

Public Document Pack

Planning and Highways Committee

Thursday, 21st March, 2024

6.45 pm

Meeting Room A, Blackburn Town Hall

AGENDA

1. **Welcome and Apologies**
2. **Minutes of the Previous Meeting**
Minutes of Previous Meeting **3 - 11**
3. **Declaration of Interest**
Declaration of Interest Form **12**
- Material Consideration** **13 - 14**
4. **Planning Applications for Determination**
Agenda 21.03.2024 **15 - 16**
 - 4.1 **Planning Application 10-23-0769**
Land at the Junction of Harrison Street/Sumner Street, Blackburn **17 - 48**
 - 4.2 **Planning Application 10-23-1161**
Former Hollins Grove Liberal Club, Falcon Avenue, Darwen **49 - 67**
 - 4.3 **Planning Application 10-23-1165 & 10-23-1166**
432 Preston Old Road, Blackburn **68 - 94**
 - 4.4 **Planning Application 10-24-0045**
Longworth Bank Farm, Edgworth, Bolton **95 - 104**
 - 4.5 **Planning Application 10-24-0110**
Unity House, First Floor 49-51 Preston New Road, Blackburn **105 - 116**

Date Published: Wednesday, 13 March 2024
Denise Park, Chief Executive

PLANNING AND HIGHWAYS COMMITTEE

Thursday, 15 February 2024

PRESENT – Councillors, David Smith (Chair), Casey, Marrow, Baldwin, Imtiaz, Mahmood, McCaughran, Jackson, S Patel, Khonat, Shorrocks and Hardman (substitute for Slater).

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

RESOLUTIONS

63 Welcome and Apologies

The Chair welcomed everyone to the meeting.

Apologies were received from Cllr Zamir Khan and Cllr Jacquie Slater and was substituted by Cllr Derek Hardman.

64 Minutes of the Previous Meeting

RESOLVED – That the minutes of the previous meeting held on 18th January 2024 be approved and signed as a correct record.

65 Declaration of Interest

RESOLVED – There were no Declarations of Interest received.

66 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.

66.1 Planning Application 10-23-0346 & 10-23-0353

Applicant – Mrs Caer Butler

Location and Proposed Development – Former Cotton Exchange/Apollo Cinema, 71-73 King William Street, Blackburn, BB1 7DT

Full planning permission and Listed Building Consent: Refurbishment of the former Cotton Exchange/Apollo Cinema including elevational and roof alterations to create a mixed-use community and performance space (sui generis), partial demolition of the 1920's block roof, external lighting and other associated works.

Decision under Town and Country Planning Acts and Regulations –

RESOLVED – Approved subject to the conditions highlighted in the Directors report and the amended wording of the following conditions in the update report:

(5.1.5) The development hereby approved shall only be open to members of the public between the hours of 8:00 – 00:00.

REASON: In order to minimise noise impacts associated with the development, in the interests of residential amenity, and to comply with the requirements of Policy DM02 of the Blackburn with Darwen Borough Council Local Plan (adopted 2024).

(5.1.7) Prior to their installation, a scheme detailing biodiversity enhancement measures has first been submitted to and approved in writing by the Local Planning Authority. The development shall thereafter be implemented in strict accordance with the approved scheme and shall not be brought into use until the agreed measures have been provided in their entirety.

REASON: In order to ensure ecological enhancement measures are provided in support of the development, in the interests of biodiversity and securing biodiversity net gains, and to comply with the requirements of Policies CP6 and DM15 of the Blackburn with Darwen Borough Council Local Plan (adopted 2024).

66.2 Planning Application 10-23-0792

Applicant – Countryside Partnerships Ltd

Location and Proposed Development – Land to the South of Whalley Old Road, Blackburn

Discharge of planning condition for Discharge Condition No.17 "off-site highway works scheme " pursuant to planning application 10/20/0716 "Outline planning application with all matters reserved for residential development of up to 165 dwellings"

Decision under Town and Country Planning Acts and Regulations –

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

Abstained: Cllrs Marrow, Baldwin & Hardman

66.3 Planning Application 10-23-0861

Applicant – Blackburn with Darwen Borough Council

Location and Proposed Development – Darwen Youth Centre, Knott Street, Darwen, BB3 3BU

Erection of 2 no. side extensions to provide stair towers up to a new floor level above the existing ground floor, and 1 no. front extension to provide a main entrance, alongside internal reconfigurations, as well as the relocation of the existing MUGA, vehicular parking alterations 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 amended conditions in the Update Report:

(5.2) Unless explicitly required by condition within this consent, the development hereby permitted shall be carried out in complete accordance with the proposals as detailed on drawings: Location Plan (P501 – Revision 00), P1200, P1201 – Revision 01, 1202 – Revision 01, P1300 – Revision 00, P1301 – Revision 00, P1400 – Revision 00, P1500 – Revision 00, P1501 – Revision 00, P2100 – Revision 00, P2101 – Revision 00, P2102 – Revision 00, P3100 – Revision 01, P3101 – Revision 01 and P4100 – Revision 00.

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

(5.7) The following aspects of the development hereby approved shall only be open to members of the public between the hours of; a) Youth Centre: 8:00 – 00:00 b) MUGA: 9:00 – 21:00

REASON: In order to minimise noise impacts associated with the development, in the interests of residential amenity, and to comply with the requirements of Policy DM02 of the Blackburn with Darwen Borough Council Local Plan (adopted 2024).

(5.12) No above ground works shall commence on site unless and until a scheme for the construction of a level pedestrian access from Knott Street has first been submitted to and approved in writing by the Local Planning Authority, unless otherwise agreed in writing. Where relevant, the development shall thereafter be implemented in strict accordance with the approved scheme and shall not be brought into use until the agreed scheme has been implemented in its entirety.

REASON: In order to ensure a level pedestrian access is provided in support of the development, in the interests of improving accessibility, and to comply with the requirements of Policy DM29 of the Blackburn with Darwen Borough Council Local Plan (adopted 2024).

(5.18) Should unexpected contamination be encountered during redevelopment of the site, all works should cease, and the Local Planning Authority should be immediately informed in writing. If unacceptable risks are identified, a remedial options appraisal and detailed remediation scheme should be presented, and agreed in writing by the Local Planning Authority. The development shall thereafter proceed in strict accordance with the agreed details.

REASON: In order to protect the health of future occupiers of the site, prevent the displacement of pollution and any associated environmental impacts, and

to comply with the requirements of Policy DM02 of the Blackburn with Darwen Borough Council Local Plan (adopted 2024)

66.4 Planning Application 10-23-0978

Applicant – Mr A Shorrocks

Location and Proposed Development – Vacant Land off Victoria Buildings, Waterside, Darwen

Variation of Condition No.15: "Upgrading of drainage, sub-surface and surface treatment to the footway and carriageway along the length of Victoria Buildings, from its junction with Johnson Road to the access onto the application site, together with junction improvements to the Victoria Buildings and Johnson Road junction", pursuant to planning application 10/19/0807 "Residential Development of 10 No. detached dwellings including access and associated landscaping."

Decision under Town and Country Planning Acts and Regulations –

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

66.5 Planning Application 10-23-1013

Applicant – Together Housing Group

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

Variation of Condition / Minor Material Amendment: Variation of Condition No.2 "approved drawings" pursuant to planning application 10/22/0991 "Erection of 3no. 3 bed, 5 person terraced dwellings with six proposed new car parking spaces, together with 6 car parking spaces provided for the existing residents " - to revise layout, parking and elevation details

Decision under Town and Country Planning Acts and Regulations –

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

66.6 Planning Application 10-23-1018

Applicant – Together Housing Group

Location and Proposed Development – Shadsworth Park - land bounded by Dunoon Drive, Bute Road, and the Shadsworth Hub, Rothesay Road

Full Planning Application (Regulation 4) for Improvements to Shadsworth Park including reinstatement of the play area, refurbishment of multi-use games area with improved surfacing and replacement fencing, improvements to the

existing skate area with refurbished skate ramps, a new skate park and pump track, informal seating platforms and associated landscaping

Decision under Town and Country Planning Acts and Regulations –

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

67 15 Dukes Brow, Blackburn Tree Preservation Order 2023 (ref: BWD7)

A report was submitted to Committee to endorse the actions of the Council's Arboricultural Officer/Planning Manager (Development Management) in making and serving 15 Dukes Brow Blackburn 2023 Tree Preservation Order (TPO) (ref: BWD7) and to confirm 15 Dukes Brow Blackburn 2023 Tree Preservation Order (TPO) (ref: BWD7) without modification.

On the 24th November 2023, the Council's Arboricultural Officer was contacted by the owner of No.15 Dukes Brow, who was initially concerned about the safety and common law nuisance relating the house with one particular Lime tree. Further to the site visit, the owner then confirmed they wished to fell two lime trees.

Following a site visit made by the Council's Arboricultural Officer on the 24th November 2023, it was considered having inspected the wall, which was low and 'rough built', the wall appeared to act as a small retaining wall. The wall appears to be exhibiting minor disruption to T2 Lime, and pruning works would suffice. With regards to the wall and the impact towards T1 lime tree, the wall had belled, but appears stable. The Arboricultural Officer considers if there is further disruption to the wall, the wall could be repaired or rebuilt relatively easily without the need to fell the tree.

The Arboricultural officer subsequently carried out a Tree Evaluation Method for Preservation Orders (TEMPO), which was undertaken on the 24th November 2023. The assessment gave the tree a very high score of 17, which fully warrants a TPO.

The emergency TPO was served on the landowner/freeholder on the 28th November 2023.

The lime tree scored 17 on a TEMPO assessment that fully warrants them worthy of protecting. Therefore, it is considered that the TPO should remain unless a justified reason is presented as evidence in a future application.

RESOLVED – That the Tree Preservation Order be endorsed and is confirmed without modification at 15 Dukes Brow, Blackburn.

68 7 Dukes Brow, Blackburn Tree Preservation Order 2023 (ref: BWD6)

A report was submitted to the committee to endorse the actions of the Council's Arboricultural Officer/Planning Manager (Development Management) in making and serving 7 Dukes Brow Blackburn 2023 Tree Preservation Order (TPO) (ref: BWD6) and to request that the Committee confirm 7 Dukes Brow

Blackburn 2023 Tree Preservation Order (TPO) (ref: BWD6) without modification.

On the 1st November 2023, the Council's Arboricultural Officer was contacted by the owner of the adjacent property to No.7 Dukes Brow, Bank House, Adelaide Terrace, who confirmed they were intending to submit a Section 211 Notification for works to trees in a conservation area, to fell a Lime tree, as shown on the location plan (refer to image 4), as they considered it is causing damage to a boundary wall. The owner stated "The Lime tree is elevated on a higher section of land and directly adjacent to the boundary wall. Due to its proximity with the boundary the root morphology cannot develop stability roots on the eastern side. The result of this is that if the tree is ever uprooted it can only go eastward."

Following a site visit made by the Council's Arboricultural Officer on the 9th November 2023 (refer to Images 1-3), it is considered that the damage to the wall referred to above, appears minor and the partially dislodged stones on the top appears minor and potentially could be easily rectified. With regard to anchorage concerns, it is considered the tree is not liable to collapse. The root growth, morphology and architecture will allow adaption of roots (view of the Arboricultural Officer) to provide perfectly acceptable root development and stability, without the risk of the root plate failing. The wall will not create a barrier for root growth and roots will have likely grown and extend beyond the base of the wall.

The tree will have adapted with the development of structural roots with the associated stresses and strains during development from a young tree. The only potential compromise would be if the soil growing medium, mechanical strength (bulk density) was to be inadequate. There is no evidence to indicate this the case and soils typically would be suitable. If required, this could be relatively easily checked with excavations to determine the soil structure and soil texture.

The Arboricultural officer subsequently carried out a Tree Evaluation Method for Preservation Orders (TEMPO), which was undertaken on the 9th November 2023. The assessment gave the tree a very high score of 18 as illustrated in image 5, which fully warrants a TPO.

It is considered that the TPO should remain unless a justified reason is presented as evidence in a future application.

RESOLVED - That the Tree Preservation Order be endorsed and is confirmed without modification at 7 Dukes Brow, Blackburn.

69 Biodiversity – Supporting the recovery of nature in the Borough

A report was submitted to inform the Committee on the introduction of Biodiversity Net Gain (BNG).

Biodiversity is in alarming decline across the country and the Government has set out their commitments to addressing this biodiversity crisis through a 25-year Environment Plan, with an ambition "to leave our environment in a better state than we found it". The interventions it plans to take to improve the

environment have since been set out through legislation and guidance, including the statutory Environment Act (2021) and the Government's Environmental Improvement Plan (EIP) (2023). The Environment Act (2021) introduced a series of mandatory strategies and interventions to begin to address the biodiversity emergency. This includes Biodiversity Net Gain (BNG).

Biodiversity Net Gain is a new, mandatory requirement for most new development to deliver a 10% net gain in biodiversity, and uses habitats as a proxy for biodiversity. Any habitats lost through new development must be replaced or compensated for, on a like for like basis, and then a further 10% uplift in biodiversity must be provided. Habitats must be provided at the same condition (quality), or higher, as the habitats that are to be lost.

BNG was due to be introduced in November 2024, but government delays now mean that national BNG will take effect from 12 February 2024. Most planning applications will be expected to deliver 10% BNG, although, under transitional arrangements, the requirements only begin for minor applications on 2 April 2024. Some developments, for example householder schemes, small self- or custom-build schemes, or developments with de-minimis areas of habitat, are exempted from the BNG requirements.

Whilst BNG takes effect nationally from February 2024, Local Planning Authorities have, for some time, also been entitled to set their own local net gain requirements. In reflection of the ever-increasing importance of the environment, the Council have set out their own Department of Place, Growth and Development local requirements for BNG in the new Local Plan (2021-2037) through Policy CP6: Natural Environment. Policy CP6 requires most new developments in the borough to deliver a minimum of 10% BNG. The Council adopted the Local Plan on 25 January 2024, and BNG is now a requirement of all planning applications. However, once national BNG takes effect, this will take precedence over local BNG requirements (though both are required to deliver 10% BNG and evidence this in the same way).

It was noted that officer Helen Hatch, Senior Strategic Planner, had dedicated a lot of time and knowledge into BNG and the Committee thanked Helen for her hard work.

RESOLVED – That the report be noted.

70 Diversion of Public Footpath 91 Darwen (part)

A report was submitted to seek approval from the Members of the committee for a public path order under the Highways Act 1980, Section 119 to divert part of Public Footpath 91 Darwen.

The Council is Highway & Surveying Authority for the area within which the public footpath proposed for diversion lies. Each year public rights of way officers survey a random 10% sample of the PROW network to give an indication of the current state of the network. Several years ago, FP91 Darwen was surveyed as part of this process and officers identified an obstruction of the route by gates at the entrance to Lords Hall and a retaining wall structure to the west of the grounds.

The then owner of Lords Hall when approached by officers regarding these obstructions insisted that the definitive line of the footpath was not through the grounds of the house but around the land lying to the south side of the entrance gates to Lords Hall. The Property changed hands in 2016 and, at the time of the purchase, the new owner was made aware of the ongoing issue of obstructions on Footpath 91 Darwen through the Hall's grounds.

Following the change in ownership, negotiations were had with the new owner who accepted the Council's position and, as a result, the Council received an application on the 4th October 2022 requesting the diversion of Footpath 91 Darwen.

This report seeks to address those matters being put before members of the Committee, namely the application for the public path order to divert part of the path as shown on the plan attached to this report. It seeks to advise members of the Committee of the outcome of non-statutory consultations, and an assessment against the relevant legislative criteria, thus enabling them to consider whether, or not to promote the Order requested.

The initial application sought to use a route further north of Lords Hall which the applicant felt gave walkers a more pleasant experience. A preliminary consultation on this route was carried out with users/interest groups to which objections were received. The predominant objection was with regard to the steep gradients with little scope for improvement. After further discussions between the officers and the applicant, the diversion route which is the subject of this report was agreed by all parties. The applicant has confirmed that the new path will be provided to a standard that is to the satisfaction of the Highway Authority.

A further preliminary consultation with users/interest groups was undertaken for this new route to which no objections were received. Public Footpath 91 Darwen currently starts on Duckshaw Road at Point A (SD 68480 20250) on the attached plan heading in a generally southerly direction to the access gates to Lords Hall at Point B (SD 68446 20035), through the grounds of the Hall to Point C (SD 68364 20049) and then in a generally westerly direction to via Point D (SD 68289 20146) to join Public Footpath 89 Darwen at Point E (SD 68126 20080).

The proposed diversion seeks to change the direction of the footpath at point B prior to the gates at the entrance to Lords Hall (SD 68446 20035) leaving Duckshaw Road in a southerly direction for some 42m metres south to Point F (SD 68419 20006). The proposed diversion then heads in a north westerly direction for 62m to rejoin the existing line of footpath 91 at Point C (SD 68364 20049)

There is evidence that this route has already been used by walkers during the years when the route through the grounds of Lords Hall has been obstructed.

RESOLVED – That the Committee Promote the Order and authorise the Director of HR, Legal & Governance to progress the necessary legal orders.

71 **Enforcement**

A report was submitted to obtain authorisation for enforcement action against all persons having an interest in the land at 127 Sough Road, Darwen.

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

RESOLVED – Authorisation was granted for the enforcement to be undertaken at 127 sough Road, Darwen.

72 Enforcement

A report was submitted to obtain authorisation for enforcement action against all persons having an interest in the land at 16 Town Hall Street, Blackburn. Background information including grounds for the request were outlined in the report.

RESOLVED – Authorisation was granted for the enforcement to be undertaken at 16 Town Hall Street, Blackburn.

73 Update Enforcement

A report was submitted to update Members on a previous proposed enforcement at 2 Shear Bank Close, Blackburn.

RESOLVED– That the update report 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 AND DEPUTY CHIEF EXECUTIVE

LOCAL GOVERNMENT (ACCESS TO INFORMATION) ACT 1985 BACKGROUND PAPERS

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

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

PLANNING APPLICATIONS FOR DETERMINATION Date: 21/03/2024

Application No	Applicant	Site Address	Ward
Application Type			

10/23/0769

Vali Investment Ltd Mr Sajid Patel Vali House Boyle Street Blackburn BB1 6DG	Land at the junction of Harrison Street/Sumner Street Blackburn	Blackburn Central
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Full Planning Application (Retrospective) for Change of use of former builders yard to a car park to serve the Grand Venue, including land level alterations (part retrospective)

RECOMMENDATION: Permits

10/23/1161

Thistlewood Properties Ltd c/o Edgeplan Ltd 7 Charlotte Street Manchester M1 4DZ	Former Hollins Grove Liberal Club Falcon Avenue Darwen BB3 1QX	Darwen West
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Variation/Removal of Condition/Minor Material Amendment for Variation of Condition No.2 "approved drawings" pursuant to planning application 10/21/0148 "Erection of Use Class E Convenience Store with Staff/Storage at First Floor and 16 Customer Parking Spaces and Delivery Area" - revisions to the boundary treatment from low brick wall to the western boundary to a 0.75m high timber knee rail fence; a new 1m high wall (white render with coping stones on top) to replace the former red brick wall along small section of Falcon Avenue boundary frontage (drawing reference: 0175(P)103 rev C (retrospective)).

RECOMMENDATION: Permits

10/23/1165

Mr Mohammed Saman Mohammed 432 Preston Old Road Blackburn BB2 5LP	432 Preston Old Road Blackburn BB2 5LP	Livesey With Pleasington
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Advertisement Application (Retrospective) for Retention of illuminated fascia and non-illuminated hanging sign (retrospective)

RECOMMENDATION: Advertisement

Application No	Applicant	Site Address	Ward
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Application Type			
10/23/1166	Mr S Desai 432 Preston Old Road Blackburn BB2 5LP	432 Preston Old Road Blackburn BB2 5LP	Livesey With Pleasington
Variation/Removal of Condition/Minor Material Amendment for Variation of Condition Nos 2 "approved drawings ", and 7 "restrict use within Use Class E(a)" pursuant to planning application 10/22/0259 "Change of use from a residential dwelling to a retail shop at ground and basement floor level with a first floor level apartment and installation of a shopfront and security shutter " - to allow for the retention of the barbers (Use Class E(c) and alterations to shop frontage design			

RECOMMENDATION: Permits

10/24/0045	Mr A Panchal 22a Fareham Close Walton Le Dale Preston PR5 4JX	Longworth Bank Farm Blackburn Road Edgworth Bolton BL7 0QF	West Pennine
Full Planning Application for Proposed single storey rear and side extension including double storey extension to front.			

RECOMMENDATION: Permits

10/24/0110	Mr Amar Abbas Unity House 49-51 Preston New Road Blackburn BB2 6AE	Unity House First Floor 49-51 Preston New Road Blackburn BB2 6AE	Wensley Fold
Variation/Removal of Condition/Minor Material Amendment for Removal of Condition No. 6 "temporary time restriction" and Variation of Condition No. 7 "opening hours" pursuant to planning application 10/21/1312 " Change of use of first floor from E(G)(i) Offices To F1(a) Educational Class Rooms (retrospective)" to remove temporary permission limitation and allow permanent opening hours of 09:00-21:00			

RECOMMENDATION: Permits

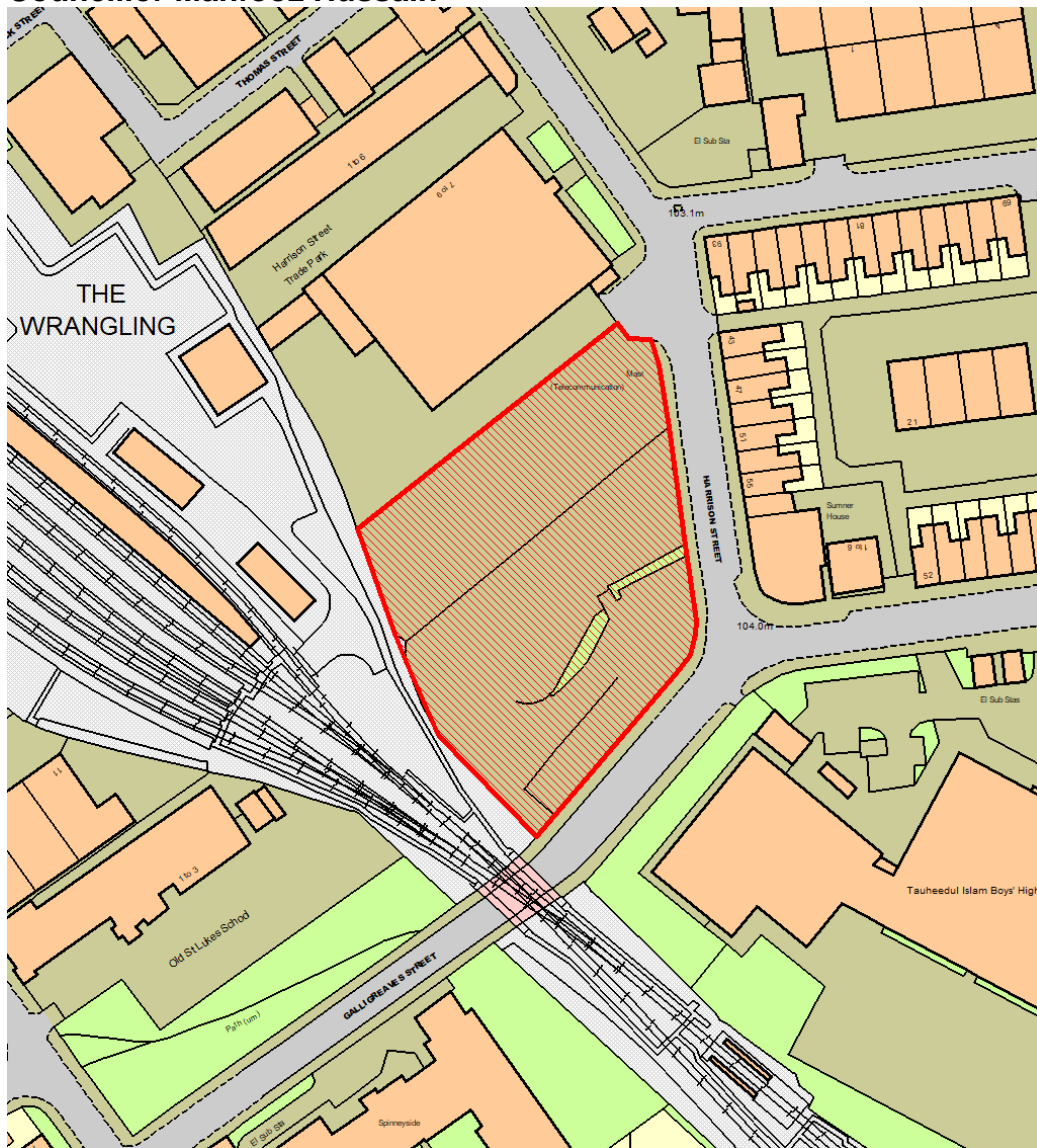
Proposed development: Full Planning Application for change of use of former builders' yard to a car park to serve the Grand Venue, including land level alterations (part retrospective).

Site Address:

**Land at the junction of Harrison Street / Sumner Street
Blackburn**

Applicant: Vali Investment Ltd

**Ward: Blackburn Central
Councillor Zamir Khan
Councillor Samin Desai
Councillor Mahfooz Hussain**



1.0 SUMMARY OF RECOMMENDATION

1.1 APPROVE – subject to conditions set out at paragraph 4.1.

2.0 KEY ISSUES/SUMMARY OF PLANNING BALANCE

2.1 The application is reported to Committee on account of the application site (the site) being Council owned (leased by the applicant) and the management responsibility of the Director of Growth and Development / Deputy Chief Executive. This is in accordance with Regulation 10 of the Town and Country Planning General Regulations 1992 and the Council's adopted Scheme of Delegation.

2.2 The proposal is in the form of an application for full planning permission. Detailed assessment finds that the development corresponds with the Council's strategic and development management objectives of the Local Plan 2021 – 2037. All technical issues have been addressed through the application or are capable of being controlled or mitigated through application of planning conditions.

