Plan;
- Drawing No. WDP 9-15THS 5688 003 – Proposed Elevations;
- Design and Access Statement – Received 14th February 2023; and
- Drawing No. 20230303 – Signs Overview - Received 7th March 2023

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

7. Prior to the installation of the hanging signs hereby approved, details confirming the exact designs and materials at each property 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 approved details, unless otherwise agreed in writing.

REASON: To ensure a satisfactory form of development is achieved, in the interests of visual amenity, and to comply with the requirements of Policies 11 and 43 of the Blackburn with Darwen Borough Council Local Plan Part 2.

7.0 PLANNING HISTORY

9 Town Hall Street

- 10/12/0664 – Change of use to ground floor to independent Living Information Services. Approved, 31st August 2012.
- 10/00/0518 – Illuminated shop sign/projecting sign. Express Consent, 25th August 2000.
- 10/86/1367 – Illuminated dual sided projecting box sign. Express Consent, 22nd September 1986.
- 10/85/2095 – Illuminated projecting sign. Express Consent, 27th December 1985.
- 10/85/2082 – New shop front in existing opening. Approved, 27th December 1985.

11, 13 and 15 Town Hall Street

No previous other planning applications at the above properties.

8.0 CONSULTATIONS

8.1 Statutory Consultation

8.2 Conservation Officer

Support offered, as per the responses set out at paragraphs 4.3.4 and 5.2.2.

8.3 Public Consultation

12 properties surrounding the application site received consultation letters on 23rd February 2023 in reference to the proposed shop fronts application (10/23/0130). In addition, given the sites location nearby listed buildings and within the Northgate CA a Site Notice for the full application was displayed on 1st March 2023 and a press notice published in the local newspaper on 22nd March 2023. In response to the public consultation, no comments or objections have been received. With regards to the advertisement application, it should be pointed out that there is no duty to publicly consult.

9.0 CONTACT OFFICER: Jamie Edwards, Planning Officer

10.0 DATE PREPARED: 03 April 2023

GROWTH & DEVELOPMENT DEPARTMENT

**ORIGINATING SECTION: PLANNING (DEVELOPMENT
MANAGEMENT)**

REPORT TO: PLANNING & HIGHWAYS COMMITTEE - 20TH APRIL 2023

**TITLE: Department for Levelling Up, Housing & Communities
Technical Consultation: Stronger performance of
local planning authorities supported through an
increase in planning fees.**

WARDS: All

1.0 PURPOSE OF THE REPORT

- 1.1 To inform Members of current consultation by the Department for Levelling Up, Housing and Communities (LUHC) seeking views on improving performance of local planning authorities by:
- Increasing planning fees;
 - Building capacity and capability;
 - Introducing a more robust performance regime.
- 1.2 The report asks Members to note the proposed response to the consultation, which is attached to this report to be sent to the Secretary of State on behalf of Blackburn with Darwen Borough Council (BwDBC).

2.0 RECOMMENDATION

- 2.1 That the Committee note the report, and content of the responses to the consultation.

3.0 BACKGROUND & RATIONALE

- 3.1 As referred to in the Government's Levelling Up and Regeneration Bill (LURB) last summer, the Government published a consultation on the 28th February 2023, focussed on increasing planning application fees. This will introduce plans to annually adjust planning application fees in line with inflation, with an initial increase of between 25% and 35% being proposed as early as Summer 2023. The Government intends to review fee levels no later than three years following implementation and propose that any extra funds raised by the increase to planning application fees will be ring-fenced for local planning authorities (LPAs) rather than being available to support other Council services, to provide a more effective and efficient service through additional financing and resources.

3.2 The consultation covers three topics:

- (i) Increasing planning fees;
- (ii) Building capacity and capability in the planning system;
- (iii) Introducing a more robust performance regime.

3.3 This consultation takes place for 8 weeks from the 28th February 2023 to 25th April 2023. There are 21 questions within the consultation, and responses to these questions on behalf of BwDBC are attached to this report. The proposed responses to the questions have been presented to the Planning Cross Party Working Group at the meeting on the 18th April 2023.

Increasing planning fees:

3.4 Given that the Government has decided that planning fees should be regulated nationally, the headline from the consultation is the proposed 35% increase in planning application fees for major applications and 25% increase for all other applications, which include prior approval applications, minor and householder applications. In addition, the introduction of indexation which would allow planning application fees to rise with inflation is proposed to provide LPAs with greater financial stability, and more certainty to developers that will avoid a continuous cycle of review of the fees. The rationale behind this is that previous increases have been irregular, the last being in January 2018, and prior to that in November 2012, which has led to fee levels falling behind. A table of the proposed fees is provided at Figure 1.

