

**Proposed development: Full Planning Application (Regulation 4) for Proposed new Street Skatepark comprising: Dirt jump and pump track area; covered BMX contest area bounded by shipping containers to be used as storage for the contest ramps, repair and maintenance area, viewing area, and scope to be used as accommodation (camp facility).**

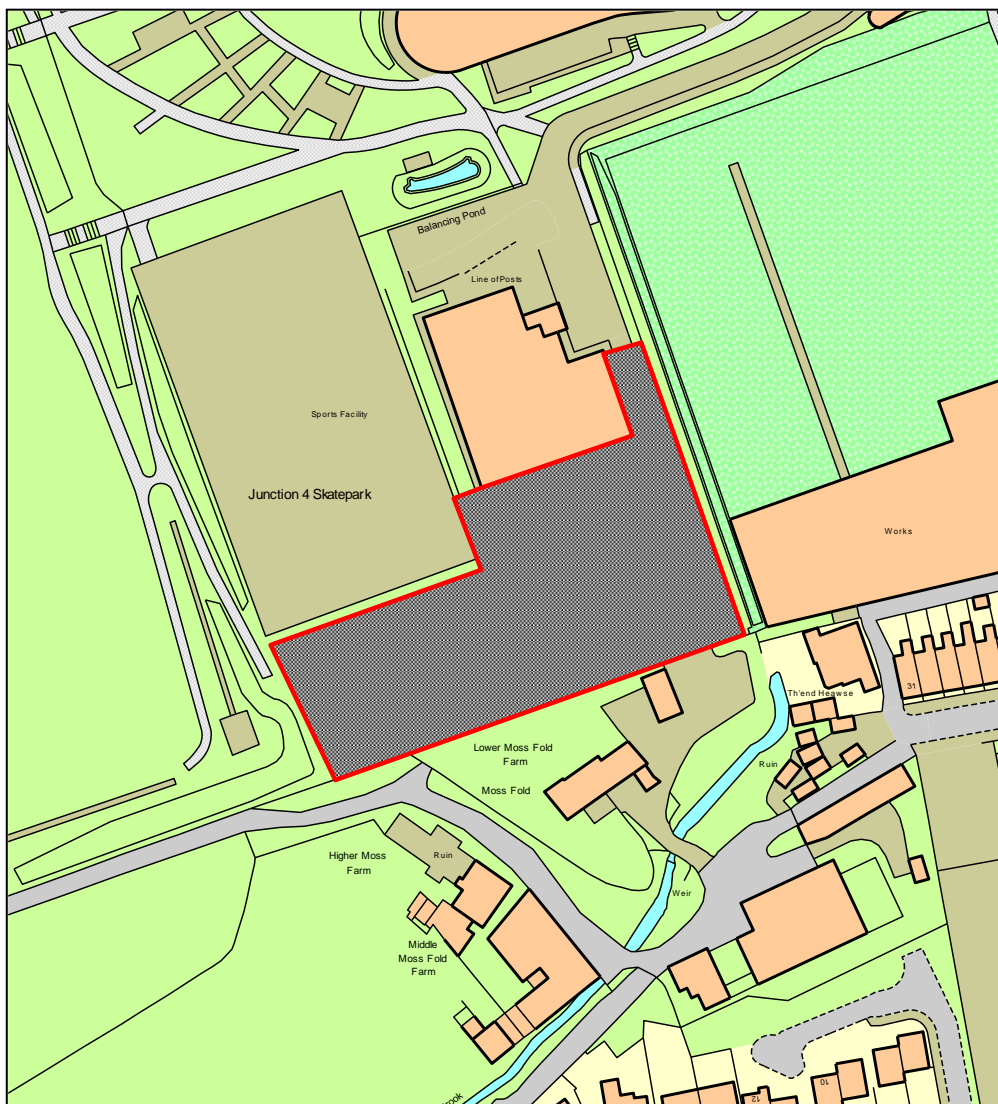
**Site address:**

**Car park area and vacant land, Junction 4 Skatepark  
Blackburn Road  
Darwen  
BB3 0AJ**

**Applicant: Junction 4 Skatepark CIC**

**Ward: Darwen West**

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



## **1.0 SUMMARY OF RECOMMENDATION**

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

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

2.1 Detailed assessment of the application establishes that the proposed development corresponds with the Council's strategic growth objectives, as set out in the Core Strategy and Local Plan Part 2. Delivery of a high quality leisure and recreation facility to benefit residents of the Borough and communities beyond, is assured. Moreover, from a technical point of view, all issues have been addressed through the application or are capable of being controlled or mitigated through planning conditions.

## **3.0 RATIONALE**

### **3.1 Site and Surroundings**

3.1.1 The application site relates to a car parking area of the Junction 4 Skatepark and vacant land adjacent, to the south. The Skatepark is located off the A666, to the south of Darwen Vale High School. It is currently an indoor, community led wheeled sports facility accessed by users of BMX, Scooters, In-line Skate and Skateboards with an associated parking / servicing area. The park also features an ancillary café / coffee bar.

3.1.2 In accordance with the Development Plan, the site is located within the urban boundary of Darwen.

3.1.3 The site is owned by Blackburn with Darwen Council and is subject to a long term lease agreement with the applicant.

Case Officer Site photographs taken: November 2020:





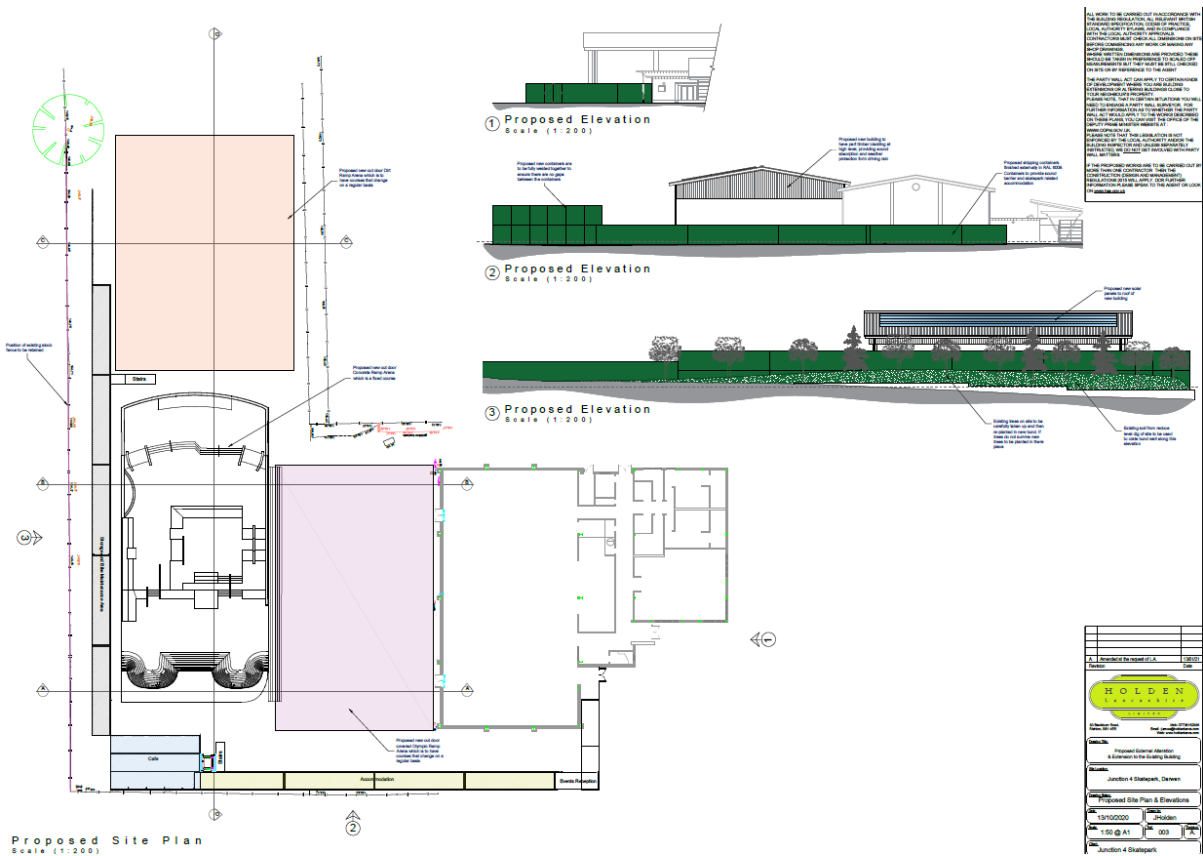
## 3.2 Proposed Development

3.2.1 Full planning permission is sought for an extension to the existing facility to form an 'Urban Sports Village' to be built on the existing car park and adjoining land to the south. The development will comprise an open sided building accommodating Olympic standard wooden ramps, an outdoor concrete skate park, an outdoor dirt jumping area, shipping container boundary treatments along the eastern and southern boundaries also

incorporating viewing areas, ancillary camping accommodation, associated landscaping, fencing and lighting; as set out in the submitted Design and Access Statement and drawings.



Illustration of proposed development



### **3.3 Development Plan**

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

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

#### **3.3.3 Core Strategy**

- CS1 – A Targeted Growth Strategy
- CS11 – Facilities and Services
- CS13 – Environmental Strategy
- CS15 – Ecological Assets
- CS16 – Form and Design of New Development
- CS17 – Built and Cultural Heritage
- CS22 – Accessibility Strategy

#### **3.3.4 Local Plan Part 2 (LLP2)**

- Policy 1 – The Urban Boundary
- Policy 7 – Sustainable and Viable Development
- Policy 8 – Development and People
- Policy 9 – Development and the Environment
- Policy 10 – Accessibility and Transport
- Policy 11 – Design
- Policy 38 – Green Infrastructure on the Adopted Policies Map
- Policy 39 – Heritage

#### **3.3.5 Joint Lancashire Minerals and Waste Development Plan**

#### **3.3.6 Joint Lancashire Minerals and Core Strategy (2009)**

#### **3.3.7 Site Allocations Development Management Policies Plan Part 1 (2013) Policy M2 – Safeguarding Minerals.**

### **3.4 Other Material Planning Considerations**

#### **3.4.1 National Planning Policy Framework 2019 (The Framework).**

Section 2 - Achieving sustainable development

Section 6 - Building a strong and competitive economy

Section 8 - Promoting healthy and safe communities

Section 12 - Achieving well-designed places