3.0 RATIONALE

3.1 Site and Surroundings

3.1.1 The site measures circa 4,500sqm. It comprises an enclosed parcel of land at the junction of Harrison Street and Sumner Street, within the urban area of Blackburn. The site is *previously developed land* which is currently vacant of any defined use, though it has historically been used for storage of building materials.

3.1.2 The area is generally defined as mixed use in character, comprising industrial / commercial and residential uses.

3.2 Proposed Development

3.2.1 Full (part retrospective) planning permission is sought for a change of use of former builder's yard to a car park to serve the adjoining function / banqueting suite known as The Grand Venue. Land level alterations are also proposed. As work has commenced, to the extent of land level alterations across a portion of the site, the application is submitted as part retrospective. This follows intervention by the Council Planning Enforcement team. Full details are set out in the submitted application form, drawings, and Design & Access Statement.

3.3 Development Plan

3.3.1 Section 38(6) of the Planning and Compulsory Purchase Act 2004 requires that determination of planning applications must be made in accordance with the Development Plan unless material considerations indicate otherwise.

3.3.2 For the purpose of this assessment, the Development Plan comprises the Blackburn with Darwen Borough Council Local Plan 2021 – 2037 (adopted January 2024).

3.3.3 Notwithstanding that the subject application was submitted in September 2023, it is assessed against the following policies of the adopted Local Plan 2021 – 2037:

- Policy CP1: A Balanced Growth Strategy
- Policy CP2: The Spatial Approach
- Policy CP6: The Natural Environment
- Policy CP9: Transport and Accessibility
- Policy DM02: Protecting Living and Working Environments
- Policy DM13: Flooding / SuDS
- Policy DM15: Biodiversity
- Policy DM27: Design in New Developments
- Policy DM29: Transport and Accessibility

3.4 Other Material Planning Considerations

3.4.1 National Planning Policy Framework (The Framework).

3.4.2 National Planning Policy Guidance (NPPG).

3.5 Assessment

3.5.1 In assessing this application the following range of important material matters must be considered:

- Principle
- Amenity
- Environment
- Accessibility & Transport
- Design / Character & Appearance

3.5.2 Principle

The site is located within the urban boundary. It is not allocated for any specific purpose. The proposal represents a beneficial reuse of the site which would alleviate congestion and instances of on-street parking associated with functions held at the Grand Venue.

- 3.5.3 Policy CP1 confirms that the Council will pursue a ‘Balanced Growth’ strategy over the plan period, with an aspiration to help ensure a better quality of life everyone, both now and for future generations, achieved through:
- 3.5.4 Policy CP2 confirms the principles of future development and that the majority of new development over the plan period will be in the urban areas of Blackburn with Darwen.
- 3.5.5 Accordingly, the principle of the development is found to be acceptable, in accordance with The Framework’s presumption in favour of sustainable development, which should proceed without delay, unless impacts which significantly and demonstrably outweigh the benefits of a proposal are identified, subject to assessment of the following matters:
- 3.5.6 Amenity
Policy DM02 requires development to contribute positively to the overall physical, social, environmental and economic character of the area. It is also required to secure a satisfactory level of amenity and safety for surrounding uses and for occupants or users of the development itself, with reference to noise, vibration, odour, light, dust, other pollution or nuisance, privacy / overlooking and the relationship between buildings; and to have a neutral or positive impact on air quality.
- 3.5.7 No significant amenity issues would arise from the proposal. The site is enclosed and sufficiently separated from any sensitive residential uses.
- 3.5.8 The Council’s Public Protection consultee recommends the following (summary) conditions:
- Limited hours of use of the car park (11:00 – 19:00 hours);
 - Air Quality Impact Assessment (AQIA); and
 - Light pollution scheme.
 - Contaminated land watching brief;
 - Vibration monitoring programme if piling / vibro-compaction is required;
 - Floodlight scheme;
 - Dust control measures; and
 - Limited hours of construction;
- 3.5.9 Limiting hours of use to those recommended is considered unnecessary. The use of the car park should instead align with the permitted opening hours of the Grand Venue. Whilst it is recognised that the Grand Venue may be trading beyond its permitted opening hours (11:00 to 19:00hrs), in breach of a temporary permission which expired 17th March 2023, for extended opening hours of 11:00 to 23:00 (ref. 10/21/1320), this matter is currently being re-considered under a new application proposing permanent hours of 11:00 to 23:00 – ref. 10/24/0233. In the meantime, the Grand Venue should revert to its original permitted hours of use of 11:00 – 19:00, unless and until permission is granted for any alternative hours.

3.5.10 Submission of an AQIA is considered unnecessary and unreasonable, as no additional air quality impacts would arise from the proposal, by virtue of no additional traffic being generated by a facility to be used only by patrons of The Grand Venue; the capacity of which would not be increased under the parameters of this proposal.

3.5.11 Submission of a light pollution scheme for vehicles egressing the car park is considered unnecessary and unreasonable. The car park is almost entirely enclosed by a solid boundary wall in excess of 1.8m high, which would neutralise the impact of car headlights on dwellings opposite. Egress would be taken from the existing gates adjacent to The Grand Venue building, the rationale for which is discussed in detail below, at paragraphs 3.5.32 - 3.5.34. The egress does not directly face ground floor habitable rooms windows.

3.5.12 Moreover, it should be recognised that the car park would remove pre-existing impacts of on-street parking, to the overall benefit of local residents.

3.5.13 It is confirmed that piling / vibro-compaction and floodlighting would not be required.

3.5.14 The remaining matters would be secured via condition.

3.5.15 The applicant has completed and submitted a Network Rail asset protection form, on account of the proximity of the development to the railway line.

3.5.16 Network Rail recommend the following (summary) conditions:

- I. Submission / implementation of a Construction Method Statement and Risk Assessment;
- II. submission of full details of ground levels, earthworks and excavations to be carried out near to the railway boundary
- III. submission of details of scaffolding work within 10m of the railway boundary;
- IV. submission / implementation of a Risk Assessment and Method Statement if vibro-compaction is required;
- V. submission of demolition methodology statement;
- VI. submission of a surface water drainage scheme;
- VII. submission of appropriate vehicle safety protection measures along the boundary with the railway; and
- VIII. submission / provision of a trespass proof fence.

3.5.17 Matters I and II would be secured via a condition.

3.5.16 Regarding points III – V; as confirmed by the Asset Protection form, scaffolding will not be required; the remaining works would be limited ground re-profiling and surfacing dressing without any excavation or compacting likely to cause vibration; application of the conditions is considered unnecessary and unreasonable.

- 3.5.17 Regarding points VI; a surface water drainage scheme will be secured via condition. This is discussed further at paragraph 3.5.26.
- 3.5.18 Regarding points VII – VIII; the extent of car park would fall circa 3m short of the Network Rail boundary at a consistent land level, provision of vehicle safety protection measures is considered unnecessary. A trespass proof fence is also considered unnecessary, as trespass is not considered material to the outcome of the application, as a matter outside of the scope of planning law. Trespass would, instead, be a civil matter.
- 3.5.19 Any damage to Network Rail land would otherwise be a civil matter between the responsible developer and Network Rail. The developer is advised to issue notice under the Party Wall Act 1996 of works in proximity to the Network Rail boundary.
- 3.5.20 Further, it should be noted that the application site red edge has been amended from that originally submitted, to omit Network Rail land, thereby enabling their original holding objection to be lifted.
- 3.5.21 In considering the appropriateness of planning conditions, Members are advised that it is for the Local Planning Authority to determine whether they are justified – ie proportionate to the identified issue they seek to address. The following directions are of relevance:
- 3.5.22 The Framework, at paragraph 56, confirms that *planning conditions should be kept to a minimum and only imposed where they are necessary, relevant to planning and to the development to be permitted, enforceable, precise, and reasonable in all other respects.*
- 3.5.23 Circular 11/1995 (Use of conditions in planning permission) advises that *in considering whether a condition is necessary, authorities should ask themselves whether planning permission would have to be refused if the requirements of that condition were not imposed.*
- 3.5.24 Accordingly, it is found that satisfactory levels of amenity and safety would be secured for existing and future residents. The development is also considered to contribute positively to the overall physical, social, environmental, and economic character of the area, in accordance with the requirements of Policy DM2 and The Framework.
- 3.5.25 Environment
Policy CP6 requires new development to conserve and enhance biodiversity, geodiversity and landscape features ensuring that statutory and non-statutory protected sites are protected, enhanced and supported; that recognised priority species and habitats are protected, enhanced and supported; that a measurable biodiversity net gain of no less than 10% is achieved; and that appropriate and long-term management of new or existing habitats is secured to ensure a network of nature recovery. Development should also have a neutral or positive impact on air and water quality. Policy DM15 requires protection of biodiversity resources.

3.5.26 Drainage (SuDS) / Flood Risk: Policy DM13 requires development to demonstrate that it is safe from all types of flooding and that it will not exacerbate flood risk elsewhere.

3.5.27 The Environment Agency (EA) Flood Map confirms that the site is located within Flood Zone 1, 2 and 3. The EA Historic Flood Map indicates that the area to the north of the site and to the north portion of the site (existing car park area) has experienced historic flooding. Accordingly, a Flood Risk Assessment (FRA) has been submitted with the application.

3.5.28 Following review of the FRA, both the EA and BwD Drainage (as Lead Local Flood Authority - LLFA) offer no objection, on the premise that the development would be unlikely to exacerbate flood risk. However, the LLFA require submission of a revised FRA to further consider flood risk, a surface water drainage scheme, and a future drainage management and maintenance scheme, to be secured via condition. The revised FRA must provide for the following:

- details of greenfield runoff rates from land in undeveloped state;
- proposed discharge rates from the development (to be equal to greenfield runoff);
- volumes of attenuation required to make the proposed discharge feasible, in the case of a 1 in 100 year storm event + 40% climate change allowance;
- investigation into the feasibility of incorporating SuDS into the development; and
- measures to be taken to mitigate impacts of surface water flooding in the event of a 1 in 100 year + 40% storm.

3.5.29 Biodiversity: The application was submitted during the superseded plan period (BwD Core Strategy – 2011 and Local Plan Part 2 – 2015). The current Local Plan requires a 10% net gain in biodiversity. However, on account of the application being submitted within the previous Local Plan period, transitional flexibility should be applied to relax the 10% uplift requirement. Notwithstanding such relaxation, a site wide soft landscaping scheme of appropriate mix and density, as well as provision of bat and bird boxes, will be secured via condition to achieve a net gain.

3.5.30 Trees / Landscaping: Policy DM17 requires development to include appropriate landscaping / tree planting; incorporation of existing trees and hedgerows (where practicable); compensatory planting (where applicable).

3.5.31 There are no identifiable ecological or arboricultural constraints to development. Implementation of the above noted soft landscaping scheme will help assimilate the development into the natural environment.

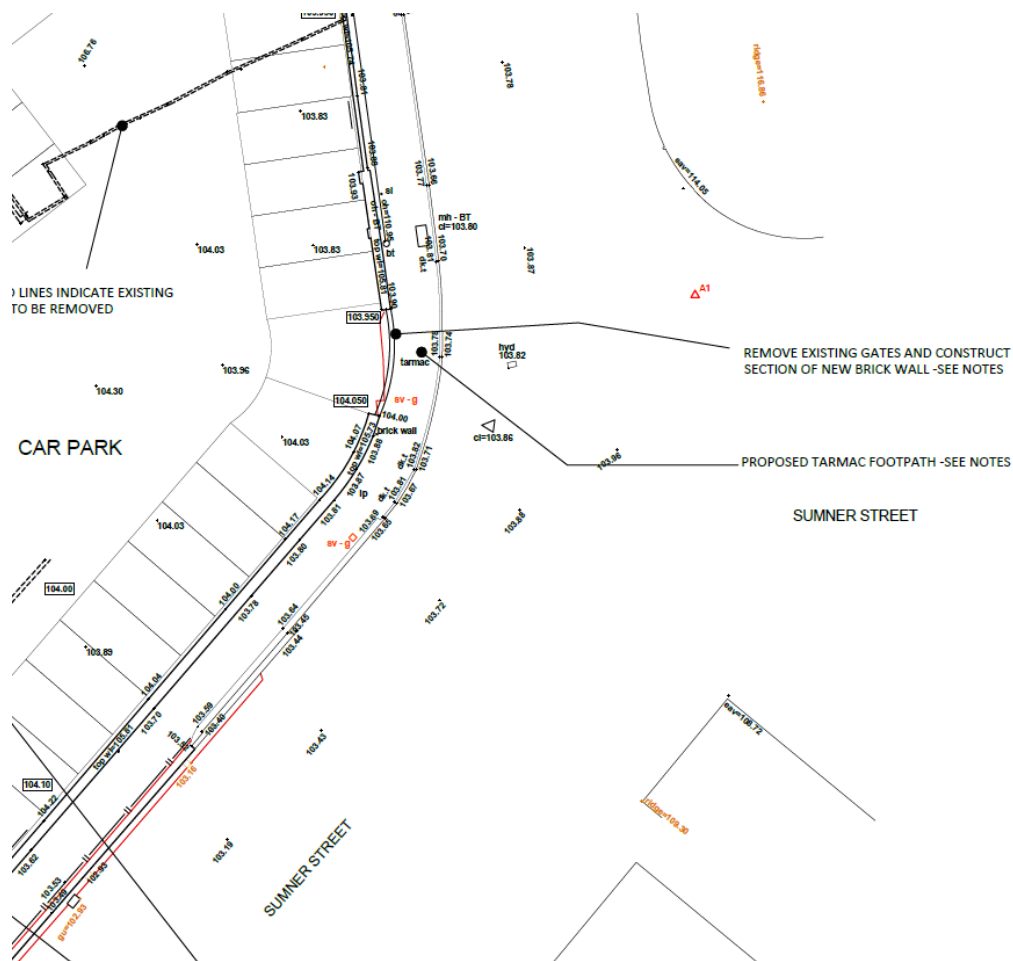
3.5.32 Accordingly, the proposed development is found to be in accordance with the requirements of Policies CP6, DM13, DM15, DM17 and The Framework..

3.5.33 Highways / Accessibility and Transportation

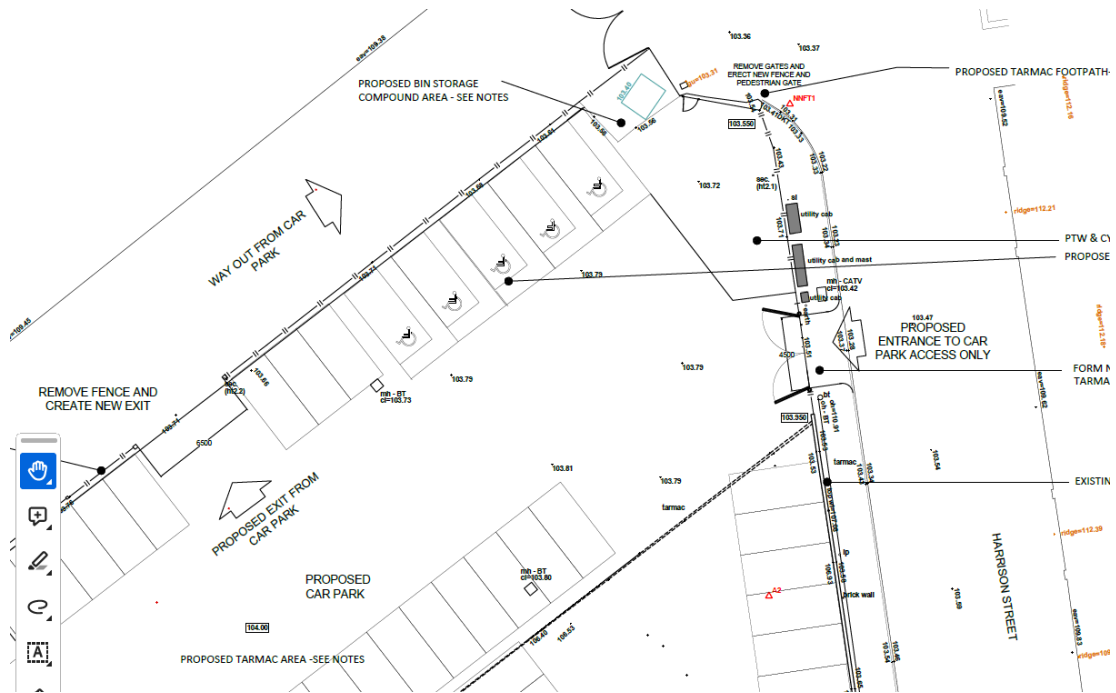
Policy DM29 requires, in general, that road safety and the safe and efficient and convenient movement of all highway users, included pedestrians and the disabled, is not prejudiced and that appropriate provision is made for off street servicing and parking in accordance with the Council's adopted standards.

3.5.34 Closure of the existing access into the site, close to the junction of Harrison Street and Sumner Street, is proposed, together with the creation of a new access to the north, from Harrison Street. This access would be limited to 'access only' with a defined 'one-way' route to be provided through the existing car park, with egress taken at the existing gated point, abutting the Grand Venue building. The proposed arrangements are indicated in the below in extracts taken from the proposed site plan (WSA Projects, Sept 2023):

Existing access to be removed.



New access to be provided with one-way route to existing egress.



3.5.35 The proposal represents a safer and more efficient arrangement, removing any potential conflict at the Harrison Street / Sumner Street junction. Such arrangement is agreed with the Council’s Highways consultee, who offers no objection to the proposal, recognising that the car park would make a significant contribution towards alleviating on-street parking demand.

3.5.36 The following works be secured via condition, as recommended by the Council’s Highways consultee:

- adoptable re-instatement of the full height kerb and footway to the existing access;
- submission of engineering specification for access construction;
- reinstatement of the existing boundary wall at the existing access;
- Approved access to be ‘access only’ with egress from the existing opening;
- surfacing and marking out of car park prior to its operational use; and
- submission of a Construction and Environmental Management Plan.

3.5.38 Accordingly, the proposed development is found to be in accordance with the requirements of Policies CP9, DM29, and NPPF.

3.5.39 Design / Character & Appearance

Policy CP8 confirms the need for all new development to be of a high standard consistent with principles set out in the National Design Guide, and the National Model Design Code, and relevant local design guidance. Development that is not well designed will be refused.

3.5.40 Policy DM27 requires development to achieve a high quality and sustainable design, consistent with the following characteristics:

3.5.41 The car park would be surfaced in tarmac. No significant impact on the character of the area would arise from the land level alterations – formation of a levelled surface – the surface treatment or the car park use, given the enclosed nature of the site and the prevailing mixed-use context.

3.5.42 Reinstatement of the red brick boundary wall in matching materials would be secured via condition, as would submission of boundary fence / gate details.

3.5.43 The above referenced landscaping would secure a visual enhancement of the site.

3.5.44 Accordingly, the proposed development is found to be in accordance with the requirements of Policies CP8 and DM27 and The Framework.

3.5.45 Summary

This report assesses the part retrospective full planning application for change of use of former builders' yard to a car park to serve the Grand Venue, including land level alterations (part retrospective). In assessing the application, the necessary range of material considerations have been proportionately considered. The assessment demonstrates that the planning decision must be made in the context of the merits of the development balanced against any potential harm that may arise from its implementation. This report finds that the development meets the policy requirements of the Blackburn with Darwen Local Plan 2021 - 2037, and the National Planning Policy Framework.

4.0 RECOMMENDATION

4.1 Approve subject to conditions.

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

1. Unless explicitly required by condition within this consent, the development hereby permitted shall be carried out in complete accordance with the application received 5th September 2021 as detailed on the application form and following drawings:

Location Plan (amended) 060/WSA/2023 SP01 Rev A, rec. 20/10/2023

Existing Site Layout 060/WSA/2023 01, rec. 05/09/2023

Proposed Site Layout (amended) 060/WSA/2023 PL01 Rev A, rec. 16/11/2023

Existing and Proposed Sectional Elevations 060/WSA/2023 02 Rec. 05/09/2023

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

2. The construction of the development hereby permitted shall only take place between the following hours:

Monday to Friday: 08:00 to 18:00

Saturday: 09:00 to 13:00

Sundays or Bank Holidays: No site operations

REASON: To protect the amenity of residents, in accordance with the requirements of Policy DM02 of the adopted Blackburn with Darwen Borough Local Plan 2021 - 2037, and National Planning Policy Framework.

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

REASON: To protect the amenity of residents, in accordance with the requirements of Policy DM02 of the adopted Blackburn with Darwen Borough Local Plan 2021 - 2037, and National Planning Policy Framework.

4. Prior to commencement of any further works hereby approved, a Construction and Environmental 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:

- the parking of vehicles of site operatives and visitors;
- loading and unloading of plant and materials;
- storage of plant and materials used in constructing the development;
- the erection and maintenance of security hoarding including decorative displays and facilities for public viewing, where appropriate or necessary;
- wheel washing facilities, including a method statement outlining how the developer intends to use and manage the facility. The approved wheel wash shall be put in place at all vehicle access points onto the public highway when work commences and shall remain in operation throughout the period of development;
- measures to control the emission of dust and dirt during construction;
- a scheme for recycling/disposing of waste resulting from demolition and construction works;

REASON: In the interests of air quality management and protection of amenity, highway safety / efficiency and health, in accordance with the requirements of Policies DM02, CP9 and DM29 of the adopted Blackburn with Darwen Borough Local Plan 2021 – 2037, the Bank Hey Masterplan and National Planning Policy Framework.

5. Prior to commencement of any further works hereby approved, and notwithstanding the submitted details, a Construction Method Statement and Risk Assessment, setting out the precise extent and method of preparatory ground works, finished ground levels, construction methodology and risk mitigation, shall be submitted to and approved in writing by the Local Planning Authority. The development shall proceed in accordance with the approved details.

REASON: To protect the adjacent railway infrastructure, in accordance with the requirements of Policy DM02 of the adopted Blackburn with Darwen Borough Local Plan 2021 - 2037, and National Planning Policy Framework.

6. Prior to commencement of any further works hereby approved, and notwithstanding the submitted details, an updated Flood Risk Assessment (FRA) shall be submitted to and approved in writing by the Local Planning Authority. The FRA shall fully address the risk of flooding from surface water. Development shall proceed in strict accordance with any approved mitigated measures.

REASON: To ensure that management arrangements are in place for the sustainable drainage system in order to manage the risk of flooding and pollution during the lifetime of the development, in accordance with the requirements of Policy DM13 of the adopted Blackburn with Darwen Borough Local Plan 2021 - 2037, and National Planning Policy Framework.

7. Prior to commencement of any further works hereby approved, and notwithstanding the submitted details, a surface water drainage scheme has been submitted to and approved in writing by the Local Planning Authority. The drainage scheme must include:

- (i) An investigation of the hierarchy of drainage options in the National Planning Practice Guidance (or any subsequent amendment thereof). This investigation shall include evidence of an assessment of ground conditions and the potential for infiltration of surface water;
- (ii) A restricted rate of discharge of surface water agreed with the local planning authority (if it is agreed that infiltration is discounted by the investigations); and
- (iii) A timetable for its implementation.

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

The development hereby permitted shall be carried out only in accordance with the approved drainage scheme.

REASON: To ensure that management arrangements are in place for the sustainable drainage system in order to manage the risk of flooding and pollution during the lifetime of the development, in accordance with the

requirements of Policy DM13 of the adopted Blackburn with Darwen Borough Local Plan 2021 - 2037, and National Planning Policy Framework.

8. Prior to operational use of the development hereby approved, a sustainable drainage management and maintenance plan for the lifetime of the development shall be submitted to the local planning authority and agreed in writing. The sustainable drainage management and maintenance plan shall include as a minimum:

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

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

REASON: To ensure that management arrangements are in place for the sustainable drainage system in order to manage the risk of flooding and pollution during the lifetime of the development, in accordance with the requirements of Policy DM13 of the adopted Blackburn with Darwen Borough Local Plan 2021 – 2037, and National Planning Policy Framework.

9. Prior to commencement of any further works hereby approved, and notwithstanding the submitted details, a soft landscaping scheme shall be submitted to and approved in writing by the Local Planning Authority. Planting shall be implemented in accordance with the approved details, during the first available planting season following completion of the development. Trees or 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: In the interests of ecology, biodiversity and visual amenity, in accordance with the requirements of Policies CP6, CP8, DM15, DM17 and DM27 of the adopted Blackburn with Darwen Borough Local Plan 2021 - 2037, and National Planning Policy Framework.

10. Prior to construction of the new access hereby approved, as indicated on the proposed Site Layout Plan, numbered 060 / WSA / 2023 PL01, full construction / engineering specifications shall be submitted to and approved in writing by the Local Planning Authority. The access shall be constructed in strict accordance with the approved detail prior to operational use of the approved car park.

REASON: To ensure the safe, efficient and convenient movement of all highway users, for the free flow of traffic, in accordance with Policies CP9 and

DM29 10 of the adopted Blackburn with Darwen Borough Local Plan 2021 - 2037, and National Planning Policy Framework

11. Prior to operational use of the development hereby approved, the existing site access at the junction of Harrison Street, Sumner Street and Galligreaves Street, as indicated on the proposed Site Layout Plan, numbered: 060 / WSA / 2023 PL01, shall be closed up by means of reinstating the footway, the full height kerb edge and constructing a new section of boundary wall in matching brick.

REASON: To ensure the safe, efficient and convenient movement of all highway users, for the free flow of traffic, in accordance with Policies CP9 and DM29 10 of the adopted Blackburn with Darwen Borough Local Plan 2021 - 2037, and National Planning Policy Framework.

12. Prior to its operational use, the car park hereby approved shall be fully surfaced and demarcated, in accordance with the details indicated on the submitted Site Layout Plan, numbered: 060 / WSA / 2023 PL01. The car park shall remain operational in accordance with these details.

REASON: To ensure the safe, efficient and convenient movement of all highway users, for the free flow of traffic, in accordance with Policies CP9 and DM29 10 of the adopted Blackburn with Darwen Borough Local Plan 2021 - 2037, and National Planning Policy Framework.