Application	Current fee	Proposed fee (35% major applications, 25% all other applications)
Prior Approval	£96	£120
Householder	£206	£258
Non-major (residential - less than 10 dwellings, or sites of less than 0.5 hectares; non-residential, less than 1,000 sqm gross floorspace, or sites less than 1 hectare)	£462 per dwelling or per 75 sqm of non-residential floorspace	£578 per dwelling or per 75 sqm of non-residential floorspace

Application	Current fee	Proposed fee (35% major applications, 25% all other applications)
Major (residential - 10 or more dwellings or sites of 0.5 hectares or more; non-residential, 1,000 sqm or more gross floor space or sites of 1 hectare or more)	£462 per every dwelling or every 75 sqm of non-residential floorspace	£624 per every dwelling or every 75 sqm of non-residential floorspace
10 to 50 dwellings and commercial non-residential between 1,000 and 3,750 sqm of floorspace		
Major (residential - 10 or more dwellings or sites of 0.5 hectares or more; non-residential, 1,000 sqm or more gross floor space or sites of 1 hectare or more)	£22,859 + £138 for each additional dwelling in excess of 50 dwellings or additional 75 sqm in excess of 3,750 sqm up to maximum of £300,000	£30,860 + £186 for each additional dwelling in excess of 50 dwellings or additional 75 sqm in excess of 3,750 sqm up to maximum of £405,000
Over 50 dwellings or more than 3,750 sqm commercial floorspace		

Figure 1: Table showing current and proposed planning application fees – Source: Technical consultation: Stronger performance of local planning authorities supported through an increase in planning fees – 28th February 2023.

- 3.5 In addition to the fees set out above, the proposals include double the fees for retrospective planning applications (except for householders), and the removal of the “free-go” for repeat applications. As Members will be aware, LPAs incur additional costs in respect of retrospective planning applications e.g. investigating the suspected breach of planning control and considering the need for enforcement action. If an enforcement notice is served which is subsequently appealed against, a fee is charged which is currently double that which would apply for a corresponding planning application. With regards to the removal of the “free-go” for repeat applications, the Government proposes this as there are instances where a free-go is used as a substitute for pre-application discussions, and there is a growing cost burden for LPAs who still incur costs for processing revised applications but receive no fee.

- 3.6 The Government estimate that the proposed increases will represent on average, less than 1% of overall development costs incurred by applicants. Regarding the proposed increase to householder planning application fees, the fee for this type of application represents a one-off cost to the applicant and represents a very small proportion of overall development costs, and therefore the Government consider the proposed 25% increase is justified.
- 3.7 In addition to the proposed increase to fees to statutory planning applications, the Government want to retain the flexibility that LPAs have to set their own fees for pre-application, Planning Performance Agreements (PPAs) and other bespoke services, and wish to hear from LPAs of their experience introducing such fees and how this has assisted the level of service provided.

Building capacity and capability in the planning system:

- 3.8 The Government want to make sure that planners and the planning system are valued, and that there is a culture of proactive delivery, pride in performance and a clear understanding of what is high-quality customer service, together with adapting to new measures which will be introduced through the LURB. The Government recognises there are significant challenges for LPAs in recruiting and retaining planning professionals and other technical experts with the right skills and experience, particularly at senior and principal planner levels. This has led to many LPAs exploring alternative service delivery such as through agencies, external consultants, which is proving to be very costly and unsustainable.

Introducing a more robust performance regime:

- 3.9 In relation to the performance of the planning applications service, the Government aim to ensure that all applicants experience a high-quality and timely service. The consultation therefore proposes a new approach to how the performance of LPAs will be measured across a broader set of quantitative and qualitative measures.
- 3.10 The Government recognises that “extensions of time” are useful, however they should only be used in exceptional circumstances. Currently, “extensions of time agreements” do not count against a LPAs performance figures for speed of decision-making, and therefore the Government considers this can mask instances where LPAs are not determining applications within the required statutory periods. In addition, the Government is proposing that performance measures should be assessed separately for the following application types:
- Major applications (10 or more new dwellings, or site area of 0.5 hectares or more and the number of dwellings is unknown;

provision of a non-residential building or buildings where the floor space created by the development is 1000sqm or more; development on a site with an area of 1 hectare or more)

- Non-Major applications (excluding householder applications) (anything smaller than the criteria for major development, including residential development of between 1 and 9 new dwellings on a site with an area less than 1 hectare, or site area is less than 0.5 hectares and the number of dwellings is unknown; non-residential development where the floor space created is less than 1000sqm or where the site area is less than 1 hectare; or other types of non-major development such as change of use)
- Householder applications (development within the curtilage of a dwelling house which requires an application for planning permission and is not a change of use)
- Discharge of conditions
- County matters (minerals and waste) applications.