Section 16 - Conserving and enhancing the historic environment

### 3.4.2 National Planning Policy Guidance (NPPG)

## 3.5 **Assessment**

3.5.1 In assessing this full application there are a number of important material considerations that need to be taken into account, as follows:

- Principle of the development
- Amenity impact
- Environmental impact
- Highways and access
- Design and layout
- Green Infrastructure

### 3.5.2 Principle

3.5.3 The principle of the proposal is guided by the status of the grassed area to the south of the car park. Sport England has considered the application against the principles of NPPF (para 97) which set out:

*Existing open space, sports and recreational buildings and land, including playing fields, should not be built on unless:*

- a) *an assessment has been undertaken which has clearly shown the open space, buildings or land to be surplus to requirements; or*
- b) *the loss resulting from the proposed development would be replaced by equivalent or better provision in terms of quantity and quality in a suitable location; or*
- c) *the development is for alternative sports and recreational provision, the benefits of which clearly outweigh the loss of the current or former use.*

3.5.4 Although the grassed area is considered to form part of a wider playing site that had previously accommodated a rounder's pitch, thereby consistent with the definition of a 'playing field', Sport England offer no objection, as the development meets the requirements of The Framework and Sport England Policy Exception 5 (regarding loss of playing fields), as set out below. This is evidenced in the submitted Development and Delivery Plan:

*'The proposed development is for an indoor or outdoor sports facility, the provision of which would be of sufficient benefit to the development of sport as to outweigh the detriment caused by the loss of the playing field or playing fields'.*

3.5.5 The grassed area is included within a wider of Green Infrastructure (GI), as defined by the Site Allocations Map of the Local Development Plan.