13. As indicated on the submitted Site Layout Plan, numbered: 060 / WSA / 2023 PL01, the access from Harrison Street hereby approved, shall be used as 'access only'. Egress from the car park shall be taken via the existing opening onto Harrison Street, located adjacent to the Grand Venue building.

REASON: To ensure the safe, efficient and convenient movement of all highway users, for the free flow of traffic, in accordance with Policies CP9 and DM29 10 of the adopted Blackburn with Darwen Borough Local Plan 2021 - 2037, and National Planning Policy Framework.

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

REASON: To ensure the safe, efficient and convenient movement of all highway users, for the free flow of traffic, in accordance with Policies CP9 and DM29 10 of the adopted Blackburn with Darwen Borough Local Plan 2021 - 2037, and National Planning Policy Framework.

5.0 PLANNING HISTORY

5.1 There is no relevant planning history for the site.

6.0 CONSULTATIONS

6.1 BwD 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:

Comment: Grand Venue

I understand that the most recent temporary extended hours of use planning approval expired in March this year. Consequently, I recommend limiting the hours of use of the extended car park to match that of the existing car park and Grand Venue premises in accordance with planning approval 10/16/1208.

Condition – Hours of Use Restriction

The approved use shall be restricted to the following times:

Monday to Sunday: 11:00 – 19:00 hours

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

Reason

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

Condition - Unforeseen Ground Contamination

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

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

INFORMATIVE:

- All reports shall be prepared in accordance with BS10175:2011 (as amended), CLR 11 and any other relevant, appropriate and authoritative publications.
- The Local Planning Authority will not accept any liability for remediation works.
- The responsibility for the safe development and occupancy of the site, at all times, rests with the developer.
- Failure to comply with above condition may result in enforcement action being taken by the Local Authority under the Environmental Protection Act 1990.

- You are strongly advised to contact the Environmental Protection Team of the Public Protection Service to discuss the requirements of the Contaminated Land Condition (Karen Huddart tel: 01254 267632 or David Johnson tel: 01254 267631).

- The guidance documents entitled '**Contaminated Land Planning Guidance**' & '**Validation Policy Document**' should be read before you investigate the site. This guidance is available on the Council web site. These hyperlinks will give you direct access :

www.blackburn.gov.uk/upload/pdf/Contaminated_Land_Guidance.pdf

www.blackburn.gov.uk/upload/pdf/Validation_Policy_Document_FINAL.pdf

- A **suitably qualified, competent & impartial person** shall fulfil the requirements of the condition.

Artificial Flood Light Pollution

I am concerned that any additional car park flood lighting and cars parked at the premises, facing Harrison Street, could cause significant light pollution at the houses opposite – particularly where the boundary brick wall won't contain light within the Grand Venue site. A scheme will be required to be submitted to ensure light pollution, from both vehicles & any car park lighting, does not cause significant loss of residential amenity.

Condition – Floodlighting

An outdoor light pollution minimisation scheme shall be submitted to and approved, in writing, by the Local Planning Authority before the development commences. The approved scheme shall be installed prior to commencement of the approved use.

Reason

To minimise potential loss of amenity due to intrusive light pollution arising from vehicles' and car park lights affecting residents.

Informative:

When assessing potential loss of amenity the Local Authority shall make reference to the lighting levels provided in 'Guidance Notes for the Reduction of Obtrusive Light' GNO1 produced by The Institution of Lighting Professionals, available at: <https://theilp.org.uk/publication/guidance-note-1-for-the-reduction-of-obtrusive-light-2020/>

NB: The proposed development is within an E3: Medium district brightness area.

Condition - Air Quality (Large Commercial Development)

Prior to the commencement of the development an air quality impact assessment shall be submitted, in writing, to the Local Planning Authority (LPA). The scope of the assessment must be agreed with the LPA in writing. The assessment shall recommend appropriate mitigation if an adverse impact is identified in accordance with the LPA planning advisory note: 'Air Quality' and agreed in writing with the LPA.

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

Construction Phase Control Conditions

Condition – Hours of Site Works

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

Monday to Friday 08:00 – 18:00 hours

Saturday 09:00 - 13:00 hours

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

Reason

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

Condition – Dust Control

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

Reason

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

Vibration Control

Condition

Should vibro compaction be required on site, the commencement of the development shall not take place until there has been submitted to and approved in writing by the Planning Authority a programme for the monitoring of vibration

generated during construction works. The programme shall specify the measurement locations and maximum permissible vibration levels at each location. At each location, vibration levels shall not exceed the specified levels in the approved programme unless otherwise approved in writing by the Planning Authority or in an emergency.

Reason

To minimise vibration disturbance at adjacent residential premises.

Floodlighting Control (Construction Phase)

Condition

Should floodlighting be required on site a scheme shall be submitted to and approved in writing by the Local Planning Authority before the development commences. Floodlights shall be installed in accordance with the agreed scheme and retained for the duration of the works.

Reason

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

Informative:

When assessing potential loss of amenity the Local Authority shall make reference to the lighting levels provided in 'Guidance Notes for the Reduction of Obtrusive Light' GN01 produced by The Institution of Lighting Professionals, available at: <https://theilp.org.uk/publication/guidance-note-1-for-the-reduction-of-obtrusive-light-2020/>

NB: The proposed development is within an E3: Medium District Brightness Area.

Informative - Construction/Demolition Noise

All activities associated with any construction/demolition works shall be carried out in accordance with British Standard 5228: Code of Practice for Noise & Vibration Control on Construction & Open Sites – Parts 1 and 2.

Other Informatives:

Informative: Statutory Noise Nuisance Loss of Amenity

The Applicant should be aware that this planning approval does not prejudice any investigation or formal proceedings deemed appropriate by the Council under the Environmental Protection Act 1990 for statutory nuisance.

6.2 BwD Drainage – as Lead Local Flood Authority

We have no objections but require the following conditions:

Condition 1

Prior to commencement a revised Flood Risk Assessment shall be submitted to fully address the risk of flooding from surface water which has not been sufficiently addressed.

Reason

The Flood Risk Assessment submitted does not sufficiently address the risk of flooding from surface water.

Condition 2

Prior to commencement, a scheme for the disposal surface water from the site must be submitted to and approved in writing by the Local Planning Authority. Unless otherwise agreed in writing with the Local Planning Authority, the scheme shall include:

- (i) details of the rate of surface water discharge from the site to any soakaway, watercourse or surface water sewer for the 1 in 1 year and 1 in 100 year rainfall events (including a climate change allowance of 40%), which shall not exceed the volume of runoff from the equivalent area in its natural undeveloped or 'greenfield' state;
 - (ii) Details of any necessary flow attenuation measures, including the use of above-ground green SUDS unless this is unachievable for technical reasons;
 - (iii) evidence of an assessment of the site conditions to include site investigation and test results to confirm infiltrations rates;
 - (iv) details of flood exceedance routes (both on and off site);
 - (v) details of how surface water will be managed and pollution prevented during the construction phase;
 - (vi) a timetable for implementation, including details of any phased delivery; and
- The duly approved scheme shall be implemented before above groundworks are commenced, or within any other timescale first agreed in writing with the Local Planning Authority.

Reason:

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

Condition 3

The development shall not be used until details of a management and maintenance scheme for the surface water drainage system. The scheme shall cover the full lifetime of the drainage system, and as a minimum, shall include:

- (i) arrangements for adoption by an appropriate public body or statutory undertaker, or management and maintenance by a Residents' Management Company;
- (ii) arrangements concerning funding mechanisms for the ongoing maintenance of all elements of any sustainable drainage system incl. mechanical components to include details such as:

- on-going inspections relating to performance and asset condition assessments;
 - operation costs for regular maintenance, remedial works and irregular maintenance of limited life assets; and
 - any other arrangements to secure the operation of the surface water drainage scheme throughout its lifetime.
- (iii) means of access and easements for maintenance purposes; and
- (iv) a timetable for implementation, including details of any phased delivery.

The drainage system shall thereafter be installed in accordance with the details and timetable contained within the duly approved scheme, and shall be managed and maintained as such thereafter.

Reason:

To ensure that satisfactory measures are put in place for the management and maintenance of any surface water drainage system throughout the lifetime of the development, to minimise the risk of flooding and to limit the potential for surcharging of the sewer network in accordance with the requirements of Policy 9 - Blackburn with Darwen Borough Local Plan Part 2 (2015), and the National Planning Policy Framework.

6.3 BwD Highways

Parking

The proposed plans present a greater number of parking spaces than the existing provision available. We cannot assess the additional need for the spaces without further information appertaining to the floor area of the building. No supporting statement or information has been presented as to why these additional spaces are necessary. Please seek further clarification.

We are however mindful however that there is a consideration to support the existing venue, where pressure for parking when visiting premises is being pushed onto the highway network a great number of parking spaces have been provided however, we cannot determine the amount of spaces required due to the lack of information of the current floor space in usage by the venue? This information would be helpful to determine the amount of spaces required including the amount of disabled bays required.

The plans received have been reviewed, the layout is in accordance with the adopted parking standards, the proposed bays would meet the standards as the bays are 2.4m by 4.8m, and allows a minimum of 6m manoeuvrability into and out of the bays. The car park should be laid and marked in accordance with the approved plans (please condition) prior to operational use.

Provision for cycles has been provided in the proposed plan, however adequate detail has not been provided on how these will be made secure and covered, this together with parking spaces designated for disabled users should be provided for assessment.

Access

In the proposed plan received, the existing entrance is indicated, albeit with a change/alteration. The gate to the left when facing the site, is to be converted to pedestrian access only. An additional new access is being provided further west (in the position existing ped access). This entrance is in close proximity to existing utilities, in order to avoid these utilities the radius of entrance onto the car park would need adjusting to avoid any conflict, please consider and revise details.

No details of any sightlines have been provided from this location for either vehicles or pedestrians splays, please request this information for assessment.

There is a further existing access on the junction of Harrison Street / Galligreaves Street. It is reported within the submission that this opening would be permanently closed and the wall would be reinstated to form a continual boundary treatment.

The dropped kerb would need to be replaced with a full height kerb, and necessary works to the footway to make good to adoptable standards would be carried out.

We note and accept, this and request condition for works to be completed prior to operational use of the site is attached.

Other

Construction Method Statement is required to support the development, please condition.

Matters also to be considered are:

- All existing street furniture including street lighting should be removed/disconnected at the applicants expense and relocated at locations to be agreed with by the relevant highways officer, (should they be required to do so)
- Any old entrances no longer required will require closing and formally reinstating back to full footway.
- Contact to be made with our Structures Division prior to commencement of any works affecting retaining walls/ structure adjacent to/abutting or within the adopted highway
- Prior to any work commencing that affects the existing adopted highway contact to be made with the Local Highway Authorities office on Tel: 01254 273838 to undertake a condition survey.

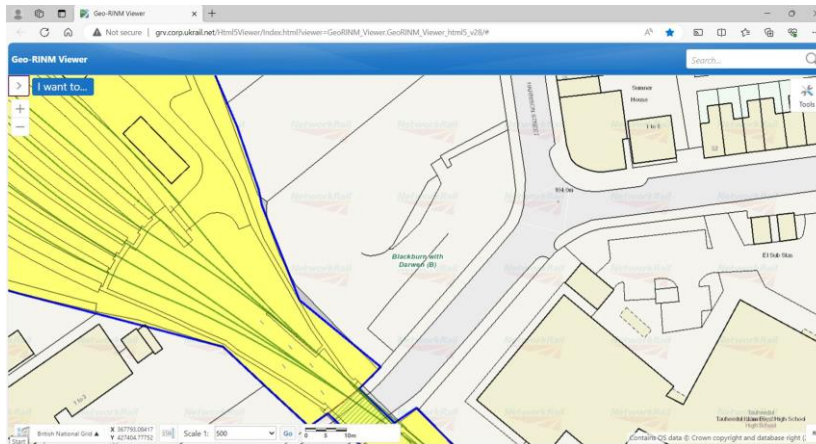
To conclude, we offer no objections, subject to the above matters bring conditioned addressed

Please note: Prior to the commencement of any works that affect or adjoin the adopted highway – contact is to be made with the local highway authority.

6.4 Network Rail

Network Rail is placing a holding objection on the proposal – the applicant has included Network Rail land shaded yellow below. This is not acceptable to NR

therefore the applicant will remove all Network Rail land from the proposal area & redraw the location/site plan to ensure that there is no inclusion in their proposal of NR land.



In addition to the above the applicant must undertake the following:

Please note that whilst Network Rail (NR) is submitting responses via the planning application process, it should be born in mind by the LPA/developer that the operational railway presents risks/issues that are different/unique to the risks posed by works taking place adjacent to non-railway undertaker land. Works on this site therefore must be undertaken with the supervision of NR via the ASPRO (asset protection) team to ensure that the works on site do not impact the safe operation, stability, integrity of the railway & its boundary. The LPA/developer are advised that unauthorised works adjacent to the railway boundary could impact the operation of nationally significant infrastructure & the applicant would be liable for any and all damages & costs caused by any works undertaken in this scenario. Therefore, the developer is requested to ensure that the development meets with NR requirements for works/developments adjacent to the railway boundary which include planning material considerations as well as obligations specific to the railway undertaker. The interface is via a NR BAPA (basic asset protection agreement) – the developer is advised that the works must not commence on site (even if planning permission is granted) until agreed with NR. The applicant will be liable for all costs incurred by NR in facilitating, reviewing this proposal.

Measurements to railway tracks and railway boundary

When designing proposals, the developer and council are advised, that any measurements must be taken from the operational railway / Network Rail boundary and not from the railway tracks themselves. From the existing railway tracks to the Network Rail boundary, the land will include critical infrastructure (e.g. cables, signals, overhead lines, communication equipment etc) and boundary treatments (including support zones, vegetation) which might be adversely impacted by outside party proposals unless the necessary asset protection measures are undertaken. No proposal should increase Network Rail's liability. To ensure the safe operation and integrity of the railway, Network Rail issues advice on planning applications and requests conditions to protect the railway and its boundary.

Obligations

Properties adjoining or in the vicinity of the railway are frequently the subject of obligations, rights, exceptions and reservations for the benefit of Network Rail's land and railway. The applicant must review the title to their property to see whether any such obligations etc exist and ensure that there is no non-compliance or breaches of them or any interference with or obstruction of Network Rail's rights and reservations. If the proposed development would not comply with or would breach any of the terms of the conveyance, the developer must revise his proposals.

RAMS

The developer is to submit directly to Network Rail asset protection, a Risk Assessment and Method Statement (RAMS) for all works to be undertaken within 10m of the operational railway under Construction (Design and Management) Regulations, and this is in addition to any planning consent. Network Rail would need to be re-assured the works on site follow safe methods of working and have also taken into consideration any potential impact on Network Rail land and the existing operational railway infrastructure. Builder to ensure that no dust or debris is allowed to contaminate Network Rail land as the outside party would be liable for any clean-up costs. Review and agreement of the RAMS will be undertaken between Network Rail and the applicant/developer.

Network Rail would request that a condition is included in the planning consent as follows:

"A method statement and risk assessment must be submitted to the council and Network Rail for review and agreement prior to works commencing on site."

REASON: To ensure that the construction and subsequent maintenance of the proposal can be carried out without adversely affecting the safety, operational needs or integrity of the railway.

Fencing

The applicant will provide at their own expense (if not already in place):

- A suitable trespass proof steel palisade fence of a minimum height of 1.8m adjacent to the boundary with the railway/railway land.
- The fence must be wholly constructed and maintained within the applicant's land ownership footprint.
- All foundations must be wholly constructed and maintained within the applicant's land ownership footprint without over-sailing or encroaching onto Network Rail's boundary.
- The fence is REQUIRED be set back at least 1m from the railway boundary to ensure that Network Rail can maintain and renew its boundary treatments.
- Existing Network Rail fencing, and boundary treatments, must not be damaged or removed in any way.
- Network Rail will not allow any maintenance works for proposal fencing or proposal boundary treatments to take place on its land.
- Proposal fencing must not be placed on the boundary with the railway.
- Any fencing over 1.8m in height will require agreement from Network Rail with details of foundations and wind loading calculations submitted for review.

- The fence should be maintained by the developer and that no responsibility is passed to Network Rail.

New residents of the development (particularly minors) may not be aware of the risks posed by accessing the railway. It would not be reasonable to require Network Rail to fund boundary works, fencing and boundary enhancements necessitated by outside party development adjacent to the railway.

A condition to be included in the planning consent as follows:

“Prior to occupation of the site the developer is to provide a suitable trespass proof fence adjacent to the boundary with the railway; the fencing details to be submitted to the council and Network Rail for agreement.”

Reason: To protect the adjacent railway from unauthorised access

Fail Safe Use of Crane and Plant
 All operations, including the use of cranes or other mechanical plant working adjacent to Network Rail’s property, must at all times be carried out in a “fail safe” manner such that in the event of mishandling, collapse or failure, no materials or plant are capable of falling within 3.0m of the nearest rail of the adjacent railway line, or where the railway is electrified, within 3.0m of overhead electrical equipment or supports. With a development of a certain height that may/will require use of a crane, the developer must bear in mind the following. Crane usage adjacent to railway infrastructure is subject to stipulations on size, capacity etc. which needs to be agreed by Network Rail prior to implementation.

Encroachment

The developer/applicant must ensure that their proposal, both during construction, and after completion of works on site, does not affect the safety, operation or integrity of the operational railway, Network Rail land and its infrastructure or undermine or damage or adversely affect any railway land and structures.

- There must be no physical encroachment of the proposal onto Network Rail land, no over-sailing into Network Rail air-space and no encroachment of foundations onto Network Rail land or under the Network Rail boundary.
- All buildings and structures on site including all foundations / fencing foundations must be constructed wholly within the applicant’s land ownership footprint.
- Buildings, windows and structures must not over-sail Network Rail air-space/boundary.
- Any future maintenance must be conducted solely within the applicant’s land ownership.
- Rainwater goods must not discharge towards or over the railway boundary
- Should the applicant require access to Network Rail land to facilitate their proposal they would need to approach the Network Rail Asset Protection Team at least 20 weeks before any works are due to commence on site. The applicant would be liable for all costs incurred in facilitating the proposal and an asset protection agreement may be necessary to undertake works. Network Rail reserves the right to refuse any works by an outside party that may adversely impact its land and infrastructure.
- Any unauthorised access to Network Rail air-space or land will be deemed an act of trespass.

- Network Rail land must not be included in the proposal / red line location plan area. Where any works are proposed the applicant is advised to contact: PropertyServicesNWC@networkrail.co.uk in addition to any planning consultation comments to determine if the proposal will impact any Network Rail land ownership rights or any rights of access for the avoidance of doubt.

Lighting

To ensure the ongoing safety of the operational railway the applicant's lighting design must demonstrate no overspill of light onto Network Rail land.

Scaffolding

Scaffolding which is to be constructed within 10 metres of the Network Rail / railway boundary must be erected in such a manner that at no time will any poles over-sail the railway and protective netting around such scaffolding must be installed. The applicant / applicant's contractor must consider if they can undertake the works and associated scaffolding / access for working at height within the footprint of their land ownership boundary. The applicant is reminded that when pole(s) are erected for construction or maintenance works, they must have a minimum 3m failsafe zone between the maximum height of the pole(s) and the railway boundary.

This is to ensure that the safety of the railway is preserved, and that scaffolding does not:

- Fall into the path of on-coming trains
- Fall onto and damage critical and safety related lineside equipment and infrastructure
- Fall onto overhead lines bringing them down, resulting in serious safety issues (this is applicable if the proposal is above the railway and where the line is electrified). Network Rail would request a condition is applied as follows within the planning consent:

"Details of scaffolding works within 10m of the railway boundary, to be submitted to the council and Network Rail for agreement."

Reason - In the interests of protecting the railway and its boundary from over-sailing scaffolding.

Vibro-Impact Machinery

If vibro-compaction machinery / piling machinery or piling and ground treatment works are to be undertaken as part of the development, details of the use of such machinery and a method statement must be submitted to the Network Rail for agreement.

- All works shall only be carried out in accordance with the method statement and the works will be reviewed by Network Rail. The Network Rail Asset Protection Engineer will need to review such works in order to determine the type of soil (e.g. sand, rock) that the works are being carried out upon and also to determine the level of vibration that will occur as a result of the piling.
- The impact upon the railway is dependent upon the distance from the railway boundary of the piling equipment, the type of soil the development is being constructed upon and the level of vibration. Each proposal is therefore different and thence the need for Network Rail to review the piling details / method statement.

Maximum allowable levels of vibration - CFA piling is preferred as this tends to give rise to less vibration. Excessive vibration caused by piling can damage railway structures and cause movement to the railway track as a result of the consolidation of track ballast. The developer must demonstrate that the vibration does not exceed a peak particle velocity of 5mm/s at any structure or with respect to the rail track.

If vibro-impact equipment is to be used we would request a condition is added to the planning consent as follows:

“Prior to any vibro-impact works on site, a risk assessment and method statement shall be submitted to the LPA and Network Rail.”

Reason – to prevent any piling works and vibration from de-stabilising or impacting the railway.

Access to Railway

All roads, paths or ways providing access to any part of the railway undertaker's land both temporary and permanent, must remain open and unblocked (24/7, 365 – around the clock) both during construction works and as a permanent arrangement.

- The proposal must not encroach onto any Network Rail access road, paths or ways of access to any part of Network Rail land. This also includes emergency vehicles ability to access and exit Network Rail land.
- The proposal construction works must not prevent Network Rail from accessing its land.

Demolition

The demolition works on site must be carried out so that they do not endanger the safe operation of the railway, or the stability of the adjoining Network Rail structures and land. The demolition of the existing building(s), due to its close proximity to the Network Rail boundary, must be carried out in accordance with an agreed method statement. Review of the method statement will be undertaken by the Network Rail Asset Protection Engineer before the development and any demolition works on site can commence. Network Rail would like to add that the applicant is strongly recommended to employ companies to demolish buildings / structures belonging to the National Federation of Demolition Contractors. This will ensure that all demolition works are carried out to professional standards and the company itself will also include liability insurance as part of its service.

Condition:

“No demolition works shall be undertaken until a demolition methodology statement (including mitigation measures) has been submitted to the LPA and issued to Network Rail. The demolition methodology statement strategy shall be implemented in full throughout the demolition period.”

Reason - To safeguard the railway and its boundary from demolition machinery and dust and debris

Drainage proposals and Network Rail land

The applicant must ensure that the proposal drainage does not increase Network Rail's liability, or cause flooding pollution or soil slippage, vegetation or boundary

issues on railway land. Therefore, the proposed drainage on site will include the following:

- All surface waters and foul waters must drain away from the direction of the railway boundary.
- Soakaways for the proposal must be placed at least 30m from the railway boundary.
- Any drainage proposals for less than 30m from the railway boundary must ensure that surface and foul waters are carried from site in closed sealed pipe systems.
- Suitable drainage or other works must be provided and maintained by the developer to prevent surface water flows or run-off onto Network Rail's land and infrastructure.
- Proper provision must be made to accept and continue drainage discharging from Network Rail's property.
- Drainage works must not impact upon culverts, including culverts/brooks etc that drain under the railway. The applicant will not be permitted to direct surface or foul waters into culverts which run under the railway – any discharge of surface water under the railway via a culvert will require review and agreement from Network Rail who reserve the right to refuse use of any culverts.
- The developer must ensure that there is no surface or sub-surface flow of water towards the operational railway.
- Rainwater goods must not discharge in the direction of the railway or onto or over the railway boundary.
- Consideration of the impacts upon railway drainage of Astro-Turf/plastic lawn replacements, both during construction and any future inclusion of said Astro-turf by residents going forward.

NB: Soakaways can materially affect the strength of soil leading to stability issues. A large mass of water wetting the environment can soften the ground, and a build-up of water can lead to issues with the stability of Network Rail retaining walls/structures and the railway boundary. Network Rail does not accept the installation of soakaways behind any retaining structures as this significantly increases the risk of failure and subsequent risk to the travelling public.

If the developer and the council insists upon a sustainable drainage and flooding system then the issue and responsibility of flooding, water saturation and stability issues should not be passed onto Network Rail. We recognise that councils are looking to proposals that are sustainable, however, we would remind the council that flooding, drainage, surface and foul water management risk as well as stability issues should not be passed '*elsewhere*', i.e. on to Network Rail land.

The drainage proposals are to be agreed with Network Rail and surface water drainage on the site should be removed by a closed sealed pipe system.

The HSE identifies railways as a Major Hazard Industry. An earthwork failure within a high-hazard area has the potential to result in a catastrophic accident with multiple fatalities or long-lasting environmental issues. It should be noted that where the actions of an adjacent landowner have caused a landslip on the railway the loss

adjusters are likely to advise recovery of Network Rail costs from the 3rd party, which would include costs of remediation and recovery of costs to train operators. Many railway earthworks were constructed in the Victorian period and are susceptible to failure by water saturation. Water saturation leads to an increase in pore water pressure within the earthwork material. Please also note that railways, and former railway land adjacent to it, is considered as contaminated land due to historic use of railways, which can affect the suitability of infiltration drainage.

Network Rail would request that a condition is included in the planning consent as follows:

Condition:

“Prior to the commencement of the development details of the disposal of both surface water and foul water drainage directed away from the railway shall be submitted to the Local Planning Authority and Network Rail.”

Reason: To protect the adjacent railway from the risk of flooding, soil slippage and pollution.

Protection of existing railway drainage assets within a clearance area

There are likely to be existing railway drainage assets in the vicinity of the proposed works. Please proceed with caution. No connection of drainage shall be made to these assets without Network Rail's prior consent to detailed proposals. Any works within 5m of the assets will require prior consent. There must be no interfering with existing drainage assets/systems without Network Rail's written permission. The developer is asked to ascertain with Network Rail the existence of any existing railway drainage assets or systems in the vicinity of the development area before work starts on site.

The Council must ensure that suitable arrangements are in place for the maintenance and renewal of all new/amended drainage for the life time of the development, to mitigate risk of flooding to any adjoining land.