3.11 The Government is also proposing to introduce a wider range of metrics to encourage improvements to service quality, which they feel will identify LPAs that are in need of additional targeted support. The proposed metrics are as follows in Figure 2.

Metric	Measurement
A. Average Speed of decision-making	<ol style="list-style-type: none"> 1. Average time taken to determine majors (inc. Extension of Time (EoT) and Planning Performance Agreements (PPAs)) 2. Average time taken to determine non-majors (inc. EoT and PPAs) 3. Average time taken to determine householders (inc. EoT and PPAs) 4. Average time taken to determine discharge of conditions (inc. EoT and PPAs) 5. Average time taken to determine county matters (inc. EoT and PPAs)
B. Quality of decision-making	<ol style="list-style-type: none"> 1. Major appeals allowed by Planning Inspectorate as percentage of all appeal decisions. 2. Non-major appeals allowed by Planning Inspectorate as percentage of all appeal decisions. 3. Householder appeals allowed by the Planning Inspectorate as percentage of all appeal decisions
C. Extension of Times	<ol style="list-style-type: none"> 1. Total number of EoTs as percentage of all decisions majors 2. Total number of EoTs as percentage of all decisions non-majors 3. Total number of EoTs as percentage of all decisions householders
D. Backlog	<ol style="list-style-type: none"> 1. Average time taken to validate planning applications 2. Total number of cases beyond the Planning Guarantee period (currently 26 weeks for all applications but proposed to change to 16 weeks for non-major applications)

E. Planning Enforcement	<ol style="list-style-type: none"> 1. Average number of weeks taken to respond to suspected breaches of planning and determine the appropriate course of action. 2. Average number of weeks to take action where a breach of planning has occurred, having decided it is expedient to do so. 3. Total number of cases over 6 months old as percentage of all open cases.
F. Planning Committee	<ol style="list-style-type: none"> 1. Percentage of delegated decisions and committee decisions 2. Percentage of committee decisions to refuse against officer recommendation that are subsequently allowed at appeal

Figure 2: Table of possible quantitative metrics to be used in broader performance framework. Source: Technical consultation: Stronger performance of local planning authorities supported through an increase in planning fees – 28th February 2023.

3.11 The proposals also include the “Planning Guarantee” being tightened. The Guarantee allows for an applicant to secure a refund of the planning fee where a decision has not been made within 26 weeks of a valid application being submitted, if an extension of time has not been agreed by the applicant. The Government is proposing this is reduced to 16 weeks for minor applications, and majors being retained at 26 weeks.

3.12 Finally, the consultation considers including a qualitative measure as part of a new planning performance framework in the form of a “customer experience” metric. A “customer experience” measure could be based on a standardised customer satisfaction survey which focusses on the overall quality and timeliness of, for example, pre-application advice service and the decision-making process and service. It could also be used as a measure for community engagement, including the volume and diversity of people who participate in the planning application process.

4.0 CONTACT OFFICER: Gavin Prescott, Planning Manager
(Development Management)

5.0 DATE PREPARED: 6th April 2023

6.0 BACKGROUND PAPERS:

Department for Levelling Up, Housing & Communities Technical Consultation: Stronger performance of local planning authorities supported through an increase in planning fees – Published 28th February 2023.

Department for Levelling Up, Housing & Communities Technical Consultation: Stronger performance of local planning authorities supported through an increase in planning fees.

QUESTIONS AND PROPOSED RESPONSE FOR BwDBC

Increasing planning fees:

Q1: Do you agree that fees for planning applications should be increased by 35% for major applications?