3.5.6 Natural England's definition of GI is:

*'A strategically planned and delivered network of high quality green spaces and other environmental features. It should be designed and managed as a multifunctional resource capable of delivering a wide range of environmental and quality of life benefits for local communities. GI includes parks, open spaces, playing fields, woodlands, allotments and private gardens'.*

3.5.7 Policy 9 of the Local Plan Part 2 sets out that:

*Development involving the partial or complete loss of land identified as GI on the Adopted Policies Map or any unidentified areas of open space including playing fields; and any development which otherwise has the potential to result in the severance of GI connections, will not be permitted unless:*

- i) The development can be accommodated without the loss of the function of open space;*
- ii) The impact can be mitigated or compensated for through the direct provision of new or improved GI elsewhere or through the provision of a financial contribution to enable this to occur; or*
- iii) The need or benefits arising from the development demonstrably outweigh the harm caused and the harm can be mitigated or compensated for so far as is reasonable.*

3.5.8 The proposal will result in the partial loss of GI. Policy 9 does not, however, prohibit development in such circumstances, provided at least one the above criteria (i –iii) is achieved. Notwithstanding acceptance that the area falls within the definition of a playing field, its current functionality is sub-optimal, due to its limited accessibility and its overgrown and unmanaged state.

3.5.9 More significantly, the overall economic and social benefits arising from the proposal, is considered to meet the requirements Part iii).

3.5.10 The principle of the development is accepted, in accordance with the NPPF'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:

#### 3.5.11 Heritage

3.5.12 Policy 39 requires development with the potential to affect designated or non-designated heritage assets to sustain or enhance the significance of the asset. The proposal is supported by submission of a Heritage Statement.

3.5.13 A Heritage Statement (HS) is submitted with the application, on account of the proximity of the Grade II listed buildings known as Middle Moss and Higher Moss Farmhouses on Moss Fold Road and the consequent potential for the

proposal to affect either building or setting. The Statement has been reviewed by the Council's Heritage consultee.

3.5.14 The legislative / advisory context of a heritage assessment is as follows:

*The principle statutory duty under the Planning (Listed Building and Conservation Areas) Act 1990 is to preserve the special character of heritage assets, including their setting. LPA's should, in coming to decisions, consider the principle Act. Which states the following; Listed Buildings - Section 66(1).*

3.5.15 In considering whether to grant planning permission for development which affects a listed building or its setting, the local planning authority shall have special regard to the desirability of preserving the building or its setting or any features of special architectural or historic interest which it possesses.

3.5.16 Historic England's advice on setting is contained in its Planning Note 3 (second edition) entitled *The Setting of Heritage Assets* describes the setting as being the surroundings in which a heritage asset is experienced and explains that this may be more extensive than its immediate curtilage and need not be confined to areas which have public access. Whilst setting is often expressed by reference to visual considerations it is also influenced by the historic relationships between buildings and places and how views allow the significance of the asset to be appreciated.

3.5.17 In the above context, it is considered that the current site does not add any discernible significance to the historic setting. However, the new structures will be visible, especially the area closest to the southern boundary, which forms the boundary to Lower Moss Fold Farm, which will feature shipping containers and new tree planting. Visually whilst some additional planting will help screen the development, it will still be evident and the new structures / containers will appear somewhat at odds with the rural character of the Fold. In this respect, it is considered that the level of harm on the setting to Middle Moss and Higher Moss Farmhouse will be low / medium, as stated in the HS. The level of harm will, to some extent, be mitigated by the implementation of a new planting.