Excavation and Earthworks and Network Rail land:

The applicant will agree all excavation and earthworks within 10m of the railway boundary with Network Rail. Network Rail will need to review and agree the works to determine if they impact upon the support zone of our land and infrastructure as well as determining relative levels in relation to the railway. Network Rail would need to agree the following:

- Alterations to ground levels
- De-watering works
- Ground stabilisation works
- Works to retaining walls
- Construction and temporary works
- Maintenance of retaining walls
- Ground investigation works must not be undertaken unless agreed with Network Rail.
- Confirmation of retaining wall works (either Network Rail and/or the applicant). Prior to the commencement of works on site the applicant must confirm

with Network Rail if there are any retaining walls/structures and the applicant must interface with Network Rail to ensure that no retaining structures are impacted on a permanent basis by their proposal.

- Alterations in loading within 15m of the railway boundary must be agreed with Network Rail.
- For works next to a cutting or at the toe of an embankment the developer / applicant would be required to undertake a slope stability review.

Network Rail would need to re view and agree the methods of construction works on site to ensure that there is no impact upon critical railway infrastructure. No excavation works are to commence without agreement from Network Rail. The council are advised that the impact of outside party excavation and earthworks can be different depending on the geography and soil in the area. The council and developer are also advised that support zones for railway infrastructure may extend beyond the railway boundary and into the proposal area. Therefore, consultation with Network Rail is requested. Any right of support must be maintained by the developer.

Network Rail requests a condition is included in the planning consent as follows:
Condition:

“Prior to the commencement of the development full details of ground levels, earthworks and excavations to be carried out near to the railway boundary shall be submitted to the Local Planning Authority and Network Rail.”

Reason: To protect the adjacent railway and its boundary.

Boundary treatments

Any structures on the applicant’s land which runs seamlessly into a section of Network Rail infrastructure will require Network Rail agreement/comments and interface/supervision to ensure that there is no impact to or increase in risk to Network Rail assets.

Gap between the railway boundary & outside party works

Network Rail REQUIRES that the developer includes a minimum 3 metres gap (5m to a railway viaduct) between the buildings and structures on site and the railway boundary. Less than 3m from the railway boundary (5m from a viaduct) to the edge of structures could result in construction and future maintenance works being undertaken on Network Rail land, and close to the railway boundary potentially impacting support zones or lineside cabling. All the works undertaken to facilitate the design and layout of the proposal should be undertaken wholly within the applicant’s land ownership footprint including all foundation works. Network Rail requires a minimum 3m easement (5m easement to a viaduct) between structures on site and the railway boundary to ensure that we can maintain and renew our boundary treatments. No part of the structure should over-sail the railway boundary or discharge rainwater goods onto or toward the railway boundary.

Noise

The council and the developer (along with their chosen acoustic contractor) are recommended to engage in discussions to determine the most appropriate measures

to mitigate noise and vibration from the existing operational railway to ensure that there will be no future issues for residents once they take up occupation of the dwellings.

The NPPF states, *"182. Where the operation of an existing business or community facility could have a significant adverse effect on new development (including changes of use), in its vicinity, the applicant (or 'agent of change') should be required to provide suitable mitigation before the development has been completed."*

Network Rail is aware that residents of developments adjacent to or in close proximity to, or near to the existing operational railway have in the past discovered issues upon occupation of dwellings with noise and vibration. It is therefore a matter for the developer and the council via mitigation measures and conditions to ensure that any existing noise and vibration, and the potential for any future noise and vibration are mitigated appropriately prior to construction.

To note are:

- The current level of railway usage may be subject to change at any time without prior notification including increased frequency of trains, night-time train running, heavy freight trains, trains run at weekends /bank holidays.
- Maintenance works to trains could be undertaken at night and may mean leaving the trains' motors running which can lead to increased levels of noise and vibration.
- Network Rail carry out works at night on the operational railway when normal rail traffic is suspended and these works can be noisy and cause vibration.
- Network Rail may need to conduct emergency works on the existing operational railway line which may not be notified to residents in advance due to their safety critical nature and may occur at any time of the day or night, during bank holidays and at weekends.
- Works to the existing operational railway may include the presence of plant and machinery as well as vehicles and personnel for works.
- The proposal should not prevent Network Rail from its statutory undertaking. Network Rail is a track authority. It may authorise the use of the track by train operating companies or independent railway operators and may be compelled to give such authorisation. Its ability to respond to any enquiries regarding intended future use is therefore limited.
- The scope and duration of any Noise and Vibration Assessments may only reflect the levels of railway usage at the time of the survey.
- Any assessments required as part of CDM (Construction Design Management) or local planning authority planning applications validations process are between the developer and their appointed contractor.
- Network Rail cannot advise third parties on specific noise and vibration mitigation measures. Such measures will need to be agreed between the developer, their approved acoustic contractor and the local planning authority.
- Design and layout of proposals should take into consideration and mitigate against existing usage of the operational railway and any future increase in usage of the said existing operational railway.
- Noise and Vibration Assessments should take into account any railway depots, freight depots, light maintenance depots in the area. If a Noise and Vibration

Assessment does not take into account any depots in the area then the applicant will be requested to reconsider the findings of the report.

- Railway land which is owned by Network Rail but which may be deemed to be 'disused' or 'mothballed', may be brought back into use. Any proposals for residential development should include mitigation measures agreed between the developer, their acoustic contractor and the LPA to mitigate against future impacts of noise and vibration, based on the premise that the railway line may be brought back into use.
- Works may be carried out to electrify railway lines and this could create noise and vibration for the time works are in progress. Electrification works can also result in loss of lineside vegetation to facilitate the erection of stanchions and equipment.

Trees

Proposals for the site should take into account the recommendations of, 'BS 5837:2012 Trees in Relation to Design, Demolition and Construction', which needs to be applied to prevent long term damage to the health of trees on Network Rail land so that they do not become a risk to members of the public in the future.

No trees shall be planted next to the boundary with the railway land and the operational railway, except for evergreen shrubs which shall be planted a minimum distance from the Network Rail boundary that is equal to their expected mature growth height. The vegetation planting must be in line with the attached matrix which has been agreed with the Tree Council. This is to prevent long term issues with leaf fall impacting the operational railway.

Parking / Hard Standing Area

As the proposal calls for the following adjacent to the boundary with the operational railway, running parallel to the operational railway or where the existing operational railway is below the height of the proposal site:

- hard standing areas
- turning circles
- roads, public highways to facilitate access and egress from developments

Network Rail requests the installation of suitable high kerbs or crash barriers (e.g. Armco Safety Barriers).

This is to prevent vehicle incursion from the proposal area impacting upon the safe operation of the railway.

Network Rail requests that a condition is included within the planning consent as follows:

"Details of appropriate vehicle safety protection measures along the boundary with the railway shall be submitted to the Local Planning Authority (in consultation with Network Rail.)"

Reason: to prevent the design and layout of the road and parking spaces from impacting the adjacent operational railway with accidental vehicle incursion.

BAPA (Basic Asset Protection Agreement)

As the proposal includes works which could impact the existing operational railway and in order to facilitate the above, a BAPA (Basic Asset Protection Agreement) will need to be agreed between the developer and Network Rail. The developer will be liable for all costs incurred by Network Rail in facilitating this proposal, including any railway site safety costs, possession costs, asset protection costs / presence, site visits, review and agreement of proposal documents and any buried services searches. The BAPA will be in addition to any planning consent.

The applicant / developer should liaise directly with Asset Protection to set up the BAPA (form attached).

AssetProtectionLNWNorth@networkrail.co.uk

No works are to commence until with agreed Network Rail. Early engagement with Network Rail is strongly recommended.

6.5 Environment Agency

We have no objection to the development as proposal.

The planning application is accompanied by a Flood Risk Assessment (FRA) prepared by BEK Geo-Environmental Consulting., referenced; BEK-23123-1 and dated September 2023. We have reviewed the FRA in so far as it relates to our remit, and we are satisfied that the development would be safe without exacerbating flood risk elsewhere.

6.6 Public consultation

40 letters were posted to the local community on 4th October 2023 and a site notice was displayed. No comments were received.

7.0 **CONTACT OFFICER: Nick Blackledge, Principal Planning Officer**

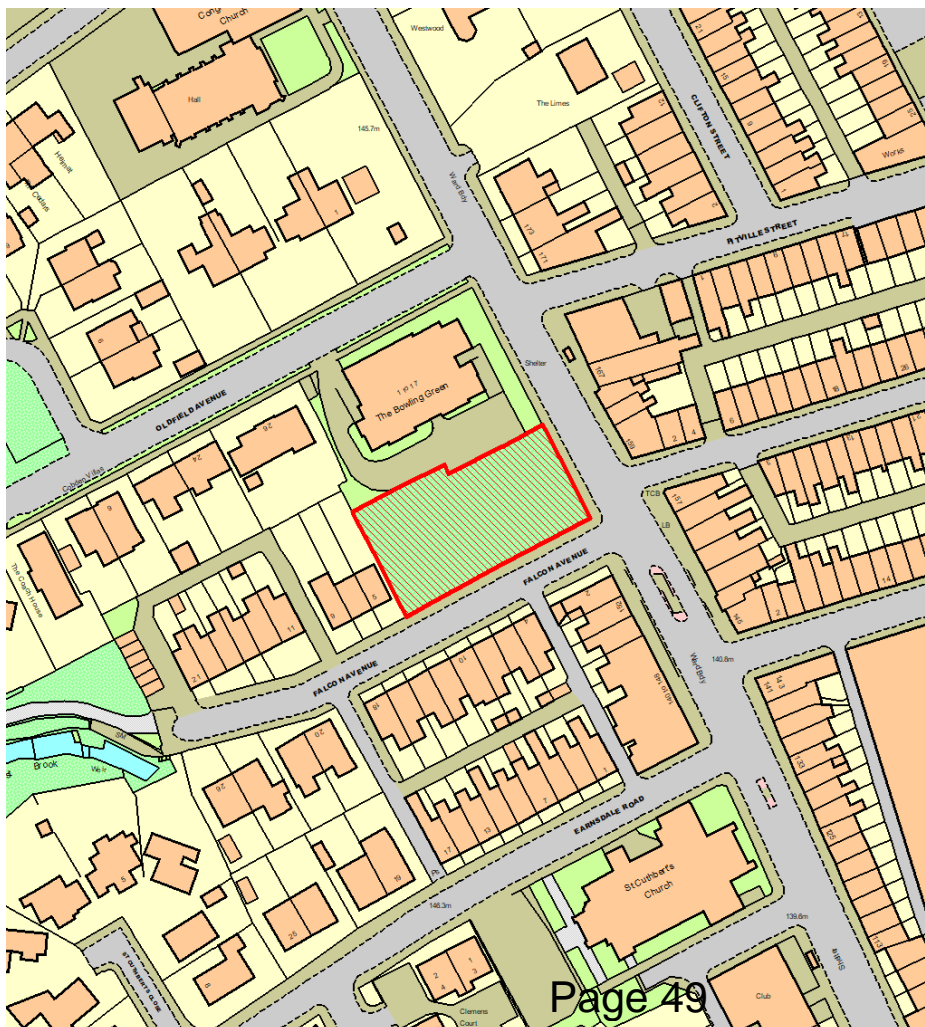
8.0 **DATE PREPARED: 21st February 2024**

Proposed development: Variation of Condition No.2 "approved drawings" pursuant to planning application 10/21/0148 "Erection of Use Class E Convenience Store with Staff/Storage at First Floor and 16 Customer Parking Spaces and Delivery Area" - revisions to the boundary treatment from low brick wall to the western boundary to a 0.75m high timber knee rail fence; a new 1m high wall (white render with coping stones on top) to replace the former red brick wall along small section of Falcon Avenue boundary frontage (drawing reference: 0175(P)103 rev C (retrospective)).

**Site Address:
Former Hollins Grove Liberal Club
Falcon Avenue
Darwen
BB3 1QX**

Applicant: Thistlewood Properties Ltd

**Ward: Darwen West
Councillor Dave Smith
Councillor Stephanie Brookfield
Councillor Brian Taylor**



1.0 SUMMARY OF RECOMMENDATION

1.1 APPROVE – Subject to conditions (including that varied) set out at paragraph 4.1.

2.0 KEY ISSUES/SUMMARY OF PLANNING BALANCE

- 2.1 The application is reported to Committee as it represents a material amendment to a planning application which was approved by Committee in July 2021, due to receipt at that time of a significant number of neighbourhood representations. Determination of this application by Committee is in accordance with the Council's adopted Scheme of Delegation.
- 2.2 The application is submitted under the provisions of Section 73 of the Town and Country Planning Act 1990 (as amended). The proposal seeks to vary condition no. 2 (approved drawings) applied to the host planning permission – ref. 10/21/0148 – in accordance with the above development description. Submission of the application follows receipt of complaints concerning works undertaken that are not in accordance with those originally approved, and subsequent intervention by the council's Planning Enforcement team. In varying the condition, the unauthorised works would be regularised.
- 2.3 Members are advised that all dischargeable conditions have been discharged under the discharge of condition application process.
- 2.4 Assessment of the application finds the amendment to be acceptable. The development would, therefore, remain in accordance with the requirements of the Development Plan, recognised as the Local Plan 2021 – 2037, which supersedes the previous Development Plan comprising The Core Strategy (2011) and Local Plan Part 2 (2015), against which the original application was assessed and approved, in delivering a high quality retail development with associated off-street parking provision, which will assist in widening the retail offer in the borough, consistent with the Council's strategic aims and objectives for economic growth and expansion of public facilities and services, without prejudice to existing retail provision in the borough's Town and District Centres.

3.0 RATIONALE

3.1 Site and Surroundings

- 3.1.1 The application site (the site) measures 0.14 hectares. It is located within the Urban Boundary of Darwen, at the junction of Blackburn Road and Falcon Avenue, consisting of previously developed land formerly occupied by Hollins Grove Liberal Club and associated car park. The site fronts Falcon Avenue to the south, from where access is taken; the eastern boundary adjoins Blackburn Road, whilst the northern and western adjoin residential uses.

The existing Nisa Store -140-148 Blackburn Rd – is located circa 50m to the south of the site, along Blackburn Road.

3.1.2 The surrounding area is generally characterised as mixed residential and commercial.

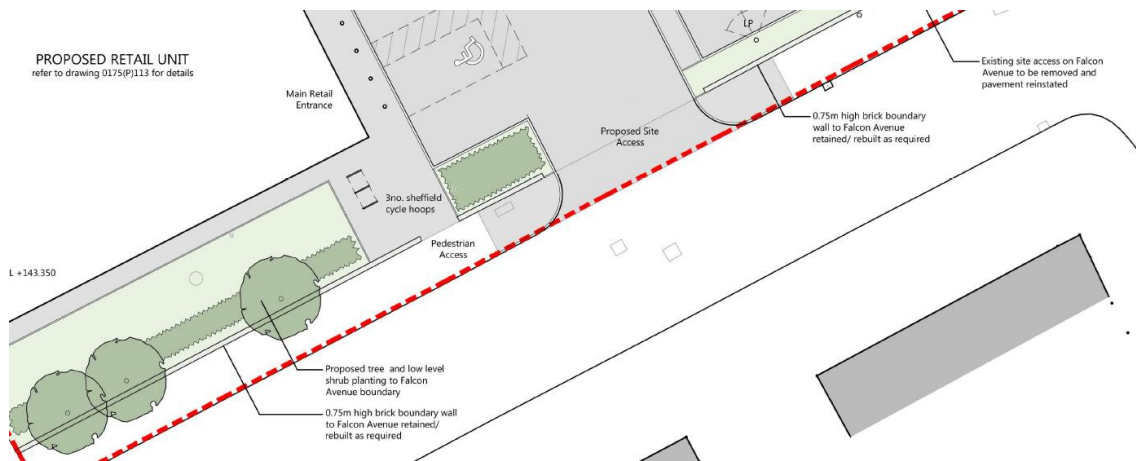
3.1.3 In accordance with the Development Plan, the site lies within the Duckworth Street District Centre, Darwen. The extent of the centre has been redefined since adoption of the current Development Plan, to include to subject site, which was previously outside but immediately adjacent to the Centre.

3.2 Proposed Development

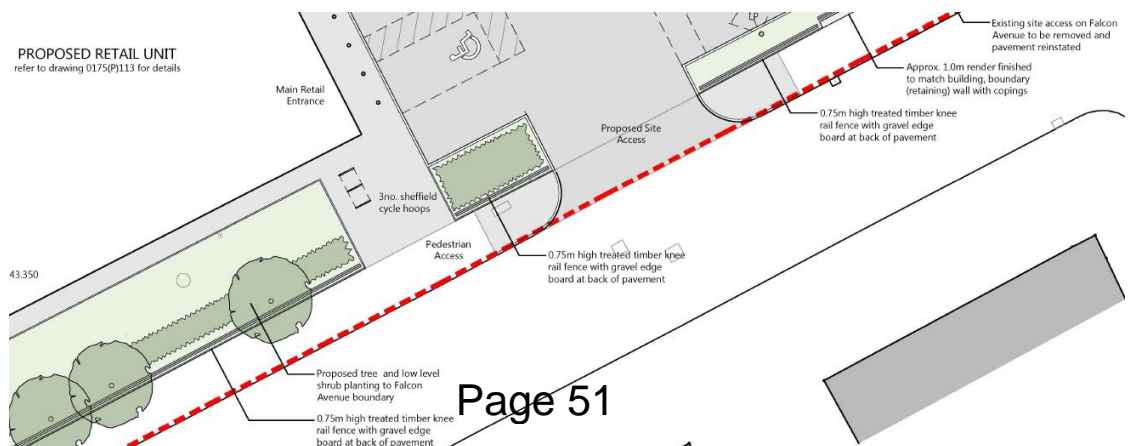
3.2.1 The amendment seeks to retrospectively vary the approved drawings numbers condition (no. 2) of the original planning permission, to regularise unauthorised works undertaken along the frontage of the development; specifically replacing a 0.75m high brick wall to the western boundary with a 0.75m high timber knee rail fence; and a new 1m high wall (white render with coping stones on top) replacing a red brick wall along the Falcon Avenue boundary / frontage.

3.2.2 The approved Site Plan would be superseded by a Site Plan indicating the boundary frontage, as built (as a replacement annotation). Both are extracted below (Studio PH Architecture, Dec 2020).

Site Plan originally approved.



Proposed replacement Site Plan.



3.3 Development Plan

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

3.3.2 The Development Plan comprises The Blackburn with Darwen Borough Council Local Plan 2021 – 2037. In assessment of the proposed amendment, the following are the most relevant policies:

- Policy CP8: Securing High Quality and Inclusive Design
- Policy CP9: Transport and Accessibility
- Policy DM27: Design in New Developments
- Policy DM29: Transport and Accessibility

3.4 Other Material Planning Considerations

3.4.1 National Planning Policy Framework – Dec 2023 (The Framework)

3.4.2 National Planning Policy Guidance (NPPG).

3.5 Assessment

3.5.1 Principle

The principle of the development is established by the original grant of planning permission to which this amendment relates. This assessment is limited to the following matters:

- Design / Character & Appearance; and
- Accessibility and Transport impact.

3.5.2 Design / Character & Appearance

Policy CP8 confirms the need for all new development to be of a high standard consistent with principles set out in the National Design Guide, and the National Model Design Code, and relevant local design guidance. Development that is not well designed will be refused.

3.5.3 Policy DM27 requires development to achieve a high quality and sustainable design, consistent with characteristics including:

- Context: enhances the surroundings
- Identity: attractive and distinctive

3.5.4 The 0.75m high timber knee rail fence is fairly typical for a commercial setting within a mixed use area. The fence is designed to appear sympathetic and visually unobtrusive within a residential context. Its open nature offers the benefit of exposing low level soft landscaping, resulting in a visual enhancement to the streetscape. Conversely, the 0.75m high brick wall

originally proposed as retained, would largely confine the visual benefits of the landscaping to within the site.

3.5.5 Moreover, it should be recognised that removal of the brick wall and replacement of any fence / wall type no higher than 1 metre would ordinarily benefit from Permitted Development rights.

3.5.6 Turning to the rendered wall; this falls outside the scope of the original planning permission, as no specification was provided for this section of boundary treatment – ie retention of the pre-existing red brick wall or a replacement. In the event, the red brick wall has been rendered in a colour and texture to reflect elements of the store building. Coping stones atop provide a suitable finish.

3.5.7 Accordingly, it is considered that no discernible visual harm arises from the revised boundary treatment to the Falcon Avenue frontage to justify refusal of the application.

3.5.8 The design of the development is, therefore, found to be in accordance with the requirements of Policies CP8 and DM27

Red brick wall and 0.75m high brick wall which has been replaced.



Replacement / subject boundary treatment.





3.5.9 Highways / Transport and Accessibility

Policy DM29 requires, in general, that road safety and the safe and efficient and convenient movement of all highway users, included pedestrians and the disabled, is not prejudiced.

3.5.10 No additional harm to highway users would arise from the alternative boundary treatment. Site lines are appropriately maintained. The Council's Highways consultee offers no objection.

3.5.11 Highway impacts arising from the development are, therefore, found to be acceptable and in accordance with the requirements of Policies CP9, DM29.

3.5.12 Summary

This report assesses the section 73 application to vary condition no. 2, to regularise unauthorised boundary treatment works to the Falcon Avenue frontage of the Tesco convenience store. In assessing the application, the necessary material considerations have been proportionately considered. The assessment demonstrates that the planning decision must be made in the context of assessing the merits of the development balanced against any potential harm that may arise. This report finds that the development meets the policy requirements of the Blackburn with Darwen Local Plan 2021 – 2037 - which supersedes the previous Development Plan comprising The Core Strategy (2011) and Local Plan Part 2 (2015) against which the original application was assessed and approved - consistent with the Council's strategic aims and objectives for economic growth and expansion of public facilities and services.

4.0 **RECOMMENDATION**

4.1 **Approve subject to conditions.**

Delegated authority is given to the Strategic Director of Growth & Development and Assistant Chief Executive to approve planning

permission, subject to the following conditions (including that varied – highlighted):

1. The development hereby permitted shall be begun before 16th July 2024, i.e three years from the date of the original planning permission.

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

2. Unless explicitly required by condition within this consent, the development hereby permitted shall be carried out in complete accordance with the application received 21/12/2023 as detailed on the application form and the proposed Site Plan, ref. 0175(P)103C.

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

3. Prior to commencement of the development hereby approved, written and illustrative details of the external walling, roofing and window materials, including their colours and textures, 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 CP8 and DM27 of the adopted Blackburn with Darwen Borough Local Plan 2021 – 2037 and National Planning Policy Framework.

4. Prior to the commencement of development hereby approved, the developer must submit to the Local Planning Authority for written approval:

- i) A comprehensive desk study report, including a preliminary conceptual site model (CSM) in text, plan and cross-section form. Where necessary, detailed proposals for subsequent site investigation should also be included, clearly based on the CSM.
- ii) Findings of the approved site investigation work (where necessary), including an appropriate assessment of risks to both human health and the wider environment, from contaminants in, on or under the land (including ground gas). If unacceptable risks are identified, a remedial options appraisal and detailed remediation scheme should be presented, along with an updated CSM. No deviation shall be made from this scheme without the written agreement from the Local Planning Authority.

REASON: To ensure a safe form of development in response to historic coal activity at the site, in accordance with Policy DM02 of the adopted Blackburn with Darwen Borough Local Plan 2021 – 2037 and National Planning Policy Framework.

5. Prior to the occupation of the development hereby approved, a comprehensive Validation Report shall be submitted to and approved in

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

REASON: To ensure that all reasonable steps have been taken to identify contamination at the site, that the risks it presents have been appropriately assessed, and that the site can be made 'suitable for use', as such, does not pose a risk to future users of the site or the wider environment, in accordance with Policy DM02 of the adopted Blackburn with Darwen Borough Local Plan 2021 – 2037 and National Planning Policy Framework.

6. 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 DM02 of the adopted Blackburn with Darwen Borough Local Plan 2021 – 2037 and National Planning Policy Framework.

7. Construction of the development hereby permitted shall only take place between the following hours:
Monday to Friday: 08:00 to 18:00;
Saturday: 09:00 to 13:00; and
Not at all on Sundays or Bank Holidays.

REASON: To safeguard the amenities of the adjoining premises and the area generally, in accordance with Policy DM02 of the adopted Blackburn with Darwen Borough Local Plan 2021 – 2037 and National Planning Policy Framework.

8. The use hereby permitted shall operate between the hours 07:00 and 22:00.

REASON: To safeguard the amenities of the adjoining premises and the area generally, in accordance with Policy DM02 of the adopted Blackburn with Darwen Borough Local Plan 2021 – 2037 and National Planning Policy Framework.

9. The cumulative noise from plant and associated equipment at the site shall not exceed the following rating levels, specified in Table 4 of the Plant Noise Guidance document (Document Ref: 89595):
- Daytime (07:00 - 23:00 hrs): 43dB(A); and
- Night-time (23:00 - 07:00 hrs): 37 dB(A).

REASON: To safeguard the amenities of the adjoining premises and the area generally, in accordance with Policy DM02 of the adopted Blackburn with Darwen Borough Local Plan 2021 – 2037 and National Planning Policy Framework.

10. Deliveries of goods into the site shall not take place between the hours of 20:00 and 08:00, with the exception of delivery of newspapers.

REASON: To safeguard the amenities of the adjoining premises and the area generally, in accordance with Policy DM02 of the adopted Blackburn with Darwen Borough Local Plan 2021 – 2037 and National Planning Policy Framework.

11. No development shall commence until a surface water drainage scheme has been submitted to and approved in writing by the Local Planning Authority. The drainage scheme must include:

(i) An investigation of the hierarchy of drainage options in the National Planning Practice Guidance (or any subsequent amendment thereof). This investigation shall include evidence of an assessment of ground conditions and the potential for infiltration of surface water;

(ii) A restricted rate of discharge of surface water agreed with the local planning authority (if it is agreed that infiltration is discounted by the investigations); and

(iii) A timetable for its implementation.

The approved scheme shall also be in accordance with the Non-Statutory Technical Standards for Sustainable Drainage Systems (March 2015) or any subsequent replacement national standards. The development hereby permitted shall be carried out only in accordance with the approved drainage scheme.