Yes, this is welcomed and considered to be significantly overdue. This would allow investment in resources i.e. case officer level and through the consultation process, that are required to ensure that planning applications are considered within the statutory time frame. Planning fee income provides an invaluable resource for local authorities to invest in improving services, and here at BwD any proposed increase to the larger development applications would assist in ensuring the service delivers on the schemes aligned to the Growth Programme, and the adopted Corporate Plan, in an efficient manner. Planning application fees are currently set by the Government and have not been increased since 2018. The revenue generated through charging planning application fees does not normally cover the costs of deciding planning applications. The shortfall has to be subsidised by local authorities.

Q2: Do you agree that the fee for householder planning applications should be increased by 25%?

Yes, the householder application fee does not cover the costs to process and assess the application, given the often controversial nature of these applications with immediate neighbours, and any proposed increase is welcomed. The proposed increase would amount to around 1% of the overall costs for the development, and therefore is considered to be reasonable, particularly taking into account the current financial climate.

Q3: Do you agree that fees for all other planning applications should be increased by 25%?

Yes, this is welcomed and considered to be significantly overdue. This would allow investment in resources i.e. case officer level and through the consultation process, that are required to ensure that planning applications are considered within the statutory time frame. Planning application fees are currently set by the Government and have not been increased since 2018. The revenue generated through charging planning application fees does not normally cover the costs of deciding planning applications. The shortfall has to be subsidised by local authorities.

Q4: Are there any other application types or planning services which are not currently charged for but should require a fee or for which the current fee level or structure is inadequate?

A critical mass of applications is required in order to be able to retain the expertise within a LPA to be able to consider the wide range of different issues associated with applications. For example, applications for works to a tree which is the subject of a Tree Preservation Order (TPO), or where the application site is located within a conservation area, and works to listed buildings currently have no fee payable. The assessment of these type of applications requires specialist input from Arboricultural and Conservation Officers which is resource intensive. Listed Building Consent applications quite often generate significant work for planning departments. Therefore, it is considered a fee similar to the householder application type fee should be payable.

Q5: Please can you provide examples of bespoke or 'fast track' services which have worked well or you think could be introduced for an additional fee? Are there any schemes that have been particularly effective?

Since 2011, Blackburn with Darwen Borough Council ("BwD") has implemented charges for the provision of discretionary services, in the form of pre-application advice charges. Feedback from developers has indicated they are willing to pay for the advice services which are tailored to meet the applicant's requirements in terms of speeding up the delivery of development. With BwD being a Unitary Authority, the level of service provided corresponds with the level of fees for largescale and major developments i.e. ability to have advice from highways, drainage, education, social services teams at meetings. BwD's Growth and Development Department's unique selling point compared to other local planning authorities within the region is the level of service provided between the multi-disciplinary teams, in providing a tailored service to developers that combines a number of specialist skills and experience to help customers to meet the requirements. Delivery of development is brought forward more efficiently, reducing the costs to the applicant and the Council.

Since 2018, BwD also implemented Enhanced Services with appropriately set fees. This has enabled the Development Management service to be more pro-active in its outlook. Planning Performance Agreements (PPA) for major applications and Enhanced Services for minor and householder type of planning applications are effectively a "Fast Track" Service for the customer from receipt of the planning application through to the decision. In essence, it is an agreement between the applicant and the Council that their planning application will be determined within a specified period. The "Fast Track" service is based on 2 levels of service – Platinum and Gold. The services are aimed at all Minor Planning Application types and

Householder applications only, together with Certificates of Lawfulness applications. Further details relating to each of these discretionary services at BwD, can be found on the following links:

<https://www.blackburn.gov.uk/planning/planning-permission-applications/planning-permission-application-advice/pre-application>

<https://www.blackburn.gov.uk/planning/planning-permission-applications/planning-permission-application-advice/development-team>

<https://www.blackburn.gov.uk/planning/planning-permission-applications/planning-permission-application-advice/premium-enhanced>

Q6: Do you agree with the proposal for all planning fees to be adjusted annually in line with inflation?

Yes, it is considered this would provide more certainty and financial stability to LPAs and developers, and will avoid a continuous cycle of review. It is commonly accepted that the nationally set planning fees have not covered costs to process applications, leaving Councils to subsidise 30% of the estimated cost of processing planning applications. The proposal to increase fees annually in line with inflation is welcomed as this will provide additional resource moving forward.

Q7: Do you consider that the additional income arising from the proposed fee increase should be ring-fenced for spending within the local authority planning department?

Yes, this would allow LPAs to maintain and improve the level of service provided to its customers, whilst at the same time, allow for the continued specialist expert advice to be provided on certain types of application by external consultees.