3.5.18 The level of harm to the setting equates to being 'less than substantial harm' as defined by The Framework. Accordingly, as required by para. 196 (of The Framework), the level of harm needs to be assessed in the planning balance against the wider public benefits of the proposal.

3.5.19 It is considered that the public benefits arising from the proposal are significant, from the perspective of economic and social gain. It is envisaged that local amenities will benefit from the increased footfall generated and that the facility will become a focal hub, offering a state of the art facility to be enjoyed by the local community and beyond. Clear health and wellbeing benefits arise, particularly when considered in the context of the Borough's evident health inequalities. Moreover, the applicant's commitment and clear aspiration for the Skatepark to gain national recognition, as well as evident



demand for the facility, supports the notion of a sustainable asset for the Borough.

3.5.20 Accordingly, the public benefits of the proposal are considered to outweigh the identified less than substantial harm, consistent with the requirements of Policy 39 and The Framework.

### 3.5.21 Amenity

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

3.5.23 Impact on residential amenity is a key focus of the assessment.

3.5.24 A Noise Assessment is submitted with the application, in recognition of the proximity of the proposal to noise sensitive residential properties to the south. Noise mitigation barriers along the southern and eastern boundary is in the form of shipping containers. Following review of the assessment, Public Protection colleagues whilst expressing some concern at potential noise impacts, recommend the following (summary) conditions to provide additional mitigation:

- Limited operating hours: Monday-Saturday 10:00 - 21:00 & Sunday 10:00 – 19:00hrs;
- Limitation on the number of large scale events;
- Submission of a Noise Management Plan; and
- Construction of shipping container barriers to be such that they are no gaps within or between containers that would allow sound travel.

3.5.25 The applicant proposes extended operating hours to those recommended, until 10pm, arguing that a 9pm limit will affect the commercial viability of the business as customers may be lost to alternative venues which offer later opening hours. Accordingly, Members are advised that the recommended condition could be considered unreasonable.

3.5.26 A condition limiting the number of large scale events is considered potentially unenforceable and not sufficiently precise, due to difficulties defining large scale and monitoring attendance. Instead, it is considered that implementation of an agreed Noise Management Plan can adequately address the issue of noise management.

3.5.27 It should also be recognised that noise complaints can be addressed under statutory nuisance powers available to the Councils Public Protection team, in accordance with the provisions of the Environmental Protection Act 1990, as maybe necessary.

3.5.28 A condition requiring submission of an external lighting scheme, to guard against light pollution is also recommended, as is the Council's standard unexpected contaminated land condition.

3.5.29 Local resident objections include reference to potential loss of privacy / overlooking. The separation between the concrete and dirt tracks and dwellings to the south is a minimum of circa 18.5m. No direct interface will exist due to the offset position of the dwellings relative to the track. Moreover, the shipping containers along the boundary will guard against any significant privacy loss. On course riders may, on occasion, exceed the height of the containers when traversing ramps but any sense of overlooking will be fleeting and largely perception based at the distances involved and taking into account that riders will be focussed on landing safely.

3.5.30 The ancillary sleep over accommodation poses no amenity concern.

3.5.31 A single shipping container will accommodate fast food vendors during events. The occasional nature of such use poses no amenity concern.

3.5.32 The issue of anti-social behaviour from people trying to access the site from areas other than the defined point of access, as raised in an objection, is not material to the this assessment.

3.5.33 Accordingly, it is considered that no significant amenity impacts will arise from the development, subject to the aforementioned mitigation, in compliance with the requirements of Policy 8 and The Framework.

#### 3.5.34 Environment

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

3.5.36 The Council's drainage consultee offers no objection, subject to a condition requiring submission of a foul and surface water drainage scheme.

3.5.37 A Preliminary Ecological Appraisal is submitted with the application. Following review of the Appraisal, the Council's ecology consultee, in acknowledgement of the site limited ecological value, offers no objection, subject to the following (summary) conditions:

- No removal or works to hedgerows, trees or shrubs during the main bird breeding season (March – August inc)
- Submission of an invasive non-native species protocol with reference to the presence of Himalayan Balsam; and
- Submission of a landscaping / biodiversity scheme.