REASON: To secure proper drainage and to manage the risk of flooding and pollution, in accordance with the requirements of Policy DM13 of the adopted Blackburn with Darwen Borough Local Plan 2021 – 2037 and National Planning Policy Framework.

12. Foul and surface water shall be drained on separate systems.

REASON: To secure proper drainage and to manage the risk of flooding and pollution, in accordance with the requirements of Policy DM13 and of the adopted Blackburn with Darwen Borough Local Plan 2021 – 2037 and National Planning Policy Framework.

13. Prior to commencement of the development hereby approved and notwithstanding the submitted details, a hard and soft landscaping scheme shall be submitted to and approved in writing by the Local Planning Authority. The scheme shall include details of materials to be used for hard surfaces and native tree and shrub planting, to compliment local priority habitat and to provide for a net gain in biodiversity. Hard surfaces shall be implemented in accordance with the agreed details. Planting of trees and shrubs shall also be implemented in accordance with the approved details, during the first

available planting season following completion of the development. Trees dying or becoming diseased, removed or being seriously damaged within five years of planting shall be replaced by trees and shrubs of similar size and species to those originally required to be planted during the first available planting season after the loss of the trees and/or shrubs.

REASON: In the interests of ecology, biodiversity and visual amenity, in accordance with the requirements of Policies CP6, CP8, DM15, DM17 and DM27 of the adopted Blackburn with Darwen Borough Local Plan 2021 – 2037 and National Planning Policy Framework.

14. No works to trees shall occur between the 1st March and 31st August in any year unless and until a detailed bird nest survey, undertaken by a suitably experienced ecologist, has been submitted to the Local Planning Authority in writing, confirming that no active bird nests are present.

REASON: To ensure the protection of species and habitat, in accordance with the requirements of Policies CP6 and DM15 of the adopted Blackburn with Darwen Borough Local Plan 2021 – 2037 and National Planning Policy Framework.

15. The development shall be carried out in strict accordance with the submitted Arboricultural Impact Assessment, prepared by SEED, dated 12th February 2021 (1197-AIA-V1-A). Specified tree protection measures shall be adhered to throughout the period of construction.

REASON: To ensure protection of retained trees and in the interests of appropriate arboricultural management, in accordance with the requirements of Policy DM17 of the adopted Blackburn with Darwen Borough Local Plan 2021 – 2037 and National Planning Policy Framework.

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

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

REASON: In the interests of air quality management and protection of amenity, highway safety / efficiency and health, in accordance with Policies DM02, CP9 and DM29 of the adopted Blackburn with Darwen Borough Local Plan 2021 – 2037 and National Planning Policy Framework.

17. Prior to operational use of the store hereby approved, and notwithstanding the submitted details, a Delivery Management Plan shall be submitted to approved in writing by the Local Planning Authority. The Plan shall specify frequency of daily deliveries; their routine arrival and departure times; necessary decommissioning of on-site parking spaces at such times and other general management arrangements necessary to adequately guard against adverse impacts on the local highway network and neighbouring amenity. The plan shall be implemented in accordance with the approved details for the duration of the operational use of the store.

REASON: To minimise the risk of unacceptable impacts upon the highway network at to neighbouring residential amenity, in accordance with Policies DM02 and DM29 of the adopted Blackburn with Darwen Borough Local Plan 2021 – 2037 and National Planning Policy Framework.

18. Prior to commencement of above ground works, a Traffic Management Scheme shall be submitted to and approved in writing by the Local Planning Authority. The scheme shall provide for:

- Renewed and extended road markings, signage and associated works, as necessary, at the junction of Falcon Avenue and Blackburn Road; and
- Road markings and signage to facilitate a Residents Only Parking Scheme, along a section of Falcon Avenue, as necessary.

The scheme shall be implemented in accordance with the approved detail, prior to commencement of the operational use of the store hereby approved.

REASON: To minimise the risk of unacceptable impacts upon the highway network at to neighbouring residential amenity, in accordance with Policies DM02 and DM29 of the adopted Blackburn with Darwen Borough Local Plan 2021 – 2037 and National Planning Policy Framework.

19. Prior to commencement of any above ground works, a detailed scheme for the proposed height reduction to the boundary wall adjacent to Blackburn Road shall be submitted to and approved in writing by the Local Planning Authority. The scheme shall include proposed elevation drawings indicating the position of the pedestrian access and cross sectional drawings indicating retained land levels as well as engineering specifications. The works shall be carried out in accordance with the approved detail, prior to commencement of the operational use of the store hereby approved.

REASON: To minimise the risk of unacceptable impacts upon the highway network, in accordance with Policy DM29 of the adopted Blackburn with Darwen Borough Local Plan 2021 – 2037 and National Planning Policy Framework.

20. 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 minimise the risk of unacceptable impacts upon the highway network, in accordance with Policy DM29 of the adopted Blackburn with Darwen Borough Local Plan 2021 – 2037 and National Planning Policy Framework.

21. The premises shall be used for the retail sale of goods - Use Class E(a) - and for no other purpose, including any other purpose in Class E of the Town and Country Planning Use Classes (Order 1987 (as amended by the 2020 Regulations Amendment) and notwithstanding permitted development rights afforded by the Town and Country Planning (General Permitted Development (England) Order 2015 (as amended)).

REASON: To ensure adequate provision for local needs shopping and to safeguard the amenities of the neighbourhood, in accordance with Policies DM34, DM35 and DM02 of the adopted Blackburn with Darwen Borough Local Plan 2021 – 2037 and National Planning Policy Framework.

5.0 PLANNING HISTORY

- 5.1 10/21/0148: Erection of Use Class E Convenience Store with Staff/Storage at First Floor and 16 Customer Parking Spaces and Delivery Area. Approved by Planning and Highways Committee on 16/07/2021.
- 5.2 Conditions attached to above permission have been discharged under the following application nos: 10/21/1135; 10/21/1139; 10/21/1151; 10/21/1152; 10/21/1360; 10/22/0105; 10/23/0231; and 10/23/0391.

6.0 CONSULTATIONS

6.1 BwD Highways

No objection.

6.2 Public Consultation

14 letters were posted to the local community on 2nd January 2024 and a site notice was displayed. 2 representations were received (see Summary of Representations).

7.0 CONTACT OFFICER: Nick Blackledge, Principal Planning Officer

8.0 DATE PREPARED: 28th February 2024

9.0 SUMMARY OF REPRESENTATIONS

Objection – Councillor Brian Taylor. Received: 15/01/2024.

I'm disappointed that a national organisation such as Tesco can't comply with their original planning permission. First it was opening hours and now the boundary changes. It was originally agreed that a brick boundary wall would be built. To be honest the wooden fence looks quite shabby and if it was facing my house I wouldn't be happy. Can we please revert to the original plan. In other words I object to the application.

Objection – Russell & Joanne Lambert, Falcon Avenue, Darwen. Received: 15/01/2024.

For the attention of: Mr Nick Blackledge

Reference no. 10/23/1161

Variation/Removal of condition/minor material amendment

New Tesco store formerly Liberal Club Falcon Avenue, Darwen.

Dear Mr Blackledge,

To Whom It May Concern

With reference to the above and in reply to the application for variation and having read Mr Berggren's assessment highlighted in the below paragraph, we respectfully wish to make the following representations.

'Assessment The changes to the Falcon Avenue boundary create a much-improved appearance, over and above that of the approved treatment. The knee-high fence allows better views into the site from Falcon Avenue, as opposed to the previously approved wall, which means that the development assimilates well and forms a logical continuation of the street scene. The knee-high fence is designed so that it discourages people from sitting on it. People would be more likely to congregate and sit on the previously approved wall in my opinion. Furthermore, the open aspect that the knee-high fence provides, results in a softer view of the site, particularly as the landscaping is much more visible.'

In the original plans we were made aware of the approval of a 0.75m high brick retaining boundary wall with what we perceived would have spiked railings to deter anti-social behaviour which was a major concern, to replace the pre-existing red brick wall that formed the boundary between the Avenue and the original Liberal Club. We are disappointed to see that this hasn't actually been adhered to and in its place is a poorly constructed 'knee high wooden fence' with a plank of wood as its retaining border. As you can see in the photos this has been poorly constructed and erected in a hurried and a mismanaged fashion, which we find extremely disappointing as not only does it let the Avenue down, but more so the

owners of the land and Tesco themselves having taken the time and money in constructing a sympathetic looking building for the Avenue to house the new Tesco store.

It states in the assessment that the current wooden fence would help deter persons sitting and congregating and provide a softer view of the site, particularly the landscaping. Whilst we can see their point of view regarding the landscaping i.e. the trees and shrubs, we would however disagree that the knee high fence would deter people from sitting and congregating, having witnessed only this weekend a family, three children and an adult, having looked like they had potentially visited the woods and then sat on the fence having propped scrambler bikes against it whilst they consumed snacks (unsure if purchased from Tesco). Whilst this might sound trivial at this time it does negate the fact stated of preventing people sitting on this fence and if someone is prepared to sit there in January how many will congregate when the weather becomes warmer? Also, to mention that they were actually sat higher up the Avenue facing the houses not by the entrance and we have noticed that litter has been left on the landscaped area already.

We would respectfully ask that this fence please be potentially changed to a more substantial visually pleasing lowish level red brick wall with black spiked railings on top (see photo example idea below), not rendered so as to prevent graffiti or unsightly discolouring, so that it still provides a softer view of the building, landscaping and trees and will provide a better and more substantial boundary retaining wall with the spiked black railings being consistent with the ones put in place on top of the stone boundary wall that runs along the main road. This not only gives a better finish but hopefully better more substantial protection for the landscaping and deterrent to persons congregating/sitting or climbing over as short cut and is more visually pleasing for the Avenue's resident's outlook.



(Above photo is a visual reference/example only for an idea for the new boundary wall on Falcon Ave)

With reference to the landscaping and whilst not referenced in these changes, we do feel it is still part of it with it being a boundary wall. May we respectfully request one or two more trees and some shrubs be placed at the bottom half of the Avenue on the right-hand side of the entrance to replace the trees removed prior to the build and to add again a more visual pleasing aspect along with helping to screen the car park and headlights for residents opposite without causing visual restrictions for traffic and also equally as important for environmental reasons.

For your assistance, please see attached photos below of the fencing etc. showing the issues we have raised in hope that it helps you see the problems.

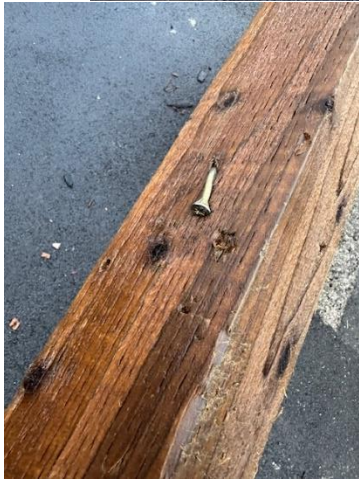
Please note that as of (13/1/24) the pavement seen in the photos has now been filled in with tarmac making it safer on the pavement, however again still not finished off properly to any standard.



Prior to 13th January 2024

After 13th January 2024 as you can see totally uneven





After 13th January 2024 This screw remains in place after 13th January 2024

Not finished off



Knee high fence running into rendered wall not level



(We have been made aware recently that the white coping stone in the above photo is going to be replaced with an original stone in keeping with the other originals on old stone work)

Whilst we realise some of this may come across as cosmetic issues and may not fit the Planning narrative, the bigger picture we feel is to rethink this fencing so that all involved are in agreement for a safer, reliable and more carefully thought out fencing we feel should be erected as we were advised of from the beginning of this project. We are amenable to liaising with Mr Berggren to discuss any alternatives and hopefully we can all come to a satisfactory agreement.

May we please respectfully ask that this request be looked at, at the very least, as you can see for yourselves the poor mis-matched and hurried workmanship in erecting this 'fence' with BwD Council representatives also having made comments in agreement with the poor workmanship and visual aspect along with initial site management staff who also made comments! With the issues it brings and the ideas suggested of a reasonable alternative please respectfully consider the comments in view of what we have witnessed and have offered reasons why it needs to change and given what we feel is a reasonable and fair solution that would be beneficial for all involved going forward to prevent future issues. At the end of the day, we as residents have to live here and take pride in our Avenue and ask for a safe and peaceful living environment and have an amenable co-existence with Tesco and not against it which is not our wish.

We would like to thank you all for your time in this matter and please know it is sent with respect and without prejudice.

Yours sincerely

For and on behalf of the residents of Falcon Avenue, Darwen

REPORT OF THE STRATEGIC DIRECTOR – Plan Nos: 10/23/1165 and 10/23/1166

Proposed Developments: (1) Advertisement Consent (10/23/1165): Installation of new illuminated fascia sign and retention of illuminated hanging barber pole sign (part-retrospective)

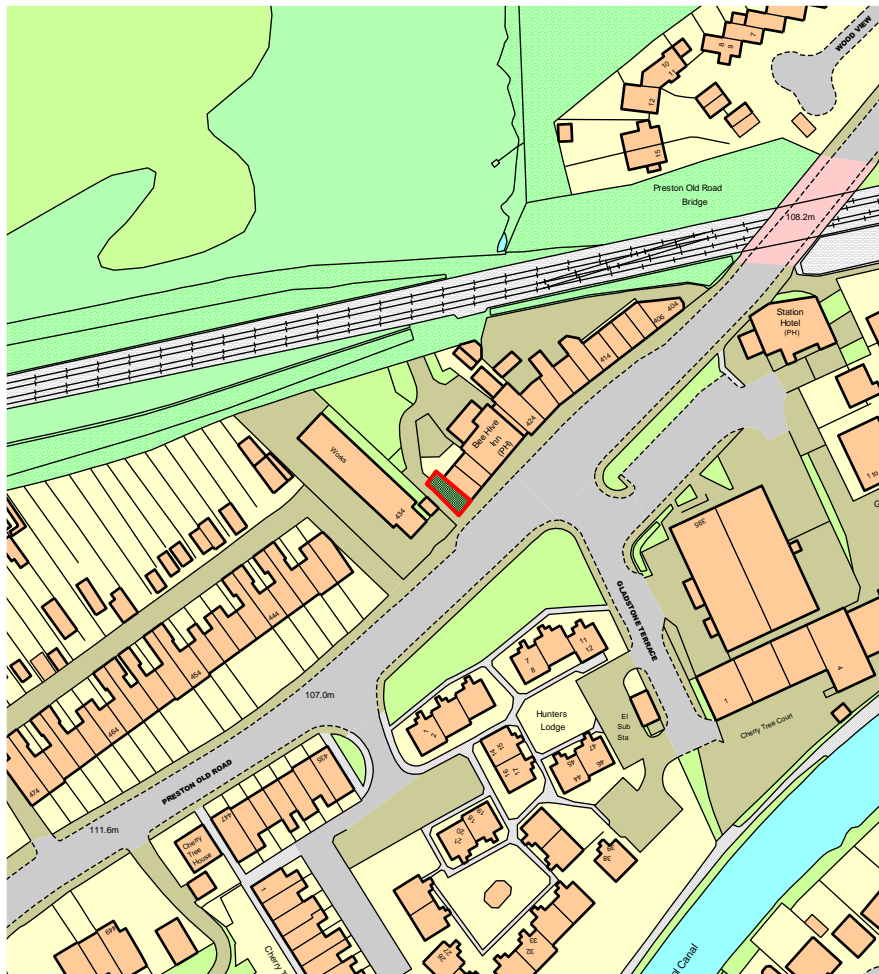
(2) Section 73 (10/23/1166): Variation of Conditions 2 "approved drawings ", and 7 "restrict use within Use Class E(a)" and removal of Conditions 1 "implementation period", 4 "security shutter details" and 6 "construction working hours" pursuant to planning application 10/22/0259, involving the "Change of use from a residential dwelling to a retail shop at ground and basement floor level with a first floor level apartment and installation of a shopfront and security shutter " – to allow for the retention of the barbers (Use Class E[c]) and alterations to shop frontage design (retrospective)

Site Address: 432 Preston Old Road, Blackburn, BB2 5LP

Applicant: Mr S Desai

Ward: Livesey with Pleasington

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



1.0 SUMMARY OF RECOMMENDATION

- 1.1 The proposed developments are recommended to be granted advertisement consent and planning permission, subject to the conditions detailed in Section 5.

2.0 KEY ISSUES/SUMMARY OF PLANNING BALANCE

- 2.1 The applications are presented to the Planning and Highways Committee, in accordance with the Council's Constitution, and given that the Section 73 application has received a large number of public objections together with objections from a Ward Councillor and Livesey Parish Council. A number of the objections received also relate to the proposed signage.
- 2.2 The Section 73 application has been publicised through letters to occupants of the nearest 13 adjacent properties on 3rd January 2024. In addition, a site notice was displayed on 10th January 2024. Ward Councillors and Public Protection were consulted for the advertisement consent application. 30 public objections have been received for the developments so far. Should any further comments be received ahead of the meeting they will be presented as part of the committee update report.
- 2.3 The Council's development plan supports new advertisement and commercial developments, provided they constitute sustainable development and accord with the development plan when taken as a whole.
- 2.4 The application (10/23/1165) for consent to display an advertisement(s) is made under the Town and Country Planning (Control of Advertisements) (England) Regulations (2007). The application seeks consent to retain an external illuminated barber pole sign and modify an illuminated fascia sign, which displays the company name.
- 2.5 The application (10/23/1166) to vary conditions is made under Section 73 of the Town and Country Planning Act (1990). The application seeks retrospective consent to vary Conditions 2 and 7 of the permission 10/22/0259. In varying those conditions permission would be issued to operate a barber's shop from the site, which has a Use Class E(c) use. Alterations to shop frontage design are also proposed. In addition, three conditions that were originally imposed on the permission are no longer necessary and are required to be removed.
- 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 as follows;
- Principle of development
 - Design and visual amenity
 - Residential amenity

- Highways and parking

3.0 RATIONALE

3.1 Site and Surroundings

- 3.1.1 The application site is a two-storey, mixed-use building that is positioned within the settlement of Blackburn. It has historically been used as a terraced dwelling. Planning Permission (10/22/0259) was issued in 2022 to use the building for a retail shop at the ground and basement floor level with a one-bedroom apartment on the first floor. External alterations were also proposed to facilitate the change of use in the form of a shop front and security shutter. No applications for advertisement consent were made at the time.
- 3.1.2 Mixed-use buildings surround to two sides with residential buildings positioned to the southeast and open land to the northwest. The building has red brick and pebbledashed elevations, a slate roof, and brown uPVC windows. A dark grey aluminium shop front has recently been installed together with various signage to the front elevation.

Figure One – Location Plan and Satellite Image



3.2 Proposed Development

- 3.2.1 The advertisement consent application was originally submitted to retain various signs, which involve an illuminated fascia sign, illuminated external barber pole sign and internal LED barber pole sign. Amended plans have subsequently been submitted showing a more sympathetic signage scheme, which is shown below in Figure Two. A smaller fascia sign is now proposed and the internal LED barber pole sign has been omitted.

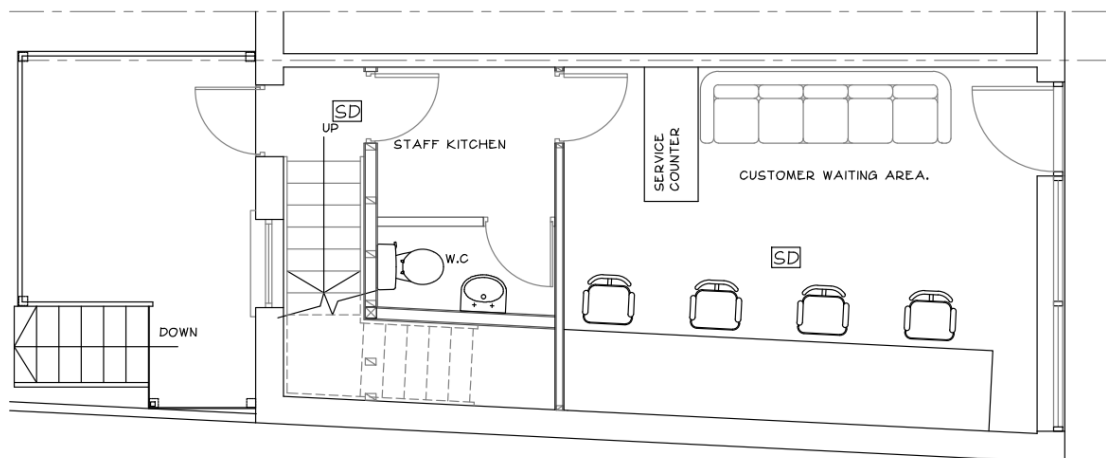
Figure Two – Comparison of ‘Approved’ and ‘Proposed’ Shop Fronts



3.2.2 The Section 73 application seeks retrospective consent to vary Conditions 2 and 7 of the permission 10/22/0259. Alterations to the shop frontage design are proposed through varying Condition 2. A slightly wider shop front has been installed when compared with the shop front originally approved, as shown above in Figure Two. The same framing materials as those approved have been used in the form of grey aluminium. A retractable security shutter of the same colour and with perforated panels has also been installed.

3.2.3 In varying Condition 7 permission would be issued to operate a barber's shop from the premises, which has a Use Class E(c) use. A number of wider uses within that Use Class could also be operated in the event that this application is successful. The submitted proposed floor plan shows a customer area to the front of the building with staff areas and access to the first-floor apartment positioned to the rear.

Figure Three – Proposed Floor Plan



3.3 Case Officer Site Photos



3.4 Development Plan

3.4.1 Local Plan 2021-2037 (adopted 25th January 2024)

Core Policies

- Policy CP8: Securing High Quality and Inclusive Design

Development Management Policies

- Policy DM02: Protecting Living and Working Environments
- Policy DM24: Outdoor Advertisements
- Policy DM27: Design in New Developments
- Policy DM29: Transport and Accessibility
- Policy DM36: Local and Convenience Shops

3.4.2 BwD Parking Standards

- Food Retail: 1 car space per 16 sqm.
- Non-food Retail: 1 car space per 22 sqm.

4.0 **ASSESSMENT**

4.1 Procedural Matters

- 4.1.1 Concerns have been raised in public comments regarding the number of letters sent. National guidance states that all relevant applications '*must be publicised...by giving requisite notice... (a) by site display in at least one place on or near the land to which the application relates for not less than 21 days; or (b) by serving the notice on any adjoining owner or occupier*'.

4.1.2 Regarding the Section 73 application, a total of 13 letters have been posted to neighbouring occupiers and no letters were returned. In addition, a site notice was posted directly outside of the barber's shop. Those approaches exceed the statutory requirement to publicise such applications. There is no statutory requirement to publicise applications for advertisement consent, yet Ward Councillors are consulted for transparency. Any relevant public safety bodies are also required to be consulted.

4.2 Principle of Development

4.2.1 As detailed above, the site has an established commercial use on the ground floor and basement level in the form of a retail premises. The retail use was previously supported under Policy 32 of the former Local Plan, which has been replaced by Policy DM36. The term 'retail' is broadly defined as the '*sale of goods and services to consumers*', which a barber's shop falls within. Therefore, the proposals to vary the wording of Condition 7 does not conflict with Policy DM36, nor does it compromise the principle of development.

4.3 Design and Visual Amenity

4.3.1 The site is positioned as part of a row of commercial premises, which have a varied appearance. Policy CP8 states that the Council will require all new development to be of a high standard of design. Furthermore, Policy DM27 states that all development shall achieve a high quality, sustainable design consistent with several pre-defined characteristics. Concerns have been raised in public comments regarding the shop front and signage installed.

4.3.2 The shop front installed is only marginally wider than the shop front approved previously. No adverse visual design complications are caused by it. Furthermore, the security shutter installed matches the colour of the shop front and perforated panels have been used, which is acceptable. In addition to varying Condition 2, it is recommended that Condition 4 is removed from the consent as it is no longer necessary given that an appropriate security shutter has been installed. Based on those outcomes, compliance with Policies CP8 and DM27 is achieved.

4.3.3 Regarding the proposed signage, Policy DM24 states that the number, size and siting of signs in the area or on the building must not create clutter or excessive advertising. Amended plans have been secured during the application, as detailed above. Those plans show a number of positive amendments in the form of a smaller fascia sign and the omission of the larger internal LED barber pole sign. The signage scheme now proposed is acceptable in the context of this development and site.

4.3.4 The standard conditions required when issuing an advertisement consent are all recommend to be added. In addition, further conditions are recommended to limit the luminance levels of the advertisements and ensure the replacement fascia sign is installed within a reasonable timeframe. Such conditions are necessary in order to minimise the garishness of the signs and ensure a smaller fascia sign is installed. Subject to compliance with those conditions, the

proposed advertisements would be acceptable with reference to design and visual amenity, in compliance with Policy DM24.