Q8: Do you agree that the fee for retrospective applications should be doubled, i.e. increased by 100%, for all applications except for householder applications?

Yes. The proposed changes to the national planning application fees, in particular introducing fees relating to retrospective planning applications, which will be double the normal fee, is welcomed by BwD. BwD has previously contacted the Secretary of State to raise this issue on two occasions since 2015, requesting that this measure is introduced. However, BwD does not agree that there should be an exception for householder applications. A large proportion of unauthorised works investigated by the Planning Enforcement Team relate to extension/alterations to domestic dwellings. One aspect that should be clarified is what will happen when an application is registered, which states it is not retrospective, but when the case

officer carries out their site visit, it is clear works have commenced. Will there be a facility to request the additional fee or to invalidate the application?

Q9: Do you consider that the ability for a “free go” for repeat applications should be either:

- (a) Removed**
- (b) Reduced for re-applications within 12 months**
- (c) Retained**
- (d) None of the above**

BwD consider that the “free go” option for repeat applications should be removed. This will allow LPAs to deter repeat applications for development which already exists. Experience has shown that resubmitted applications can represent substantial work, and therefore at a cost to the LPA. A comprehensive “free go” fails to reflect this cost. There are concerns applicants submit the first application as a substitute for any formal pre-application discussions. Would this still apply for withdrawn applications?

There is caution though that this proposal could be counter intuitive in terms of the performance measures that are looking to be introduced. This could lead to more refusals, and subsequently more appeals, reducing the level of customer experience currently enjoyed. Developers may see this as removing the incentives to negotiate as the process becomes more target driven, which in essence is not what positive planning is all about.

Q10: Do you agree that a fee of £96 (or £120 if the proposed fee increase comes forward) should be charged for any prior approval application for development by the Crown on a closed defence site?

BwD does not have any of these application types within its jurisdiction, but consider a fee should be imposed which will tally with the other Prior Approval applications that are subject to a fee.

Building capacity and capability in the planning system:

Q11: What do you consider to be the greatest skills and expertise gaps within local planning authorities?

It is considered the biggest gaps within LPAs, particularly experienced here at BwD are urban design skills and biodiversity expertise. This is particularly important considering proposed changes to the National Planning Policy Framework to place greater emphasis on beauty and place-making, the requirement for biodiversity net gain and to ensure that all new streets are lined with trees.

Q12: In addition to increasing planning fees, in what other ways could the Government support greater capacity and capability within local planning departments and pathways into the profession?

It is considered that the Government should introduce a specific pathway for Apprenticeships and make it easier for Graduate Planners at Universities to get on the professional ladder working in LPAs. This could be achieved through Undergraduate Student Working Placement Schemes. These have proven to be a great opportunity for students which sees benefits for both them and the service. To support this would require grant money being available so that LPAs can recover the costs.

Q13: How do you suggest we encourage people from under-represented groups, including women and ethnic minority groups, to become planning professionals?

The planning profession should be promoted more in schools, and colleges particularly where there are existing good working partnerships between the Council and the education establishments. Apprenticeships could be introduced by the Government aimed at the under-represented groups, particularly in areas where the demographic has a high proportion of the group e.g. ethnic minority.

Introducing a more robust performance regime:

Q14: Do you agree that the Planning Guarantee should better mirror the statutory determination period for a planning application and be set at 16 weeks for non-major applications and retained at 26 weeks for major applications?

Yes, BwD agrees with this proposal so long as it enables the LPA to engage and work with applicants/developers and there is still the provision to enter into “extensions of time”.

Q15: Do you agree that the performance of local planning authorities for speed of decision-making should be assessed on the percentage of applications that are determined within the statutory determination period i.e. excluding extension of times and Planning Performance Agreements?

No, there is strong caution that this proposal could be counter intuitive in terms of the performance measures that are looking to be introduced. This could lead to more refusals, and subsequently more appeals, reducing the level of customer experience currently enjoyed. Developers may see this as removing the incentives to negotiate as the process becomes more target driven, which in essence is not what positive planning is all about. Furthermore, extensions of time are

usually required for reasons outside the LPAs control, such as a delayed statutory consultation response, or negotiations relating to Section 106 Agreements, and therefore they do not reflect the performance of an LPA.