3.5.38 Accordingly, the proposal is considered compliant with the requirements of Policy 9 and the Framework.

### 3.5.39 Highways

3.5.40 A Transport Note is submitted with the application. Following a review of note and the wider application details, the Council's Highways consultee confirms support of the application.

3.5.41 Primary usage will occur during off-peak hours. Weekend events will be held. Typically these may see attendances reach 300.

3.5.42 Notwithstanding the increase in capacity, it is accepted that the proposal will have no significant impact on the surrounding highway network with reference to increased traffic generation and junction capacities. The existing access is also considered adequate.

3.5.43 28no dedicated parking spaces support the proposal. Whilst recognising the increased capacity, the overwhelming majority of customers will be aged between 10 to 15 and will be dropped off by parents and collected later in the day. Alternatively, customers will arrive on their bikes or scooters. Moreover, the Skatepark is located immediately off the A666 which features regular public transport links to and from Blackburn and Darwen and beyond.

3.5.44 Given the age range of the typical customer base, the proposed parking and servicing area proposed is considered sufficient service the needs of the development.

3.5.45 In light of the above, there is no evidence to suggest that the proposed development would result in a detrimental impact in terms of highway operation or road safety, when considered in the context of the following NPPF direction at paragraph 109:

*Development should only be prevented or refused on highways grounds if there would be an unacceptable impact on highway safety, or the residual cumulative impacts on the road network would be severe.*

3.5.46 Submission of a Construction Method Statement will be secured by condition to ensure to adverse highway or amenity impact during construction phase of the development.

3.5.47 The Council's Public Right of Way consultee offers no objection whilst recognising the presence of a PROW to the south and west of the site. An advisory informative is recommended to inform the need to ensure no obstruction of the PROW during either construction or operation phase of the development.



PROW highlighted in blue on extract.

3.5.48 Accordingly, the proposal is considered compliant with the requirements of Policy 10 and The Framework.

### 3.5.49 Design / Character and Appearance

3.5.50 Policy 11 requires a good standard of design and will be expected to enhance and reinforce the established character of the locality and demonstrate an understanding of the wider context towards making a positive contribution to the local area.

3.5.51 It is submitted that the design follows local consultation. With regard to the technical design of course layout, a large variety of flow lines are included, with many sections to choose from, which will give experienced and beginner riders an infinite variety of choice. The park has been designed for all wheeled types and experience levels. Surface materials include concrete and natural terrain featuring timber ramps.

3.5.52 The open sided building broadly replicates the existing building in terms of scale and roof form.

3.5.53 Boundary treatments along the exposed perimeter feature single storey and double stacked shipping containers. Conditions to ensure that they are treated in suitable green on the outside and to secure a soft landscaping scheme to the southern boundary will aide assimilation of the development.

3.5.54 Overall, the design principles involved aim to achieve a contemporary, urban character, in response to the nature of the proposal and its primary demographic. The site is largely contained away from public vantage points minimising impact on the character and appearance of the area.

3.5.55 Accordingly, the proposal is considered compliant with the requirements of Policy 11 and The Framework.

Other matters:

3.5.56 A portion of the site, towards its western edge, lies within a Mineral Safeguarding Area (MSA), as defined by the Joint Lancashire Minerals and Waste Site Allocations Development Management Policies Plan Part 1 (2013).



Extract from planning online map – showing extent of MSA (white area) within the north-west corner of the application site to the south of the existing outdoor sports facility.



Extract from Local Plan Part 2 Site Allocations plan – showing the application site is within the urban boundary (blue edge).