4.4 Residential Amenity

- 4.4.1 Residential buildings are positioned nearby and safeguarding the amenities of those neighbours is an important material planning consideration. Policy DM02 states that all development proposals must secure a satisfactory level of amenity and safety for surrounding uses and for existing and future occupants or users of the development itself, with reference to noise, vibration, odour, light, dust, other pollution or nuisance, privacy/overlooking, open space provision and the relationship between buildings. Concerns have been raised in public comments and by Ward Cllrs on residential amenity grounds.
- 4.4.2 BwD Public Protection have reviewed the merits of both applications and no objections have been raised. Conditions have been advised to control opening hours, the type of roller shutter to be installed, the brightness of any external lights to be installed and construction working hours. An opening hours condition was imposed on the original consent and no changes are proposed to that condition. The other advised conditions are not necessary as an electric security shutter has been installed and no external lighting is proposed. Moreover, external construction works have now been completed, with the exception of replacing the fascia sign. Therefore, it is recommended that Condition 6, which relates to construction working hours, is removed as it is no longer necessary.
- 4.4.3 Regarding use of the site for a barber's shop, it should be initially noted that such uses historically fell within the same commercial class (Use Class A1) as other shops, yet the introduction of the subclasses of Use Class E has altered that. Condition 7 imposed on the original consent limited the ground floor and basement level of the site to Use Class E(a), which involves *the display or retail sale of goods, other than hot food, principally to visiting members of the public*. Use of the premises as a dessert shop was alluded to by the Applicant during assessment of the original application. The reason for imposing the condition was *to prevent more intensive commercial uses being operated from the premises, in the interests of residential amenity*.
- 4.4.4 This Section 73 application involves using the ground floor for a Use Class E(c) purpose. Together with (a) *financial services*, Use Class E(c) involves (b) *professional services (other than health or medical services)*, (c) *or any other services which it is appropriate to provide in a commercial, business or service locality*. It could be argued that a barber's shop falls within either of those categories. A number of service businesses have historically existed in the immediate and wider locality, and it would be unreasonable to conclude that another such business would be harmful to the amenities of residential neighbours due to that.
- 4.4.5 When that position is considered alongside a lack of objection from BwD Public Protection and a condition to limit opening hours, use of the building for a barber's shop would be acceptable with regards to residential amenity. The

proposed signage is also acceptable in that regard owing to ample separation between the nearest adjacent dwellings at Hunters Lodge, at over 35m. For those reasons, the proposed developments are acceptable with reference to residential amenity, in accordance with the relevant requirements of Policy DM02.

4.5 Highway Safety and Parking

4.5.1 The site is positioned off a main thoroughfare. Policy DM29 states that development will be permitted provided it has been demonstrated that road safety and the safe, efficient and convenient movement of all highway users (including bus passengers, refuse collection vehicles, the emergency services, cyclists and pedestrians) is not prejudiced. Appropriate provision must also be made for vehicle access and off-street servicing and parking.

4.5.2 Regarding signage, Policy DM24 states that such developments must not obscure visibility or distract the attention of users of the highway. The colours of the advertisement or its illumination must not obscure or reduce the clarity of any functional or traffic sign. Any visual movement, for example that of digital/electronic/LED advertisement displays, must not distract the attention of users of the highway. Pedestrian movement must also not be hindered. Concerns have been raised in public comments and by Ward Councillors on highways and parking grounds.

4.5.3 In relation to the requirements of the adopted Parking Standards, the proposed use would require less parking than the approved use. A number of short stay parking facilities together with regular public transport links are all within walking distance. Furthermore, the overall number of comings and goings associated with a barber's shop are likely to be less than many more conventional retail uses. Specific concerns have been raised regarding parked cars blocking the side road, which is used to access the rear of the row. Illegal parking is ultimately a Police matter. Moreover, there is no evidence to link such activity directly with the barber's shop. On that basis, use of the site for such a purpose would not be materially inimical to highway safety.

4.5.4 Regarding the signage, there are no traffic signs nearby to be obscured. The LED barber pole has been omitted from the proposals and the remaining signage would not dazzle nor distract passing motorists given its limited scale. Moreover, pedestrian movement is not hindered in any way from the proposed external barber pole. When those factors are taken together, the proposed developments are acceptable with reference to highway safety and parking, in accordance with the relevant requirements of Policies DM24 and DM29.

4.6 Wider Considerations

4.6.1 Further concerns have been raised in public comments regarding commercial competition and the height of the step at the access door. The former is not a material planning consideration. Access arrangements are a Building Control matter. The conversion works have been signed off previously by an Approved Inspector and the Council cannot now intervene with that outcome. Therefore,

those comments have no material influence on the assessment of these applications.

4.7 Summary

- 4.7.1 These applications seek consent to install illuminated signage (10/23/1165) and vary a number of conditions imposed on application 10/22/0259 (10/23/1166). The removal of some conditions is also necessary given the advanced stage of the development. Subject to appropriate conditions, the proposed developments would be acceptable on all the relevant planning grounds, in accordance with the policies and guidance note 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 principle and in terms of design and visual amenity, residential amenity, and highway safety and parking.
- 4.7.3 The developments therefore comply with the development plan. There is a positive presumption in favour of approving the developments and there are no material reasons to object to the applications.

5.0 **RECOMMENDATION:**

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

Advertisement Consent

- 5.1 No advertisement is to be displayed without the permission of the owner of the site or any other person with an interest in the land 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.

- 5.2 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.

- 5.3 Any advertisement displayed, and any site used for the display of advertisements, shall be 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.

- 5.4 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.

- 5.5 Where an advertisement is required under these Regulations to be removed, the site shall be left in 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.

- 5.6 Within 3 months from the date of this decision the existing signs shall have been amended/implemented in strict accordance with the details shown on the submitted plan '3698-01 – Revision B' (proposed front elevation), and those details shall not be varied without first being agreed in writing by the Local Planning Authority.

REASON: In order to ensure the existing signs are amended in accordance with the agreed details, in the interests of visual amenity, and to comply with the requirements of and to comply with the requirements of Policies CP8, DM24 and DM27 of the Blackburn with Darwen Borough Council Local Plan (adopted 2024).

- 5.7 The surface brightness of the advertisements shall not exceed 600 candelas per square metre, and they shall not include any intermittent light source or reflective material.

REASON: In order to limit the brightness of the sign, in the interests of visual amenity, and to comply with the requirements of and to comply with the requirements of Policies CP8, DM24 and DM27 of the Blackburn with Darwen Borough Council Local Plan (adopted 2024).

Section 73

- 5.8 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) and 3698-01 – Revision B.

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

- 5.9 The shopfront hereby approved shall be installed in strict accordance with the details shown on the submitted plans and those details shall not be varied without first being agreed in writing by the Local Planning Authority.

REASON: In order to ensure a satisfactory form of development is achieved, in the interests of visual amenity, and to comply with the requirements of and to comply with the requirements of Policies CP8, DM24 and DM27 of the Blackburn with Darwen Borough Council Local Plan (adopted 2024).

- 5.10 The commercial use hereby approved shall only operate between the hours of 7:00 – 22:00 Monday – Friday, 9:00 – 20:00 on Saturdays and 10:00 – 20:00 Sundays and Bank Holidays.

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

- 5.11 Notwithstanding the provisions of the Town & Country Planning (General Permitted Development) (England) Order 2015 (or any Order revoking and re-enacting that Order with or without modification), the commercial use hereby approved is restricted solely to Use Classes E(a) and E(c) and no commercial operations outside of those Use Classes shall take place from the site whatsoever.

REASON: In order to prevent more intensive commercial uses being operated from the site, in the interests of residential amenity, and to comply with the requirements of and to comply with the requirements of Policy DM02 of the Blackburn with Darwen Borough Council Local Plan (adopted 2024).

6.0 RELEVANT PLANNING HISTORY

- 10/22/0259 – Change of use from a residential dwelling to a retail shop at ground and basement floor level with a first floor level apartment and installation of a shopfront and security shutter – Approved, with conditions – July 2022.
- 10/17/1133 – Change of use from residential (C3) to a mixed-use comprising ground floor retail (A1) and first floor flat and installation of new shop front with internal roller shutters – Approved, with conditions – November 2017.
- 10/16/1245 – Change of use of residential dwelling (C3) to Hot food takeaway (A5), with new shop front and extractor flue to the rear with ancillary residential accommodation above – Refused (appeal dismissed) – April 2017.

7.0 CONSULTATIONS

7.1 BwD Public Protection – No objections. Should this application be approved, conditions should be imposed to control opening hours, the type of roller shutter to be installed, air quality mitigation measures, the brightness of any external lights to be installed and construction working hours.

(Advert) No objections.

7.2 Livesey Parish Council – The current property does not allow for disabled access and the step at the front is far too high for elderly residents. As this a commercial entity there should at least be a ramp installed. Can you please bring this to the attention of the planning committee who I believe will be debating this application in their March 2024 Meeting.

7.3 Ward Councillor Mark Russell – 22nd January 2024 – The condition restricting usage to a retail shop was imposed to prevent more intensive commercial uses that might be detrimental to residential amenity. It therefore stands to reason that for this application to be approved it must demonstrate that the property's usage for professional services (specifically usage as a barbers shop) does not constitute a more intensive commercial use than usage as a retail shop, and that its usage as such has not been detrimental to residential amenity.

As this is a retrospective application, it has been evidenced that its usage as a barbers shop is more commercially intensive than would be expected of a small retail shop and it has had – and continues to have – a negative and unacceptable impact on residential amenity.

This is primarily because a barbers shop entails significantly different customer behaviours to what would be expected of a small retail shop. A retail shop of that size would probably expect its average customer to spend only a few minutes on the premises. Conversely, a barbers shop entails each customer spending significantly longer periods of time in situ. Even with no queue, the average haircut takes 10-15 minutes. However, there usually is a queue, resulting in customers remaining on the premises for anywhere between 20 minutes during quiet periods to over an hour at peak times.

Consequently, the average number of customers present on the premises at any one time is greater than would be expected if it were a small retail shop, representing a more intensive commercial usage (which the original planning condition was designed to prevent).

Indeed, the layout of the barbers shop is testament to it being a more intensive commercial usage. The shop has 3 chairs set out for haircuts and 'waiting' seats set out for 6 customers. This means that, at any one time, the business is expecting to accommodate up to 12 people (3 staff, 3 people having haircuts, and 6 waiting customers), all of whom – with waiting times – would probably be on site for at least an hour. It is unimaginable that a small retail shop of this size would have up to 12 people present at any one time for such prolonged periods. It is also unimaginable that a small retail shop of that size would have up to 3

staff working at any one time. It is therefore absolutely clear that the barbers shop represents a more intensive commercial usage than a retail shop.

The question, therefore, is whether the more intensive commercial usage could have a detrimental impact on residential amenity. The detrimental impact on residential amenity has primarily been evidenced in the form of parking problems caused by the greater number of customers being at the premises at any one time and remaining on site for longer than would be expected of the customers of a small retail shop. Since the premises opened as a barbers shop, adjacent residents have frequently complained about access to the rear of their properties being blocked by customers and / or staff of the barbers shop parking inappropriately. This has prevented residents being able to park their cars on their private land at the rear of their properties as they used to. More of them are now resorting to parking their cars on the public car park outside Sainsbury's (a car park which is frequently full to capacity), meaning the usage as a barbers shop has effectively caused a net loss to available public car parking spaces. It should also be noted that residents who still park at the rear of their properties complain they are frequently obstructed from exiting by customers parked across the access for significant periods of time while they are in the barbers shop. Cars have also been evidenced parking in the nearby bus stop across the bus stop shelter

Because this is a retrospective application we are not dealing with hypothetical or theoretical scenarios – a demonstrable nuisance has been created by the property's usage as a barber's shop that would be significantly lessened if the property was used as a retail shop in accordance with the original planning application. The nuisance has been to the detriment of residential amenity so the application should be refused and the original condition requiring usage as a retail shop retained in order to comply with Policy 8 of the Local Plan Part 2.

7.4 Summary of public responses received:

- An insufficient number of neighbour letters have been issued.
- The shopfront installed is not in keeping with the area.
- Existing parking issues are being exacerbated.
- Parked cars are blocking the adjacent side street.
- The signage installed is overly garish.
- The signage installed causes highways safety issues.
- The proposed use may take trade from existing businesses.
- The access step is too high.

8.0 CONTACT OFFICER: Christian Barton – Senior Planner

9.0 DATE PREPARED: 6th March 2024

10.0 SUMMARY OF PUBLIC REPRESENTATIONS

Objection – Cllr Mark Russell. Received: 22/01/2024.

10/23/1166 Objection

The condition restricting usage to a retail shop was imposed to prevent more intensive commercial uses that might be detrimental to residential amenity. It therefore stands to reason that for this application to be approved it must demonstrate that:

- A) the property's usage for professional services (specifically usage as a barbers shop) does not constitute a more intensive commercial use than usage as a retail shop, and
- B) that its usage as such has not been detrimental to residential amenity.

As this is a retrospective application, it has been evidenced that its usage as a barbers shop is more commercially intensive than would be expected of a small retail shop and it has had – and continues to have – a negative and unacceptable impact on residential amenity.

This is primarily because a barbers shop entails significantly different customer behaviours to what would be expected of a small retail shop. A retail shop of that size would probably expect its average customer to spend only a few minutes on the premises. Conversely, a barbers shop entails each customer spending significantly longer periods of time in situ. Even with no queue, the average haircut takes 10-15 minutes. However, there usually is a queue, resulting in customers remaining on the premises for anywhere between 20 minutes during quiet periods to over an hour at peak times.

Consequently, the average number of customers present on the premises at any one time is greater than would be expected if it were a small retail shop, representing a more intensive commercial usage (which the original planning condition was designed to prevent).

Indeed, the layout of the barbers shop is testament to it being a more intensive commercial usage. The shop has 3 chairs set out for haircuts and 'waiting' seats set out for 6 customers. This means that, at any one time, the business is expecting to accommodate up to 12 people (3 staff, 3 people having haircuts, and 6 waiting customers), all of whom – with waiting times – would probably be on site for at least an hour. It is unimaginable that a small retail shop of this size would have up to 12 people present at any one time for such prolonged periods. It is also unimaginable that a small retail shop of that size would have up to 3 staff working at any one time. It is therefore absolutely clear that the barbers shop represents a more intensive commercial usage than a retail shop.

The question, therefore, is whether the more intensive commercial usage could have a detrimental impact on residential amenity.

The detrimental impact on residential amenity has primarily been evidenced in the form of parking problems caused by the greater number of customers being at the premises at any one time and remaining on site for longer than would be expected of the customers of a small retail shop. Since the premises opened as a barbers shop, adjacent residents have frequently complained about access to the rear of their properties being blocked by customers and / or staff of the barbers shop parking inappropriately. This has prevented residents being able to park their cars on their private land at the rear of their properties as they used to. More of them are now resorting to parking their cars on the public car park outside Sainsbury's (a car park which is frequently full to capacity), meaning the usage as a

barbers shop has effectively caused a net loss to available public car parking spaces. It should also be noted that residents who still park at the rear of their properties complain they are frequently obstructed from exiting by customers parked across the access for significant periods of time while they are in the barbers shop. Cars have also been evidenced parking in the nearby bus stop across the bus stop shelter.

Because this is a retrospective application we are not dealing with hypothetical or theoretical scenarios – a demonstrable nuisance has been created by the property’s usage as a barbers shop that would be significantly lessened if the property was used as a retail shop in accordance with the original planning application. The nuisance has been to the detriment of residential amenity so the application should be refused and the original condition requiring usage as a retail shop retained in order to comply with Policy 8 of the Local Plan Part 2.

Typical photo showing barbers shop customer blocking the rear access



Objection – Chris Marsden. Received: 11/01/2024.

Please could I highlight my objection to the above planning permit. The shop currently looks horrific with bright lighting that doesn't fit in with the local area. Furthermore, since the barbers opened, it has attracted customers that park illegally in the middle of the road, causing a risk of traffic accidents.

As a member of the local community, I would like to note my objection to the authorisation of planning.

Objection – Lee Southworth. Received: 11/01/2024.

I would like to say I can not believe we have another Barber Shop opened up, on in the local area of Cherry Tree. We are already overwhelmed with barbers and hair dressers in the local area and I am firmly opposed to this decision. Surely this facility should have been designated as a retail shop or of

another use that would offer a facility to our local community. If it's not too late I would propose this decision is reversed and a better use of the unit is approved.

This area will become unwelcoming and unsightly with the current proposal and I and many members of the Community will seriously rethink about where we shop, which will have a negative impact upon the current businesses, which will effect their income and lively hoods.

Enough is enough, no more Barbers and please make better use of these facilities to serve the community as it's meant to.

Objection – Anonymous. Received: 11/01/2024.

I would like to contest the change of use of 432 Preston Old Road, Blackburn , BB2 5LP. This business should not have opened as a barbers and there is absolutely no requirement for a barbers in that location when there is already a well established barbers a few doors down. The owners of this new barbers have sneakily (in my opinion) opened a barber shop when they were supposed to open as retail space / offices and are trying to cheat the system. Opening a barber shop so close to another so potentially damaging to the already established barbershop a few doors down that has been there for years and this change of use should not be accepted.

Objection – David Walsh, 12 Langdale Road, Blackburn, BB2 5DW. Received: 11/01/2024.

Could you please explain why this barbers business has been allowed to operate in premises you agreed to be offices?

Objection – Peter Cox, 17 Rutland Street, Blackburn, BB2 1UY. Received: 11/01/2024.

I write to express my objection and concern to the new barbers at 432 Preston old rd applying for planning permission. There is already a barbers and there is not enough parking also. This will cause a dangerous hazard and upset the local people who also use Dillon's barbers who have been there legally for a number of years.

Objection – Chris Wray. Received: 11/01/2024.

Hi there I feel that there is not enough car parking around this area and there is an established barbers on this row of terrace already there's definitely no need for another around this area

Objection – Anonymous. Received: 11/01/2024.

I am writing to you to formally express my objection to the planning application 10/23/1166 submitted by the new barbers on 432 Preston Old Road who has opened and is trading illegally.

As I believe the original application was to open the premises as a office and residential space. This would suit the area well with regards to parking, opportunity and aesthetics. Having many different vehicles arriving and leaving in what is already a very busy area will

only lead to further congestion and accidents. Also, premises now has a very bright illuminated signage which surely must need planning within itself. The bright lights shine right across the street and must be a nuisance for the residents of the elderly accommodation across and other neighbouring properties. The business's on that row maintain a more traditional look to the facades which is in keeping with the area.

Furthermore, Jemma from Dillons Barbers is only a stones through away. Jemma who is not only the area's barber but friends with most of the community has worked hard for many years to build her business and life in Cherry Tree. She has gone through correct procedures and protocol when it comes to submitting her planning applications and it is very sad to see her business could be affected by the new barbers just popping up without proper thought and authorisation.

I am struggling to understand how Blackburn Council are allowing this business to open up daily without the proper planning consent. Surely if there was an accident with a customer or even a fire at the premises the barbers public liability insurance and business/premises insurance would be void due to the fact that they are illegally trading in that profession at that premises.

I would encourage Blackburn Council to carefully consider this application and please close down the barbers with immediate effect until the decisions are made about whether the area needs another barbers. Please be considerate to the impact it has upon residents and business's that have lived and traded legally in Cherry Tree for many years.

Objection – Ian Butcher. Received: 11/01/2024.

I write to you regarding the above application to the variation of a condition to planning application 10/22/0259 granted on 13/7/2022. I noted that this is a retrospective application as the work has already been completed in December 2023 and the premises are now trading as a barbers shop.

I feel that this is an abuse of the planning process as the original application was for a retail unit, there was never a mention of this being used as a barbers shop. There is already a barbers shop, a hairdressers and a nail and beauty salon in the same row of shops, there isn't the need for an additional barber shop in the area. I drove past the shop today and the hi visibility neon signs are totally out of character with the rest of the area, they are far too bright and ruin the look of the whole terrace.

I would kindly request that the new application is rejected and the shop is to be returned to its original purpose as a standard retail unit.

Objection – Josh Dent. Received: 11/01/2024.

I write to you concerning the matter reference above, I am concerned that the people making the application to open up as a barbers shop are trying to circumvent a rejection they already received after their first planning application which they then agreeing to open as retail/offices. They are obviously trying to get past this rejection and their agreement by sneaking it in as a change now and this should not be allowed.

Objection – Howard Thornton. Received: 11/01/2024.

I am emailing you with my concerns as I feel the above premises are not only breaching the planning permission it was granted but actually flaunting them.

We don't need another barber shop in Cherry Tree. There are already at least x3 in the local vicinity, all now established businesses and all serving the community well.

The issue of available parking has already caused problems along the shop row for the other businesses and the hours that the barber shop is open is also causing issues and disturbance to the local residents of which there is sheltered accommodation directly opposite.

I hope that you find this in order and that a rejection will be put in place and a decent retail premises allowed that the local community actually needs can be opened.

Objection – Anonymous. Received: 11/01/2024.

Could you tell me why a barbers shop has been allowed to open after planning was rejected

Objection – Josh Stevenson. Received: 11/01/2024.

I am writing in reference to the planning application 10/23/1176, to allow a continuation of the change in use to become a barber shop.

I was extremely surprised to see a barber shop open in this premise just before Christmas. Firstly because there are already many similar businesses in cherry tree and Feniscowles, but also because I was under the impression that the planning on this property was to only allow office or retail use, clearly a barber shop fits neither of these categories.

Since the business has opened there have been issues with vehicles parking right outside the shop front, rather than adhering to using the available street side and off street parking opposite which most other users of local businesses use.

I feel the new installed neon shop front is an eye sore and not in keeping with the more modest shop fronts along the street, it could also be a potential hazard to drivers passing by on a busy main road.

My main concern however is that the owners have clearly completely disregarded the original planning on the building and have decided to open a business without going through the appropriate channels. There are three other local hairdressers/barbers that now have direct competition, I believe if the owners had requested a change in use before they opened they would have been met with strong opposition, I believe they will have known this therefore decided to open regardless of planning hoping this would then go unopposed.

If this application is allowed to stand this will set a dangerous precedent for other potential business owners to look at flaunting planning regulations and simply deciding to open whatever business they see fit in local premises regardless of what planning is already held.

As a local to the area I am passionate about supporting local businesses and the local councillors and really do hope this application is opposed and the business is made to revert to the original planning of being used as an office or retail premise.

Objection – Anonymous. Received: 12/01/2024.

I am concerned that another hair cutting establishment has opened up on a stretch of premises in Cherry Tree that is already home to 2 hairdressers and a barber shop. Business for these people is hard at the best of times especially in the current climate. Also the facade of the newly opened premises is not in keeping with the area. My family and I have lived on the same row for 33 years and did not think we would have blackpool illuminations on our door step.

From my understanding the application was approved for office space and a retail outlet. Surely building inspectors have visited the property as they should, and seen the work being carried out and raised concerns that plans were not being followed.

The work had been carried out behind a closed shutter for a considerable amount of time so local residents had no idea of the outcome apart from the original planning application .

I hope you quickly come to the right decision as it is unsettling to the local community.

Objection – Anonymous. Received: 12/01/2024.

I would like to reject the application for another barbers, there is already 2 hairdressers and a barbers on the same row of shops. I do not see the need for a 4th.

Objection – Bradley. Received: 12/01/2024.

Subject: Objection to Planning Application Ref: 10/23/1166 - Retrospective Variation of Conditions

Dear BwDBC Planning,

I am writing to address the recent planning application, Ref: 10/23/1166, submitted by Mr. Desai, which pertains to a retrospective application for the variation of conditions within a previous application.

The application seeks a retrospective variation of conditions related to Conditions 2 and 7, concerning development drawings and the establishment's Use Class.

I would like to formally submit this response as an objection against the application, highlighting several key concerns:

- **Applicant's History with Planning Processes:** Notably, Mr. Desai has a history with planning applications, including a prior attempt (Application 10/16/1245) to change the use from a residential dwelling to a hot food takeaway, which was subsequently refused, with the appeal dismissed. This was followed by two additional applications for further change of use (Application 10/17/1133 and 10/22/0259). This history, coupled with the current application's attempt at a retrospective variation, suggests a troubling and ill-informed effort to undermine the planning process.

- **Non-Adherence to Previous Conditions:** The last planning decision notice highlighted specific conditions regarding the approved development, particularly in relation to the Use Class E(a) and adherence to detailed drawings. However, in December 2023, the applicant opened a barber shop, falling outside of Use Class E(a) and not complying with the conditions within the approved development drawings.
- **Visual Amenity and Policy Compliance:** The establishment's visual impact on the parade raises concerns, especially regarding outdoor advertisements and illuminations, which do not align with Policy 43 of the Blackburn with Darwen Borough Council Local Plan Part 2. The signage's bright lights and a colourful barber pole could potentially distract highway users.
- **Accessibility and Road Safety:** The location on a major route into Blackburn Town Centre raises issues related to accessibility, transport, road safety, and parking. With no off-street parking and increased demand due to a nearby supermarket, concerns arise about road safety and accessibility for users of commercial units, particularly with a bus stop immediately outside the establishment.

I appreciate your consideration of these objections and trust that the planning authority will thoroughly assess the potential impact of the retrospective variation on the surrounding area.

Thank you for your attention to this matter.

Objection – Andrew McGovern, 34 Kirkstone Avenue, Blackburn, BB2 5HJ. Received: 12/01/2024.

I am writing to express my concern about the use of the property located at 432 Preston Old Road, Blackburn, BB2 5LP as a barbershop. As you may be aware the first planning application for use as a Barbers Shop was rejected, with planning permission granted for retail/office use.

Clearly the re-submitted application set out a specific type of business i.e., Retail / Office use. Established already in the area is a barber shop – Dillions and I am concerned that the current business use at 432 Preston Old Road, Blackburn, BB2 5LP was specifically intended to open as an additional barber shop and not as the submitted / approved planning application. Clearly the submitted application was dishonest and provided no redress for the owner of Dillions to submit any objections at the application stage.

The clear and dishonest nature from the applicant for 432 Preston Old Road, Blackburn, BB2 5LP is evident from the fixtures and fitting and Neon signage installed, which would have been purchased and ordered in advance of the shops opening date.

I request action by Blackburn and Darwen Planning to address the current business at 432 Preston Old Road, Blackburn, BB2 5LP. Specifically, I request that the planning permission for the property be revoked and that the property be returned to its original application use as a Retail/Office space.

Thank you for your attention to this matter. I look forward to hearing from you soon.

Objection – Mr P Exton. Received: 12/01/2024.

Dear Sirs

With reference to the above planning application.

I would like my objection to this application noted.

I don't see how two barbers shops can exist virtually next door to each other. There is already an issue with parking in the vicinity. The shop has already opened & is trading without planning permission.

This also look like a case of one rule of one & one for another!!

Objection – Mr Schofield, 424 Preston Old Road, Blackburn. Received: 15/01/2024.

i am writing to you to reject the planning for the barber shop at 432 Preston old road

my concerns are as a home owner on the same row

1- access to my home-

always blocking the entrance at the side of the building next to property 432 for the car park behind and my drive way

also this is people fire exit that keeps getting blocked for the 5 houses next to

2- original planning permission

in the original planning permission it was stated that it could not open as a barber shop or a hairdressers

barbers/hairdressers

already on the row we have 7 shop fronts three already are doing the same type of work so this doesn't make any sense or protection for the

small businesses that are already doing the same type of work (some this doesn't bring anything to the area only put more strain on the businesses in the area)

3- parking

in all the plannings that have been put forward it has been rejected as not enough parking

ie 1st when was put forward for fast-food and was turned down as no parking?