Q16: Do you agree that performance should be assessed separately for:

- (a) Major applications**
- (b) Non-Major applications (excluding householder applications)**
- (c) Householder applications**
- (d) Discharge of Condition applications**
- (e) County matters applications**

BwD agree with the proposal to assess all of the above categories separately except for Discharge of Condition applications. These types of application are heavily reliant on statutory and non-statutory consultees, which often leads to significant delays in the assessment of the details submitted e.g. contaminated land conditions. It will lead to more “Partial Discharge” decisions being issued, which will lead to further applications being submitted to deal with the outstanding conditions, thereby impacting on good customer service. This appears to the customer that the planning service is being target driven rather than providing a quality customer service.

Q17: Do you consider that any of the proposed quantitative metrics should not be included?

The quantitative metrics as referred to in Figure 2 above, all appear to be reasonable and acceptable, except for the “Planning Enforcement” E 1-3 metric. Enforcement has no statutory deadlines in terms of investigating breaches, and most LPAs including BwD set their own local targets as defined in their published Local Enforcement Plan.

BwD are concerned that the government is proposing even more planning indicators when planning departments are already subject to numerous measures which are publicly available. Producing these reports can also be time consuming adding to the pressure on resources. It is vitally important that any increase in planning fees is not swallowed up by time-consuming and onerous reporting requirements.

Q18: Are there any quantitative metrics that have not been included that should be?

No.

Q19: Do you support the introduction of a qualitative metric that measures customer experience?

No, the customer experience is likely to be aligned to the outcome of the decision relating to their planning application. Most local authorities produce their own customer feedback service.

Q20: What do you consider would be the best metric(s) for measuring customer experience?

Customer satisfaction with the service provided.

Q21: Are there any other ways in which the performance of local planning authorities or level of community engagement could be improved?

With the agreement of developers, more engagement with the community at pre-application stage, without disclosing personal information or business information that is commercially confidential. In addition to this, there is now the opportunity to utilise digital tools – like some authorities have introduced Digital Customer Forum on their websites on which developer's proposals are uploaded, including their presentations, with awareness raised through the council's communications team and social media pages. The LPA officers identify interested parties, including residents' associations, disability and design groups, and invite them either to speak or to provide written comments, with residents living adjacent to the application site and those on connecting streets or in the wider area often invited to attend.

GROWTH & DEVELOPMENT DEPARTMENT

ORIGINATING SECTION: PLANNING (DEVELOPMENT
MANAGEMENT)

REPORT TO PLANNING & HIGHWAYS COMMITTEE –20th April 2023

TITLE: APPEALS MONITORING REPORT

WARDS: ALL

1.0 PURPOSE OF THE REPORT

- 1.1 To present Members with an update of recently decided appeals since the last monitoring report in September 2022. You can see from the attached table, 9 no appeals in total were determined during the period 23rd August 2022 to 6th April 2023. 7 no appeals were dismissed, and 2 appeals were allowed.
- 1.2 With regards to the National performance benchmarking in terms of appeals allowed against the number of applications determined, Blackburn With Darwen Borough Council are performing well. The latest published figures by the Ministry of Housing, Communities & Local Government for the period October 2019 to September 2021 (appeal decisions up to June 2022), show the Council in 18th place out of 330 local planning authorities. Figure 1 below is the top 30 table.
- 1.3 The table at Figure 1 presents data on the performance of local planning authorities against the published criteria for assessing under-performance under section 62B of the Town and Country Planning Act 1990. The data in the table cover minor developments, changes of use where the site area is less than one hectare and householder developments. These are subsequently described collectively as 'non-major developments', having been referred to in previous versions of this table as 'Minor and other developments'. For the quality of decisions, the statistics show the overall figure for planning applications determined in the assessment period of 24 months to the end of September 2021 (and subsequent appeal decisions to the end of June 2022).
- 1.4 The measure to be used is the percentage of the total number of decisions¹² made by the authority on applications that are then subsequently overturned at appeal, once nine months have elapsed following the end of the assessment period, as recorded in Live Table P152a and P152b for major development and in Live Table 154 for non-major development from the data collected by the Ministry of Housing, Communities and Local Government and the Planning Inspectorate. The nine months specified in the measure enables appeals to pass through the system and be decided for the majority of

decisions on planning applications made during the assessment period. The assessment period for this measure is the two years up to and including the most recent quarter for which data on planning application decisions are available at the time of designation, once the nine months to be allowed for beyond the end of the assessment period is taken into account. For example, a two year assessment period ending March 2020 will be used for designation decisions in Quarter 1 2021, this allows for applications to be decided between April 2018 and March 2020 and a 9 month lag to December 2020 for appeals to be decided. The average percentage figure for the assessment period as a whole is used.