Policy M2 ‘Safeguarding Minerals’, at paragraph 6.2.3 states:

*Current guidance advises that mineral safeguarding should not be curtailed by any other planning designation, such as urban areas or environmental designations without sound justification. The mineral*

*deposits with the Plan area are extensive and whilst they continue beneath urban areas, they are already sterilised by non-mineral development and are not sufficiently valuable, with very little prospect of future working. Therefore, in a wish to make our safeguarding realistic and practical as possible, we have excluded such areas from the mineral safeguarding areas.*

3.5.57 As the application site lies within the defined urban boundary, the mineral safeguarded area should not prohibit the development. The immediate surroundings to the application site have already been sterilised by existing development, and as such, there is no prospect of the application site being used for future mineral working.

#### 3.5.56 Planning Balance

3.5.57 Proportionate weight is attached to the economic and social benefits of the proposal. In this context, as aforementioned, it is envisaged that local amenities will benefit from the increased footfall generated and that the facility will become a focal hub, creating a vibrant local community. Moreover, the clear aspiration for the Skatepark to gain national recognition ensures a borough wide asset.

3.5.58 Accordingly, the proposal is considered to comply with the requirements of the Development Plan and The Framework, subject to the following (summary) conditions:

#### 3.5.59 Summary

3.5.60 This report assesses the full planning application for the extension to the existing facility to form an 'Urban Sports Village' In considering the proposal, a wide range of material considerations have been taken into account. The proposed development will deliver a high quality leisure and recreation facility to benefit the residents of the Borough and communities beyond, which is considered to comply with the relevant national and local planning policies.

## **4.0 RECOMMENDATION**

### **4.1 Approve subject to:**

(i) Delegated authority is given to the Director for Growth and Development to approve planning permission, subject to the following conditions:

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

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

2. Unless explicitly required by condition within this consent, the development hereby permitted shall be carried out in complete accordance with the proposal received 23rd October 2010 and 14th January 2021, as detailed on drawings numbered: 001, 002, 003 Rev A, 004, 005, 006 Rev A, 008 and 024J4P2020 001,

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

3. Prior to commencement of any works on site, an Invasive Plant Species Management Plan, carried out by a remediation / invasive species specialist, shall be submitted to and approved in writing by the Local Planning Authority. The Management Plan shall be implemented in strict accordance with the approved detail.

REASON: In order to protect ecology and biodiversity; in accordance with the requirements of Policies 9 and 40 of the Blackburn with Darwen Local Plan Part 2.

4. Prior to commencement of the development hereby approved, a Construction Method Statement shall be submitted to and approved in writing by the Local Planning Authority. The 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
- 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 construction works, if applicable.

The Construction Method Statement shall be implemented in strict accordance with the approved detail, throughout the construction period.

REASON: In order to avoid the possibility of the public highway being affected by the deposit of mud/or loose materials which could create a potential hazard to road users, in order to protect the amenity of the occupiers of the adjacent properties, in order to protect the visual amenities of the locality, in accordance with Policies 8 and 10 of the Blackburn with Darwen Borough Local Plan Part 2.

5. Prior to commencement of the development hereby approved, a drainage scheme shall be submitted to and approved in writing by the Local Planning Authority. The scheme shall detail measures for attenuation, and the disposal of foul and surface waters. The development shall be implemented in strict accordance with the approved detail.

REASON: To ensure a safe form of development that poses no unacceptable risk of pollution to water resources or human health in accordance with Policy 9 of the Blackburn With Darwen Borough Local Plan Part 2.

6. The operational use of the riding and skating facilities hereby approved shall only take place between the hours of:
  - Monday to Saturday: 10:00 to 22:00; and
  - Sundays 10:00 to 19:00.

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

7. Prior to implementation of the development hereby approved, a Noise Management Plan shall be submitted to and approved in writing by the Local Planning Authority. The Plan shall provide for the management of:
  - Excessive customer noise
  - Ramp design / maintenance
  - Limitations of the use of a PA system
  - Limitation on Music
  - Noise from people staying overnight at the facility
  - Noise from plant and equipment
  - Noise complaints arising from local residents.

The Noise Management Plan shall be implemented in strict accordance with the approved detail for the duration of the approved use.