4-shop lights

the shop light are to bright for the main road and people that live directly Infront and also the road its self it distracts road users with all the flashing lights from the led lights flashing all the time

5-notice about planning

as a home owner on the row i am very disappointed that i was never notified about the plans and changes that have been put forward

i have also had to do all the research on the matter as no letters or anything from the local council. which is appalling that no one on the row apart from the next two buildings have been told about (which one when the first plans where put in was a empty building)

6 opening of the business

i am very confused that a house can change into a business and open up as what ever it wants to be without any passed planning permission or checks

and still be left to trade until these plannings have been passed

7 retail- offices

in the planning permission it states opening up as retail/offices but as you can see its opened up as personal care sector

so wrong planning has been up in

Objection – Anonymous. Received: 16/01/2024.

Dear Sir,

I would like voice my rejection to planning application for new barbers shop in Cherry Tree Blackburn. It seems unfair on the existing traders when there is no real case for yet another one on that row. The revolving barbers signs are a distraction to motorists so how do they get permission to place them there without planning. The parking there is already at its limit and has now been put under greater strain and the owners seem to block the residents who live on that stretch.

Objection – Karl Harrison, 422 Preston Old Road, Blackburn, BB2 5LP. Received: 17/01/2024.

Dear Sirs,

Objection to New Business opened following declined planning permission

I wish to object planning permission for 432 Preston Old Rd, Blackburn, BB2 5LP

1. My understanding is that the business has been opened under false intentions and that a loop hole is being exploited, which is under minding planning authority.
 2. The council need to encourage a variety of business to be opened in keeping with the area. There is no need for further hair salons/barbers in the area. Traditional shops I.e hardware store, butchers etc are wanted by residents.
 3. Parking and access has purposely been difficult and of concern. With parking on paths, bus stop and rear access road. I recently had to move onto the road with a pram due to vehicles on the path.
- I would appreciate if you could consider these points made.

Objection – Mrs Gemma Schofield, 424 Preston Old Road, Blackburn, BB2 45LP. Received: 18/01/2024.

Hi

I would like to object to the new barbers shop that's opened up As a business owner on the same row doing the same job (hair dressing) I have concerns that it has been opened illegally with no planning and also going against the councils objections saying it was not allowed to open as a barbers/ hairdressers And was agreed to open as a retail shop and apartment upstairs. But opened as something different? But opened up as something else with re prospective planning after. This building has gone from a normal house and made into a new business. Please can you let me know how this has happened without any checks or health and safety checks being done??

Parking

In all the planning it has been turned down because not enough parking on the area? Also the new barber/ and customers are blocking the access to the alley at the side of the building which leads to a car park at the back which shouldn't be blocked as this is a fire exit for five properties and 4 businesses

The new shop front

Please can you let me know how the shop front on the new building has been passed

1 all the lights are to bright and some nights on till 9 or 10 o'clock at night with the old people in hunters lodge being dazzled with them.

Also please can you also let me know how this business has been aloud to put up. A spinning light without planning as I was refused and told I would be fined as it's a distraction for the road users on Preston old road??

Area businesses

This new business brings nothing new to the area as in a 7 shop fronted row why would you need to add another hair dressers/ barbers as already have 3 hairdresser's/ barber's 3 food places and a nail bar so this makes no sense to open another hairdresser's/barbers and also no protection to the other small businesses.

Notices of planning

Please can you also let me know why only a couple of businesses have had a notice on this building and not everyone on the row, this is a close community and it's a shame that this has been done in

the dark without letting people know. The first planning was posted into an empty building so how are people supposed to know and nothing left on any sign posts.

Please can you let me know your response to all the above

Objection – Alan Cottam. Received: 22/01/2024.

What on earth is going on in Blackburn with Darwen Planning Dept.

It is becoming like the Wild West, with no regard to the rules of determining what should be allowed and what should not?

This end terraced house was to be used as a takeaway, then it was to be used as a retail facility and now planning is sought for a hair-cutting business.

Issue One

There are already 4 hair-cutting businesses in this stretch

Issue two

There is insufficient car parking spaces

There is zero management of the parking conditions

There is constant blocking of the access road leading to the rear of the shop.

There is abuse of the new bus stop, which in itself permitted an extra space.

Also the car parking across the road needs to have managed permitted parking times because rail passengers are clogging it up with all-day parking. This is on top of Sainsbury never ever providing the 24 dedicated spaces required by its planning consent.

Issue three

There is a rule that once a type of use has been reached in a given block, then this excludes any more of that type of use being allocated. This is different to the limiting of competition.

You also need to look at the financial model of this type of enterprise, due to the misuse of start up funding putting unfair pressure on established businesses? It seems like this model of financial support for hair-cutting enterprises is being used too often and should be curtailed?

General notes

The used of so-called businesses piggy-backing into retail centres with limited parking is becoming more prevalent and needs to be better managed by the planning authority?

Objection – Peter Hodkinson. Received: 22/01/2024.

I would like to object to this application because the proposed use 'class of barbers' is not necessary in this well supported location. The design of the shop frontage is incongruous with the existing adjoining buildings.

Objection – Mark Wray. Received: 22/01/2024.

Dear Sir

I am exasperated to find that there is to be another Barbers Shop in Cherry Tree, there are already three existing businesses dealing with hair along this

short row of shops.

The arrival of yet another barbers is putting further strain on the existing businesses.

Originally this new business was going to be a fast food takeaway business and that is what other local businesses were told, it now transpires that the original description of the business has been changed and the original planning permission was not altered

Is this a new way of obtaining planning ? seek it retrospectively once you are already up and running ?

The reason for submitting planning permission, in my view is so that the local authority can look into the matter thoroughly and Impartially so that any impact can be assessed, with a view that the feelings the local residents, local businesses can be taken into consideration, this dose not appear to have happened in this particular case.

The issue of parking has become more of a problem over recent weeks, local residents are being blocked in as they cant get to the rear of there properties through the constant blocking of the alleyway, the only access to the rear of the row of shops and dwellings, there are more and more instances of parking on pedestrian walkways outside Mambos, delivery's to the rear of the properties is being hampered by inconsiderate parking, there is a time limit on parking forward of the bus stop, that is at no time being monitored to mention but a few parking issues.

The new shop is trading well into the night, with the garishly lit barbers pole upsetting the elderly local residents living on the opposite side of the road.

I hope that this email is received with my best intentions and can further enhance the annoyance felt by local residents, local businesses and loyal customers of this row of shops

Objection – Paul Mcgrath. Received: 23/01/2024.

I would like to oppose the conversion of the said dwelling on the grounds that there is already a successful and popular barbers a few doors down. This new application is bound to cause unnecessary harm to the existing one and is not needed in the area.

I also oppose on the grounds of the frontage. The lights and style of the new business are not in keeping with the businesses alongside.

Objection – Gary Bickerstaffe. Received: 23/01/2024.

Please accept this email as an objection to the above ref as there are, already three hairdressers on this stretch of shops, which may put the business of one of the existing shops in danger.

Objection – Rory Needham – Clerk to Livesey Parish Council. Received: 29/02/2024.

At the Parish Council meeting In February 2024, all Parish Councillors objected to the above scheme which I believe is a retrospective planning application.

Scheme

Variation/Removal of Condition/Minor Material Amendment Proposal: Variation of Condition Nos 2 "approved drawings ", and 7 "restrict use within Use Class E" pursuant to planning application 10/22/0259 "Change of use from a residential dwelling to a retail shop at ground and basement floor level with a first floor level apartment and installation of a shopfront and security shutter " - to allow for the retention of the barbers (Use Class E(c), and alterations to shop frontage Location: 432 Preston Old Road , Blackburn , BB2 5LP.

Reason for the Objection

The current property does not allow for disabled access and the step at the front is far too high for elderly residents. As this a commercial entity there should at least be a ramp installed.

Can you please bring this to the attention of the planning committee who I believe will be debated this application in their March 2024 Meeting.

Comment – Huy Tran. Received: 17/01/2024.

I'm writing to view my concerns in regarding to the new barber that had open on 432 preston old road. Not only it very distasteful & bright but it make parking more & more difficult for me & my clients.

As a business owner in cherry tree I just want some clarity on the new barber as I didn't receive any notices of permission.

Comment – Holly Rowland-Kozlowski, 430 Preston Old Road, Blackburn, BB2 5LJ. Received: 17/01/2024.

My concerns of the planning permission submitted are that the business trading at 432 seems to have opened before being approved?

If this is acceptable then why the need to submit planning permission in the first place?

We do have a barber already trading 4 doors up and it seems unfair on an established business to then suffer as a result of another one opening.

My shop was recently done up and a new sign erected etc....when I bought my property in April 2023, my solicitor advised me to check with neighbours regarding how big or bright my signage would be. This was carefully considered in order not to offend residents with the brightness and therefore my sign was carefully designed in respect of that.

The business trading at 432 seem to not have considered and other business of residents of the area and have gone 'all out' in terms of this which doesn't, in my opinion, suit the area.

The smokers from 432 are hanging around/leaning on my shop front which causes my staff and clients to feel intimidated at times. This does cause unnecessary negative talk from locals.

Regards to effecting my business, I'm not really offended by what trades next door to my business so long as the shop itself is kept nice, bins are disposed of correctly and staff/clients of 432 are considerate when parking.

Hope this helps.

Proposed development: Full Planning Application for Proposed single storey rear and side extension including double storey extension to front.

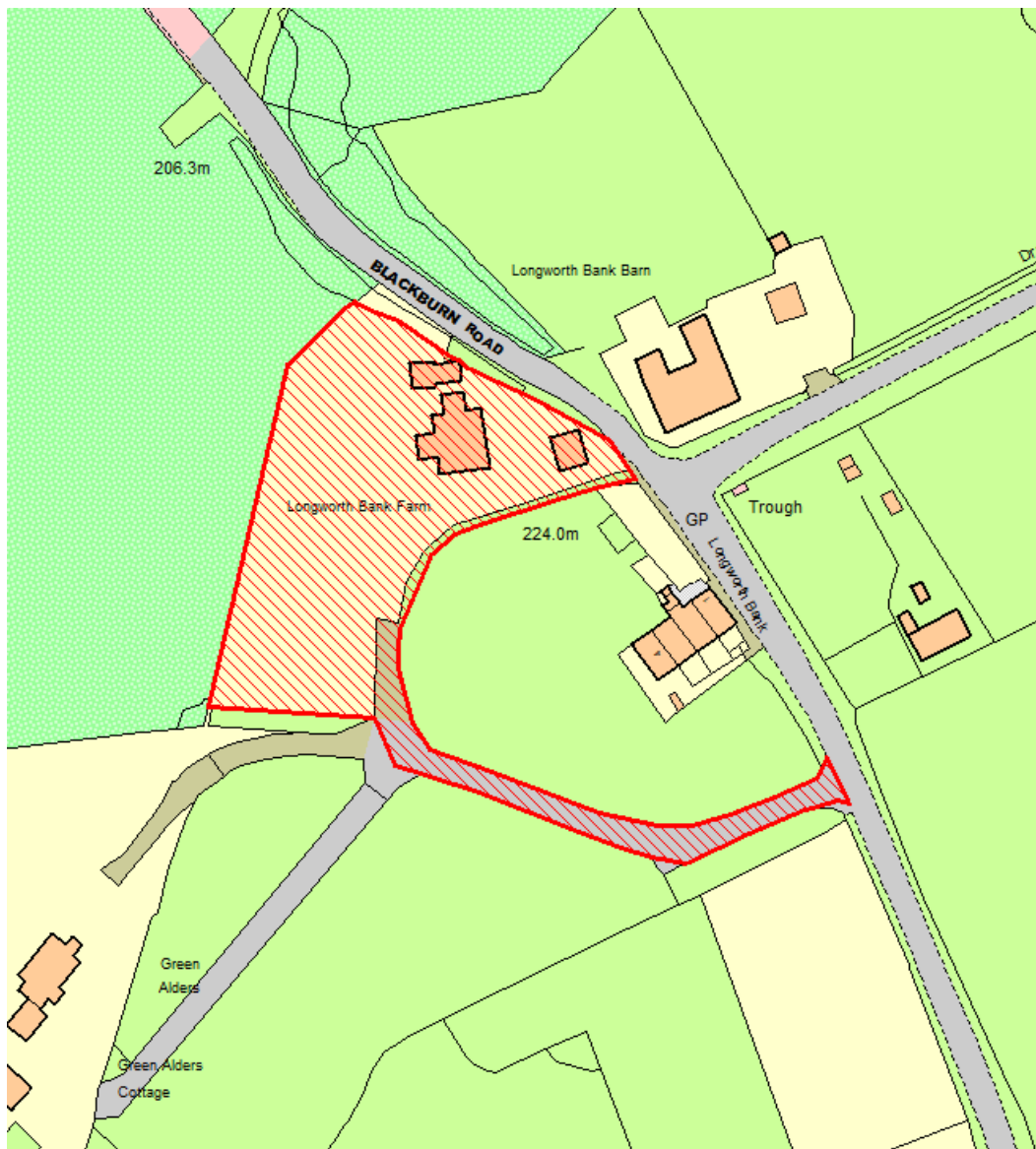
Site Address:

**Longworth Bank Farm
Blackburn Road
Edgworth
Bolton
BL7 0QF**

Applicant: Mr A Panchal

Ward: West Pennine

**Councillors: Jean Rigby, Julie Slater,
Neil Slater**



1.0 SUMMARY OF RECOMMENDATION

1.1 **APPROVE** – Subject to conditions

2.0 KEY ISSUES/SUMMARY OF PLANNING BALANCE

2.1 The planning application is presented to Committee in accordance with the Scheme of Delegation of the Council's Constitution due to an objection having been received on the 9th February 2024, from North Turton Parish Council.

3.0 RATIONALE

3.1 Site and Surroundings

3.1.1 The application site relates to a replacement dwelling situated on an elevated position and adjacent to Blackburn Road (close to the junction with Moorside Road). The replacement dwelling was granted consent under approval reference 10/09/0628, at the time this approval also granted consent for a detached garage. A subsequent consent for the replacement dwelling was submitted (10/12/0051) which amended the original layout, providing a single storey side utility room and removing the detached garage. After this, a detached garage was approved under planning references: 10/14/0876 and 10/15/0523.

3.1.2 A row of existing terraced properties known as 'Longworth Bank Cottages' are located to the south of the application site. An existing detached property known as 'Longworth Bank Barn' is located to the eastern side of the property with 'Green Alders' and 'Green Alders Cottage' located to the south-western side of which the application property shares an access track with these.

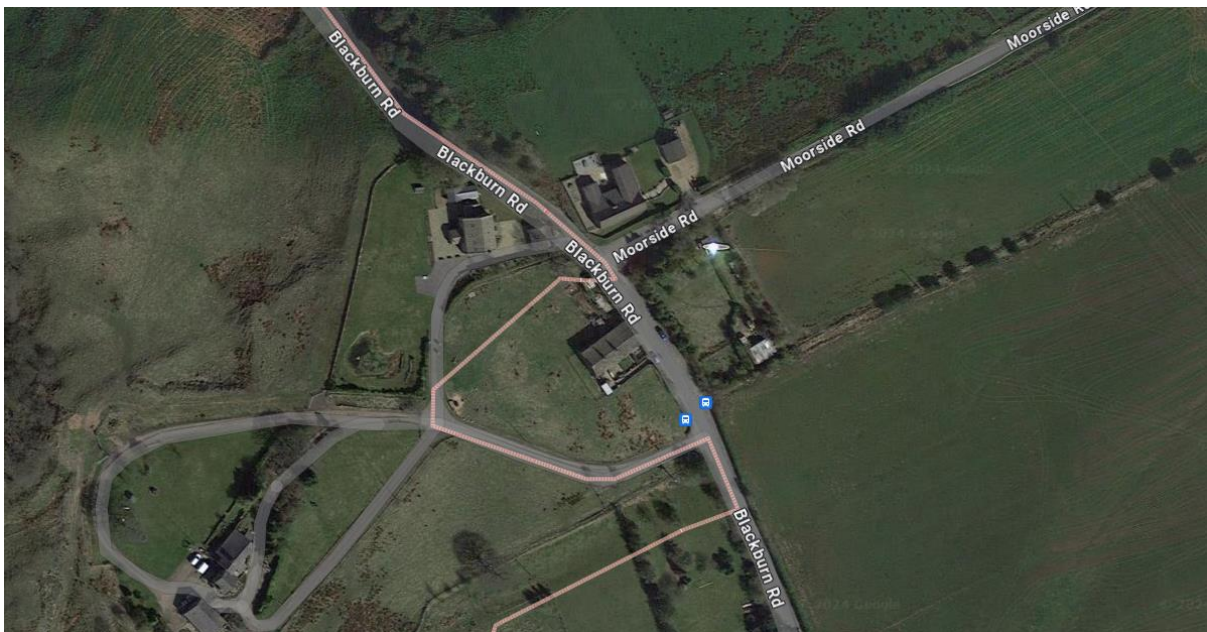
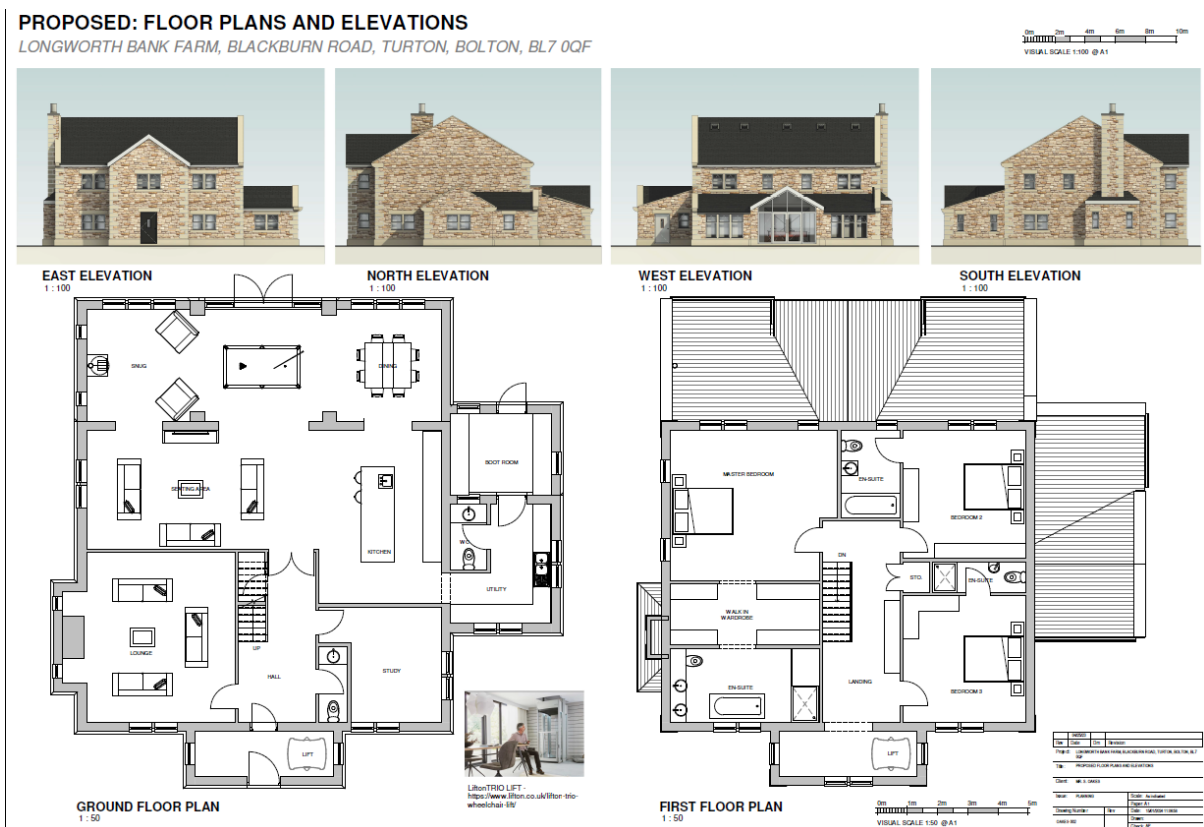


Figure 1: Google aerial view of the application site.

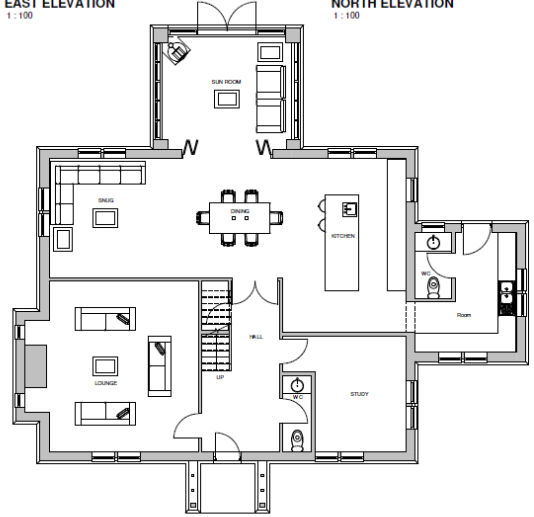
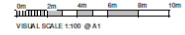
3.2 Proposed Development

- 3.2.1 Planning permission is sought for the enlargement of an existing single storey rear and side extension along with the erection of a double storey front extension.
- 3.2.2 The proposed double storey front extension will project 1.95 metres off of the front elevation of the property and measure 5.4 metres wide. Height to the ridge will be 7.5 metres and height to eaves 5.4 metres.
- 3.2.3 The proposed enlargement of the side extension will project the same depth off of the side extension as the existing (3.2 metres) and will measure 3 metres in length along the side elevation.
- 3.2.4 The proposed single storey rear additions will infill the space between the existing rear extension and side gable elevations of the property to create a full width rear extension. The projection will remain the same as the existing sunroom (4 metres).
- 3.2.5 The existing and proposed plans and elevations are shown below:

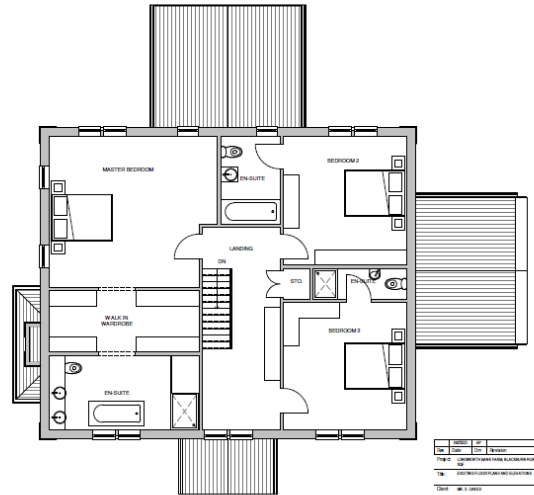


EXISTING: FLOOR PLANS AND ELEVATIONS

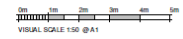
LONGWORTH BANK FARM, BLACKBURN ROAD, TURTON, BOLTON, BL7 0QF



GROUND FLOOR PLAN
1:50



FIRST FLOOR PLAN
1:50



NO.	DATE	BY	CHKD.
100	10/10/2023	J. JONES	M. SMITH
TITLE: EXISTING FLOOR PLANS AND ELEVATIONS DRAWN BY: J. JONES CHECKED BY: M. SMITH SCALE: 1:50			

3.3 Case Officer Photos





3.4 Development Plan

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

3.4.2 Blackburn with Darwen Borough Local Plan (2021-2037)

Core Policy 2 (CP2): The Spatial Approach

Core Policy 6 (CP6): The Natural Environment

DM Policy 2 (DM02): Protecting Living and Working Environments

DM Policy 27 (DM27): Design in New Developments

DM Policy 29 (DM29): Transport and Accessibility

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

- RES E1: Materials
- RES E7: Rear Extensions
- RES E8: Single Storey Side Extensions
- RES E15: Front Extensions

3.5 Other Material Planning Considerations

3.5.1 National Planning Policy Framework (NPPF)

4.0 Assessment

- Green Belt/Principle
- Residential Amenity
- Design/Visual Amenity
- Development and the Environment

Principle/Green Belt

- 4.1.1 Policy CP2 of the Local Plan (2021-2037) states that new development proposed in the green belt shall be regarded as inappropriate unless it falls within one of the exceptions set out in the NPPF. Referring to bullet point c) of paragraph 154 of the NPPF which states that 'the extension of alteration of a building providing that it does not result in a disproportionate addition over and above the size of the original building' will be acceptable.
- 4.1.2 Furthermore, the NPPF states that development in the Green Belt will only be granted planning permission where it is demonstrated that it will preserve the openness of the Green Belt and will not give rise to conflict with the purposes of including land within it.
- 4.1.3 The agent has provided the below calculations:

EXISTING INTERNAL FLOOR AREA :

HOUSE - Ground Floor - 147.13m.sq
 First Floor – 110.82m.sq
 Total – 257.95m.sq

GARAGE - Ground Floor - 42.48m.sq
 First Floor – 17.86m.sq
 Total – 60.34m.sq

HOUSE AND GARAGE – 318.29m.sq

PROPOSED INTERNAL FLOOR AREA :

HOUSE - Ground Floor - 196.33m.sq
 First Floor – 119.04m.sq
 Total – 315.37m.sq

HOUSE AND GARAGE – 375.7m.sq

DIFFERENCE BETWEEN EXISTING AND PROPOSED = 57.41m.sq

- 4.1.4 The proposed additions do considerably add to the overall floor space of the existing property, however this being said, there is no policy which suggests a limit on the additions. Each application is subsequently assessed on its own merits in terms of

'openness' and 'disproportionate' additions. In the case of this application, it has been concluded that the additions will not compromise the openness of the locality and the additions will not appear as incongruous additions that would constitute as disproportionate.