- 1.5 The threshold for designation on applications for both major and non-major development, above which a local planning authority is eligible for designation, is 10 per cent of an authority's total number of decisions on applications made during the assessment period being overturned at appeal. Members are advised that there have been no appeals relating to 'major developments' within the same period.

1.6

England	<i>Quality of decisions (% overturned at appeal)</i>
England	
Barrow-in-Furness	0.0
City of London	0.0
Ebbsfleet Development Corporation ⁴	0.0
Isles of Scilly	0.0
Knowsley	0.0
London Legacy Development Corporation ⁴	0.0
Northumberland National Park	0.0
Old Oak and Park Royal Development Corporation ⁴	0.0
Allerdale	0.1
Chesterfield	0.1
Eden	0.1
Lincoln	0.1
Preston	0.1
Stevenage	0.1
Stockport	0.1
Bassetlaw	0.2
Blaby	0.2
Blackburn with Darwen	0.2

Figure 1:

Table P154: District Matters Planning Performance Table for Quality of non-major decisions: October 2019 to September 2021

2.0 RECOMMENDATION

2.1 That the report be noted.

3.0 BACKGROUND PAPERS

3.1 See the file numbers referred to.

4.0 CONTACT OFFICER: Gavin Prescott, Planning Manager
(Development Management)

5.0 DATE PREPARED 6th April 2023

APPEALS MONITORING REPORT RELATING TO APPEALS DETERMINED BETWEEN THE PERIOD 23rd AUGUST 2022 AND 6th APRIL 2023

PLANNING & HIGHWAYS COMMITTEE – 20th APRIL 2023

APPEAL START DATE	APPEAL REFERENCE	APPEAL SITE ADDRESS & DEVELOPMENT DESCRIPTION	APPEAL TYPE	APPEAL DECISION	APPEAL DECISION DATE	REASONS FOR DECISION
7 th April 2022	APP/TPO/M2372/8755 10/21/0550	11 Vale Street, Edgworth, BL7 0EB T2 Beech - Crown Reduce 20% Crown Thin 10% T3 Sycamore - Fell T4 Sycamore - Crown Raise upto 5m T5 Sycamore - Fell T6 Sycamore - Fell T7 Beech - Fell	Written Representations	Dismissed	3 rd November 2022	The Inspector considered the appeal trees, make a positive contribution to the mature and verdant landscape of the locality and to the character and appearance of the area. The works would give considerable harm to the character and appearance of the area.
13 th July 2022	APP/M2372/W/22/3298121 10/21/0957	Land to the side of 81 Ramsgreave Drive Blackburn BB1 8NA Extension to garden area (retrospective)	Written Representations	Allowed	2 nd November 2022	The Inspector considered the movement of vehicles into and out of the junction would not necessarily change as a result of the development, because the unmade carriageway width forming Ramsgreave Drive would be retained as existing. As such, there would be

APPEALS MONITORING REPORT RELATING TO APPEALS DETERMINED BETWEEN THE PERIOD 23rd AUGUST 2022 AND 6th APRIL 2023
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						no material harm to the existing manoeuvring arrangements at this junction.
1 st June 2022	APP/M/2372/W/22/3296993 10/21/1093	126 Abraham Street Blackburn BB2 3PJ Change of use from a single residential dwelling (C3) to a house in multiple occupation (C4) for 4no residents	Written Representations	Allowed	7 th September 2022	The Inspector considered there was limited information including the exact location and numbers of existing HMO sites, to assess whether there is a concentration of HMOs in the area. The Inspector went further and considered there was little substantive evidence to demonstrate that the existing and previous problems that local residents and ward councillors have referred to are a consequence of overcrowding, lack of amenity space etc. The Inspector was aware of the Article 4 Direction within which

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						the appeal is located, however they concluded there was insufficient evidence in relation to the concentration of HMOS, to suggest that the introduction of 1 HMO in this location would unbalance or skew the housing provision in the area to a level that would have an adverse effect on its social character. The Inspector considered there would be no issues regarding highway safety. The Inspector recommended a condition restricting the number of residents to no more than 4.
7 th June 2022	APP/M/2372/W/22/3293804 10/21/1302	14 Lord Street Blackburn BB2 1LU Change of Use of Retail Unit (Class E)	Written Representations	Dismissed	9 th December 2022	The Inspector considered the scheme would limit the opportunity for the retail and leisure provision that the local

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		to Betting Shop (Sui Generis)				plan policies aim to provide to regenerate the area. The Inspector recognised the fall-back position with regards to the Class E use of the appeal property, however betting shops are not included in this class. The inspector therefore considered that with regards to Policy 30, and the fall back position, any benefits from the scheme bringing a vacant unit back into use would undermine the vitality and viability of the town centre.
17 th January 2023	APP/M/2372/D/22/3310671 10/22/0713	83 Queens Road Blackburn BB1 1QF Erection of timber gazebo (retrospective)	Written Representations	Dismissed	30 th January 2023	The Planning Inspector considered owing to the scale and appearance of the structure built forward of the building line along Queens Road, would be an incongruous addition

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						to the street scene. It harmfully detracts from the building line that is appreciated by those that travel along Queens Road, and is seen as a dominant and out of character addition in the street scene.
16 th December 2022	APP/M/2372/D/22/3309961 10/22/0426	13 Charlotte Street Blackburn BB1 7LE Double storey rear extension and rear dormer	Written Representations	Dismissed	10 th February 2023	The Planning Inspector considered the new extension due to its siting and scale would have a significant enclosing impact on the windows to No.15, creating an overbearing dominant impact. In addition, the rear extension would lead to overdevelopment resulting in a very small amount of private amenity space.
15 th September 2021	Appeal A Ref: APP/M2372/C/22/3304083 Appeal B Ref: APP/M2372/C/22/3304084	Land and Buildings on the South side of Livesey Branch Road, Blackburn BB2 5FB	Public Inquiry	Dismissed – Enforcement Notice amended to remove element relating	14 th February 2023	The Planning Inspector considered the requirement to maintain the land in a neat and healthy

APPEALS MONITORING REPORT RELATING TO APPEALS DETERMINED BETWEEN THE PERIOD 23rd AUGUST 2022 AND 6th APRIL 2023

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	ENF 0336	Failure to comply with Condition 3 (10/01/0516) – Landscaped areas shall be maintained in a neat and healthy condition; Material change of use of land from Public Open Space to “private enclosed land”, and erection of gate/fence at a height of 1.94m		to the landscape condition being maintained in a neat and healthy condition as this condition is unenforceable. Allow unrestricted access by members of the public into the area of public open space. Compliance period 2 months i.e. 14 th April 2023.		condition is so fundamentally vague and uncertain that anyone reading the notice cannot understand what is required to comply. Therefore, the wording does not meet the statutory and policy tests and should be removed. The Inspector based on the evidence presented at the Inquiry, concluded that on the balance of probabilities the land was used as public open space from the time that the developers left the appeal site in 2006. There was no evidence to show that there was a change of use to private amenity space during this time. The new gates/fence erected in May 2022 prevent access by the

APPEALS MONITORING REPORT RELATING TO APPEALS DETERMINED BETWEEN THE PERIOD 23rd AUGUST 2022 AND 6th APRIL 2023

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						public which caused a material change of use of the appeal site to use as private open space. The appellants agreed that if the lawful use was found to be public open space they would not pursue the grounds of appeal relating to the gates and fence.
8 th September 2022	APP/M/2372/ Z/22/3305708 10/22/0570	Land at Bank Bottom (Corner of Borough Road) Darwen BB3 1PL Erection of a freestanding 48- sheet sized digital LED advertising unit	Written Representations	Dismissed	17 th February 2023	The Planning Inspector considered proposed unit would be out of character with the historic built environment. It would be out of scale and out of keeping with the nearby commercial fascia and highway signage, the sign would not assimilate into its surroundings rather it would be a dominant feature that would contribute to visual clutter.

APPEALS MONITORING REPORT RELATING TO APPEALS DETERMINED BETWEEN THE PERIOD 23rd AUGUST 2022 AND 6th APRIL 2023

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8 th September 2022	APP/M/2372/ D/22/3302939 10/22/0320	84 Walter Street Blackburn BB1 1SX Erection of glazed balcony to rear	Written Representations	Dismissed	10 th March 2023	The Planning Inspector considered the proposal would have an adverse impact towards the No.82 in terms of overlooking and loss of privacy.

TOTAL NUMBER OF DECISIONS: 9

TOTAL NUMBER ALLOWED: 2 (12%)

TOTAL NUMBER DISMISSED: 7 (78%)

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