- 4.1.5 On site it was noted that there have been multiple outbuilding additions along the northern elevation of the property, these don't appear to be detailed on any of the previously approved applications. Therefore, it is advised at this stage that any further additions in the future are likely to be refused as the proposal is at the upper limit of increased floor area.
- 4.1.6 The applicant has provided a small supporting statement to detail the need the need for the proposed double storey front extension which will include a lift.
- 4.1.7 *"We need this two-storey extension to facilitate a walk-in/wheelchair compatible lift. I have a long-standing walking difficulty because of a spinal injury suffered some 24 years ago. Loss of function of most muscle groups in my legs has meant I have been struggling with climbing the stairs now for several years. I am registered disabled. My wife suffers from chronic Fibromyalgia & osteoarthritis throughout the body and has severe asthma. She is recovering from a heart attack in June 23 and is very close to requiring a hip replacement and is also having difficulties with using the stairs. We wish to continuing living in our home for as long as possible and feel the only way to achieve this will be by the installation of a wheelchair compatible lift."*

Residential Amenity

- 4.1.8 DM Policy 2 of the Local Plan (2021-2037) requires development to secure a satisfactory level of amenity and safety for surrounding uses and for occupants or users of the development itself, with reference to noise, light, privacy/overlooking and the relationship between buildings.
- 4.1.9 No amenity concerns will arise as sufficient separation distance is retained between the front elevation and Longworth Bank Barn as well as the side elevations towards 1-4 Longworth Bank Cottages.
- 4.1.10 Compliance with DM Policy 2 is achieved.

Design/Visual Amenity

- 4.1.11 DM27 of the Local Plan requires all development to achieve a high quality, sustainable design consistent with the following characteristics:
- 4.1.12 Point ii) of the RES E7 of the Residential Design Guide requires the design of the extension to be in keeping with the existing property by virtue of:
- Materials
 - Overall architectural style
 - Roof form and pitch
 - Size, proportion and position of openings
 - Fenestration details
- 4.1.13 The above points are further reiterated through RES E8 of the Residential Design Guide.

- 4.1.14 The proposed mono-pitched roof designs of the side and rear extensions will provide positive additions and appear as subordinate enlargements to the existing dwelling.
- 4.1.15 RES E15 of the Residential Design Guide states that front extensions will only be acceptable where there is no set build line in place and the extension is not detrimental to the character of the property and street scene. The double storey front extension by way of scale and design will not cause any impact to the design and appearance of the property, nor will it impact the setting in which the building is sited. There are no extended views beyond the site due to Blackburn Road being lower than the site, furthermore, the additions will appear as 'infills' to the existing building. It is concluded that the harm from the proposals will be limited in terms of spatial and visual impact.
- 4.1.16 It is acknowledged that the proposed side/rear extension along with the proposed front extension accords with Policy DM27 of the Local Plan (2021-2037) and Residential Design Guide.

Highways

- 4.1.17 DM Policy 29 of the Local Plan (2021-2037) requires that road safety and the safe, efficient and convenient movement of all highway users is not prejudiced and that appropriate provision is made for vehicular access, off-street servicing and parking in accordance with the Council's adopted standards.
- 4.1.18 The proposals will cause no impact to the existing extensive parking availability at the site.
- 4.1.19 Compliance with Policy DM29 is achieved.

Development and the Environment

- 4.1.20 Policy CP6 of the Local Plan (2021-2037) 'The Natural Environment' states that the Council want to take urgent action to conserve the natural environment – to sustain and enhance habitat and species and deliver multifunctional benefits and natural capital.
- 4.1.21 A protected species statement was completed during the course of the assessment where the agent answered all 'no's' on the form. After the receipt of this it was determined that an ecology survey was not required due to the minimal impact to the existing roof from the minor double storey front extension size. Further to this, the property is a fairly recent new build.
- 4.1.22 A bat informative will be applied to any approval of the application to make the applicants aware if bats are found during the construction process.
- 4.1.23 Therefore, compliance with Policy CP6 of the Local Plan (2021-2037) is achieved.

5.0 RECOMMENDATION

5.1 Approve subject to conditions.

Delegated authority is given to the Strategic Director of Growth & Development and Assistant Chief Executive to approve planning permission, subject to the following conditions (including that varied – highlighted):

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:

Proposed Floor Plans and Elevations, Drawing Number Oakes-002, Date Received 17/01/2024

Proposed Site Plan, Drawing Number Oakes-PSP-01, Date Received 17/01/2024

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

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

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

6.0 PLANNING HISTORY

- 6.1 10/09/0628 – Proposed demolition and rebuild of one detached dwelling and detached garage
- 6.2 10/12/0051 – Demolish and rebuild one detached dwelling with associated parking and landscaping
- 6.3 10/12/0349 - Discharge conditions 2,3,4,5,6 & 8 on application 10/12/0051
- 6.4 10/14/0876 – Double garage with office space above
- 6.5 10/15/0523 – Retrospective application for double garage with office space above
- 6.6 10/15/1184 – Retrospective application for double garage with office space above

7.0 CONSULTATIONS

- 7.1 Public Consultation has taken place on the 19th January 2024. No representations have been received.

8.0 CONTACT OFFICER: Emily Colebourne, Planning Officer

9.0 DATE PREPARED: 28th February 2024

10.0 SUMMARY OF REPRESENTATIONS

North Turton Parish Council – 5th February 2024:

10/24/0045 Full Planning Application - Proposed single storey rear and side extension including double storey extension to front at Longworth Bank Farm, Blackburn Road, Edgworth

The Parish Council objects to this planning application due to overdevelopment of an already well-developed site

Proposed development: Minor Material Amendment: Removal of Condition No. 6 "temporary time restriction" and Variation of Condition No. 7 "opening hours" pursuant to planning application 10/21/1312 " Change of use of first floor from E(G)(i) Offices to F1(a) Educational Class Rooms (retrospective)" to remove temporary permission limitation and allow permanent opening hours of 09:00 - 21:00.

**Site Address:
Unity House
First Floor 49-51 Preston New Road
Blackburn
BB2 6AE**

Applicant: Mr Amar Abbas

**Ward: Wensley Fold
Councillor David Harling
Councillor Quesir Mahmood
Councillor Sabahat Imtiaz**



1.0 SUMMARY OF RECOMMENDATION

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

2.0 KEY ISSUES/SUMMARY OF PLANNING BALANCE

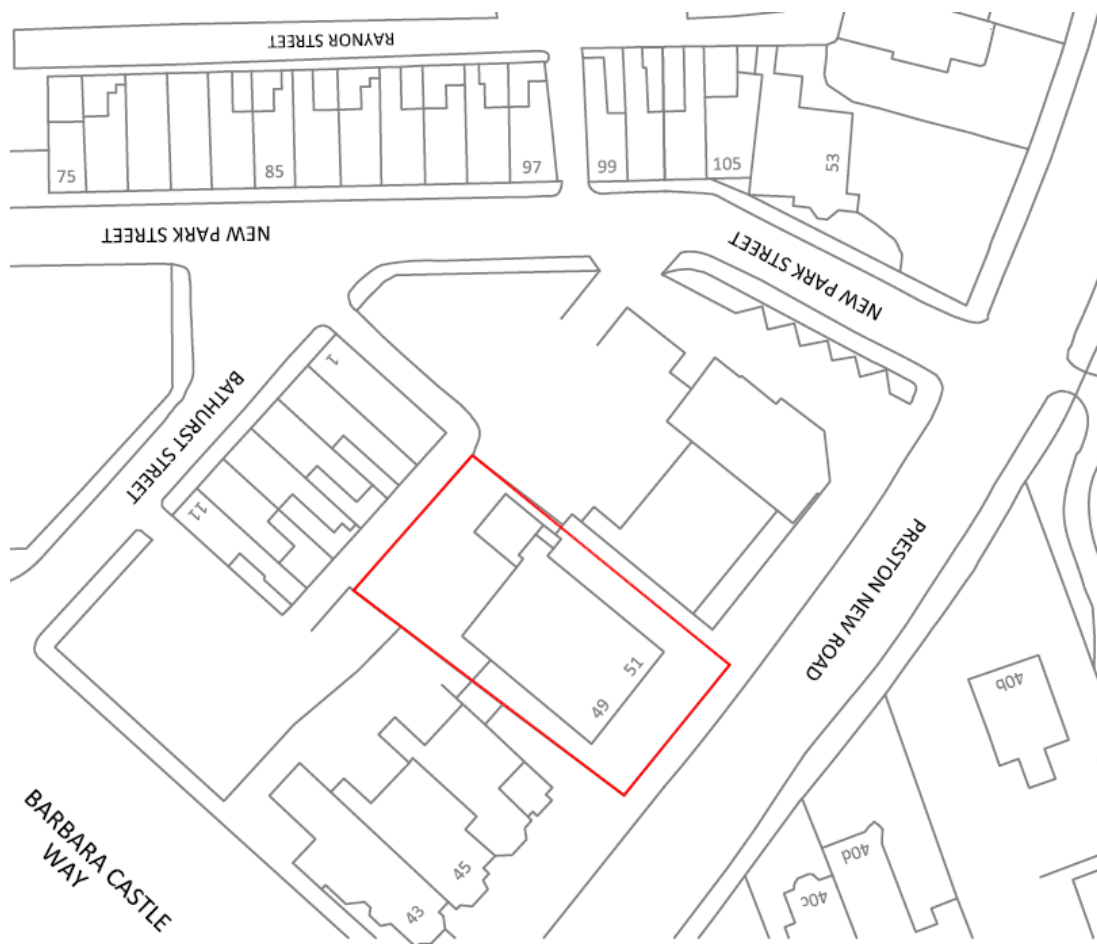
- 2.1 The application is reported to Committee as it represents a material amendment to a planning application approved by Committee in May 2022, due to receipt at that time of a significant number of neighbourhood representations. Determination of this application by Committee is in accordance with the Council's adopted Scheme of Delegation.
- 2.2 The application is submitted under the provisions of Section 73 of the Town and Country Planning Act 1990 (as amended). The proposal seeks to remove condition no. 6, to allow a permanent use, and to vary condition no. 7, to allow extended operating hours, in accordance with the above development description. Members originally approved the application subject to a temporary 12 month period to allow assessment of highway impacts at drop-off and pick-up times, following significant concern expressed by local residents. Submission of the application follows an operational period of use during which impacts have been monitored by the local community and, on occasion, by Council officers.
- 2.3 Members are advised that all conditions attached to the original planning permission which are required to be discharged, have been discharged under the discharge of condition application process.
- 2.4 Assessment of the application finds the proposed amendments to be acceptable. The development would, therefore, remain in accordance with the requirements of the Local Plan 2021 – 2037 - which supersedes the previous Development Plan comprising The Core Strategy (2011) and Local Plan Part 2 (2015) against which the original application was assessed and approved - consistent with the Council's strategic aims and objectives for economic growth and expansion of public facilities and services.

3.0 RATIONALE

3.1 Site and Surroundings

- 3.1.1 The application site (the site) is located on the first floor of Unity House, at 49-51 Preston New Road, Blackburn. The building is accessed from the Preston New Road frontage. In-curtilage parking is also available from this point, via a dropped kerb vehicle crossover. Primary parking as well as a drop-off and pick-up area is provided to the rear of the building, accessed from New Park Street. The remaining 3 floors of the building are occupied as offices by multiple users.

- 3.1.2 The area is generally characterised by the presence of a range of commercial uses, along the Preston New Road corridor. New Park Street and Bathurst Street to the rear are predominantly residential streets.
- 3.1.3 Approximately 70m south-east of the application site, Preston New Road forms a four-arm signal-controlled crossroad junction with the A666, at the edge of the town centre.
- 3.1.4 The site benefits from its sustainable location, with bus services available along Preston New Road which provide regular services to various locations within Blackburn and Preston.
- 3.1.5 The site is identified edged red in the location plan below (Core Architectural Studio, Nov 2021) and the case officers site photographs, which also include car parking to the side / rear of the building.





3.2 Proposed Development

3.2.1 Removal of Condition No. 6 "temporary time restriction" and Variation of Condition No. 7 "opening hours" pursuant to planning application 10/21/1312: "Change of use of first floor from E(G)(i) Offices to F1(a) Educational Class Rooms (retrospective)" to remove temporary permission limitation and allow permanent opening hours of 09:00 - 21:00: Both conditions are set out in full below:

6. *The use hereby permitted shall be discontinued on or before 26th May 2024.*

REASON: In order that highway and amenity impacts arising from the development can be assessed during this period, and that any future application can be decided on the basis of this assessment, in accordance with Policies 8 and 10 of the Blackburn with Darwen Borough Local Plan Part 2.

7. *The use hereby permitted shall take place between the hours of 16:30 and 19:30.*

REASON: In the interests of highway safety and efficiency and to safeguard residential amenity, in accordance with Policies 8 and 10 of the Blackburn with Darwen Borough Local Plan Part 2.

3.2.2 Condition no. 7 as varied would be as follows:

7. *The use hereby permitted shall take place between the hours of 09:00 and 21:00.*

* *REASON: In the interests of highway safety and efficiency and to safeguard residential amenity, in accordance with Policies DM02 and DM29 of the Blackburn with Darwen Borough Local Plan 2021 – 2037.*

* Note the change in Local Plan / policies as a consequence of adoption of a new Local Plan since the original grant of planning permission.

3.3 Development Plan

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

3.3.2 The Development Plan comprises The Blackburn with Darwen Borough Council Local Plan 2021 – 2037. In assessment of the proposed amendment, the following are the most relevant policies:

- Policy CP9: Transport and Accessibility
- Policy DM29: Transport and Accessibility
- Policy DM02: Protecting Living and Working Environments

3.4 Other Material Planning Considerations

3.4.1 National Planning Policy Framework – Dec 2023 (The Framework)

3.4.2 National Planning Policy Guidance (NPPG).

3.5 Assessment

3.5.1 Principle

The principle of the development is established by the original grant of planning permission to which this amendment relates. This assessment is limited to the following matters:

- Accessibility and transport impact; and
- Amenity impact – ie protection of living and working environments.

3.5.2 Highways / Transport and Accessibility

Policy DM29 requires, in general, that road safety and the safe and efficient and convenient movement of all highway users, included pedestrians and the disabled, is not prejudiced.

3.5.3 During the period of operation following the original grant of planning permission until receipt of the subject application (approximately 21 months), no severe impact on the highway network has been witnessed or reported, with specific reference to overspill parking and queuing. Accordingly, subject to continued adherence to the approved 'Car Parking Code of Conduct Scheme'; sign positing and marshalling of a drop-off and pick-up zone within the car parking area to the rear of Kaspas / Units 1 – 2 Preston New Road; and the Green Travel Plan, removal of the temporary period of use restriction to enable a permanent use, is deemed acceptable.

3.5.4 No objection is offered by the Council's Highway consultee who has, on occasion, visited the site during peak drop-off times, when the satisfactory management of traffic generated by the use was observed.

3.5.5 It was confirmed at the time of the original application that the applicant has a written 99 year lease agreement for use of the 28 space car park to the rear of Unit 1 -2 Preston New Road (Kaspas), between the hours of 16:45 to 19:20. It is now confirmed that the lease agreement has been amended to align with the proposed extended hours of use to between 09:00 and 21:00.

3.5.6 It should also be recognised that the site holds a position on the edge of the town centre, in a sustainable location which is easily accessible by public modes of transport.

3.5.7 Accordingly, Highway impacts arising from the development are found to be acceptable and in accordance with the requirements of Policies CP9, DM29.

3.5.8 Amenity

Policy DM02 requires development to contribute positively to the overall physical, social, environmental and economic character of the area. It is also required to secure a satisfactory level of amenity and safety for surrounding uses.

3.5.9 The applicant has confirmed a desire to extend operating hours to provide greater flexibility. The relative success of the venture amongst the local

community is cited as a reason for this, to allow teachings outside of the original hours, particularly at weekends. Extending the hours to 09:00hrs to 21:00hrs would not necessarily mean that the use would operate daily between those hours.

3.5.10 It is considered that no significant adverse amenity impacts would arise from the proposed extended hours of operation.

3.5.11 Accordingly, it is found that satisfactory levels of amenity would be maintained, in accordance with the requirements of Policy DM2 and The Framework.

3.5.12 Summary

This report assesses the section 73 application removal of Condition No. 6 "temporary time restriction" and Variation of Condition No. 7 "opening hours" pursuant to planning application 10/21/1312 " Change of use of first floor from E(G)(i) Offices to F1(a) Educational Class Rooms (retrospective)" to remove temporary permission limitation and allow permanent opening hours of 09:00 - 21:00. The assessment demonstrates that the planning decision must be made in the context of assessing the development balanced against any potential harm that may arise. This report finds that the proposal meets the policy requirements of the Blackburn with Darwen borough Local Plan 2021 – 2037 and the National Planning Policy Framework.

4.0 RECOMMENDATION

4.1 Approve subject to conditions.

Note: Conditions are re-sequenced from the original due removing condition no. 6 – ie varied condition no. 7 (highlighted) is now condition no. 6.

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

1. Unless explicitly required by condition within this consent, the development hereby permitted shall be carried out in complete accordance with the application form and Location Plan received 2nd February 2024.

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

2. The 7 car parking spaces identified on the submitted Block Plan & Car Park Plan, Ref. 00187, shall be permanently retained for the use of staff parking for users of the application site and not for any other purpose, including parental parking and drop-off and pick-up associated with the use hereby approved.

REASON: To ensure the safe, efficient and convenient ingress and egress at the site for all highway users, in accordance with Policies CP9 and DM29 of the adopted Blackburn with Darwen Borough Local Plan 2021 – 2037 and National Planning Policy Framework.

3. Within 1 month of the date of this decision, a detailed 'Car Parking Code of Conduct Scheme' shall be submitted to and approved in writing by the Local Planning Authority. The scheme shall identify precise measures to be agreed between the applicant and all parents who will arrive and depart from the site by motor vehicles. The development shall proceed in strict accordance with the approved scheme which shall be so retained.

REASON: To provide for effective control of parental parking, in the interest of safeguarding the amenity of residents and the residents only parking status of New Park Street and Bathurst Street, in accordance with Policies CP9 and DM29 of the adopted Blackburn with Darwen Borough Local Plan 2021 – 2037 and National Planning Policy Framework.

4. Within 1 month of the date of this decision a scheme detailing sign positing and marshalling of a drop-off and pick-up zone within the car parking area to the rear of Kaspas / Units 1 2- Preston New Road, as defined by the 28 space car park identified on the submitted site Block Plan & Car Park Plan, Ref. 00187, shall be submitted to and approved in writing. The development shall proceed in strict accordance with the approved scheme which shall be so retained.

REASON: To provide for effective control of parental parking, in the interest of safeguarding the amenity of residents and the residents only parking status of New Park Street and Bathurst Street, in accordance with Policies CP9 and DM29 of the adopted Blackburn with Darwen Borough Local Plan 2021 – 2037 and National Planning Policy Framework.

5. Within 2 months of the date of this decision, a Green Travel Plan shall be submitted to and approved in writing by the Local Planning Authority.

The Green Travel Plan shall contain:

- details of a Travel Plan co-ordinator;
- details of measures to be introduced to promote a choice of travel modes to and from the site;
- a monitoring regime which sets out travel mode share targets, monitoring procedures and mechanisms to be put in place to ensure that the Travel Plan remains effective; and
- a timetable for the implementation, monitoring and review of the Travel Plan which shall include provision for an annual assessment (over a minimum period of five consecutive years following the implementation of the Travel Plan) of the effectiveness of the measures introduced under (b) and shall identify the need for any changes to the Travel Plan and a timetable for their implementation.

The development shall proceed in strict accordance with the approved Green Travel Plan which shall be so retained.

REASON: To provide and promote sustainable transport measures and to minimise traffic flow, in accordance with Policies CP9 and DM29 of the adopted Blackburn with Darwen Borough Local Plan 2021 – 2037 and National Planning Policy Framework.

6. The use hereby permitted shall take place between the hours of 09:00 and 21:00.

REASON: In the interests of highway safety and efficiency and to safeguard residential amenity, in accordance with Policies DM02, CP9 and DM29 of the Blackburn with Darwen Borough Local Plan 2021 – 2037 and National Planning Policy Framework.

5.0 PLANNING HISTORY

5.1 10/21/1312 - Change of use of first floor from E(G)(i) Offices to F1(a) Educational Class Rooms (retrospective). Approved by Committee May 2022.

5.2 Conditions attached to above permission have been discharged under the following application nos: 10/22/0654 and 10/22/0759.

6.0 CONSULTATIONS

6.1 Highways

No objection.

6.2 Public Consultation:

As a result of the public consultation, 2 objections have been received in addition to 6 supporting comments. A petition including 4 signatures was also received in support of the application. See Summary of Representations.

7.0 CONTACT OFFICER: Nick Blackledge, Principal Planning Officer

8.0 DATE PREPARED: 5th March 2024

9.0 SUMMARY OF REPRESENTATIONS

Objection – Elaine Hosker, 81 New Park Street, Blackburn, BB2 1DF. Received: 19/02/2024

Regarding the recent planning application for 49-51 Preston

New Road and the proposed increase in opening hours, I wish to lodge an objection.

At the moment, children are dropped off at 5pm and picked up at 7pm, and the volume of traffic on New Park Street is horrendous. Cars are driven at speed down the street and on neighbouring Bathurst Street. Such is the volume, and chaos, there is not enough space on Kasper's car park, which often leads to cars blocking access to the residential parking space. Some parents have abused homeowners, resulting

in the Police being involved.

We object to the opening hours being extended for the reasons mentioned above.

Objection – Mr John Ljevar, 87 New Park Street, Blackburn, BB2 1DF. Received: 26/02/2024.

I object to the planning application 10/21/1312. Due to the parking , hours from 09:00 to 21:00. Because the times for our parking permits are only from 8:00 to 18:00 hours. So we will struggle to park our cars after 18:00 . We already have a large amount of traffic in the street. Due to the Queen Vic chip shop. And kaspas ice parlour. The Mosque on Preston New Rd facing New Park St. Plus the Mathematics school and Music School, Samaritans offices where people drop off. Also College night Students. Don't forget the students of Unity House parents dropping off their children . I think this is enough concentration of traffic for our street which is a cul-de-sac . I am not against children being educated . But I draw the line of all the traffic congestion that it is causing. us and a heavy pollution presents. Would you like to live here with it all.

Support – Firoza Mohamed, PO Box 427 BB1 5WQ. Received: 15/02/2024.

Re Unity House, First Floor, 49-51 Preston New Road, Blackburn, BB2 6AE

I write in support of the request to remove temporary permission at the above site and allow permanent opening hours.

We are based on Floor 2 of Unity House and can confirm that the Marshalls manage the madrassa traffic very well they are organised and prompt. so the traffic is flowing and does not affect Preston New Road. The car park and general area are regularly cleaned, litter picking carried out by the children and parents to encourage ownership and responsibility. Prior to this lots of rubbish from the dessert place would be littered around. We are very pleased for this initiative and can confirm have not seen rats around as previously they were very visible.

We are regularly updated by the staff at Floor one who manage the access and have no objection to their request.

Support – Safina Begum, 101 New Park Street, Blackburn, BB2 1DF. Received: 20/02/2024.

I am writing to express my endorsement for the removal of all conditions imposed on Unity Educational Trust, as detailed in the aforementioned application. They have my full support.

Since September of last year, my grandson has been actively participating in the services offered by the organisation. I am thoroughly satisfied with the quality and extent of their contributions to the community. Their exemplary performance in traffic management deserves commendation.

Support – Faria Hussain, 89 New Park Street, Blackburn. Received: 20/02/2024.

Your Reference: 10/24/0110 - Unity Educational Trust

I have recently enrolled my son at this organisation, as I believe in what they provide as a service to the community is exemplary.

With the traffic marshalls every day there are no issues, and I thank them for keeping the local area clean and tidy.

I write to support the removal of all conditions for Unity Educational Trust.

Support – Mr Amjad Garoog, Kaspas Blackburn Ltd. Received: 22/02/2024.

Subject: Unity Educational Trust, Unity House, 49-51 Preston New Road, Blackburn, BB2 6AE (Your ref: 10/24/0110)

I confirm I am the proprietor of Kaspas Blackburn Ltd.

I write to confirm that I have no objections to the Variation/ Removal of Conditions for the above, in fact we fully support the application.

Unity Educational Trust has consistently maintained a safe learning environment, implementing dedicated traffic marshals and ensuring cleanliness through regular litter picking not only within their premises but also in the surrounding neighbourhood. During recent snow conditions, they actively took the initiative to spread salt, benefiting us as their neighbours. This exemplary conduct speaks volumes, and we extend our best wishes to them.

Support – Omer Mahmood, 75 New Park Street, Blackburn, BB2 1DF. Received: 22/02/2024.

I'm writing to confirm that I have **NO** objection in regards to the **removal of condition No 6 "temporary time restriction" and variation of condition No 7 "opening times"**.

We are more than happy for the removal of condition No 6 and No 7.

Support – Majid Razar, 85 New Park Street, Blackburn, BB2 1DF. Received: 23/02/2024.

Subject: Unity Educational Trust

I confirm I a resident of New Park Street.

I write to confirm that I have no objections to the Variation/ Removal of Conditions for the above, in fact we as a family fully support the application as the Trust has done an excellent job of traffic management, supporting the local community and keeping the area tidy with local tidy.

Petition – Support – 4 Signatures. Received: 27/02/2024.

Petition to support Unity Educational Trust

Petition summary and background	Unity Educational Trust Application to have all remaining Conditions.
Action petitioned for	We, the undersigned, residents of the Borough fully support Unity Educational Trust's Application for their Conditions to be removed in full.

Print Name	Signature	Address	Date
SHAFEE N Yaqoob		1-19 Bathurst Street, Blackburn	27/02/2024
ZAFFAR IQBAL		77 NEW PARK ST, BLACKBURN.	27/02/24
ZAFFAR IQBAL		79 NEW PARK ST, BLACKBURN.	27/02/24
ZAFFAR IQBAL		83 NEW PARK ST, BLACKBURN	27/02/24