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

8. Prior to implementation of the development hereby approved, an external lighting scheme shall be submitted to and approved in writing by the Local Planning Authority. The scheme shall provide for the amount, position and luminance levels of proposed lighting. The lighting shall be installed prior to implementation of the operational use, in strict accordance with the approved detail and maintained as such for the duration of the approved use.



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

9. Prior to implementation of the development hereby approved, the outward facing elevations of all shipping containers shall be painted in RAL 6009 (Fir Green). The elevations shall be maintained in such colour to the satisfaction of the Local Planning Authority for the duration of the approved use, unless an alternative colour is formally agreed in writing.

REASON: In order to safeguard the character and appearance of the surrounding area, in accordance Policy 11 of the Blackburn with Darwen Borough Local Plan Part 2.

10. Prior to implementation of the development hereby approved a landscaping and biodiversity scheme shall be submitted to and approved in writing by the Local Planning Authority. The scheme shall include amount and position native tree and shrub planting. Trees and shrubs dying or becoming diseased, removed or being seriously damaged within five years of planting shall be replaced by trees and shrubs of similar size and species to those originally required to be planted during the first available planting season after the loss of the trees and/or shrubs.

REASON: To ensure an appropriate appearance to the site and in the interests of amenity and ecology; in accordance with Policy 9 and 11 of the adopted Blackburn with Darwen Borough Council Local Plan Part 2.

11. The perimeter shipping containers shall be so constructed so as to ensure there are no gaps within or in between containers that would allow sound to pass through them.

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

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

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

13. No site clearance or construction works on site shall be carried out during the bird nesting season (March to August), unless the absence of nesting birds has been confirmed by further survey work or on-site inspections.

REASON: To ensure the protection of nesting birds, in accordance with the requirements of Policies 9 and 40 of the Blackburn with Darwen Local Plan Part 2.

## **5.0 PLANNING HISTORY**

5.1 No relevant planning history exists for the site.

## **6.0 CONSULTATIONS**

### **6.1 Public Protection**

*Noise:*

*In our opinion, this represents the biggest challenge.*

*A skatepark will generate an inevitable amount of noise as a result of normal operation. Complaints and nuisance as a result of noise from skateparks is acknowledged in the field of acoustics.*

*There are a small number of residential premises quite close to the development and a larger number a moderate distance away.*

*The nature of the noise from skateparks is a series of irregular impact noises with a certain amount of noise from customers themselves. There is also the potential for other kinds of noise e.g. a PA system, music etc.*

*Due to the unusual nature of the use and the irregularity of the noise generated, there is no universally accepted technical standard relating to noise from such facilities.*

*The acoustic consultant appointed by the applicant – Clarke Saunders Associates - have devised their own standard relating to Skatepark Noise and they have experience of applying this standard to other developments. This is a threefold assessment – comparing noise levels with WHO guidelines but also using predicted sound levels to do a BS4142 assessment and comparing skatepark noise with the methodology employed to assess the noise from Clay Pigeon Shooting.*

*In the absence of an actual technical standard this is not an unreasonable approach and was accepted prior to the assessment being completed.*

*The assessment itself has come out relatively favourably, on all three counts.*

*This is with the exception of the BS 4142 assessment which this has predicted a negative impact on a Sunday due to the lower background noise levels as a result of reduced motorway and road network traffic.*

*The big factor in meeting the above is due to the acoustic screening provided by the shipping containers that surround the perimeter of the facility.*

*Despite the above relatively favourable predictions, I do remain concerned about noise and the potential impact upon residential uses in the area. The noise from such a facility will be audible to neighbours at times and will change the acoustic character of the area to a degree.*

*It is difficult to accurately predict impact, as such facilities are rare and individual tolerance is variable. This is after all an unusually large facility and is likely to be popular. There is also a margin for error in the assessment as is the case with all predictions.*

*Whilst I do not have any significant issues with the methodology used, I am concerned due to the close proximity of a small number of residential premises and I would have been more comfortable with a larger separation distance between the facility and those residential uses.*

*In light of my ongoing concerns I feel if planning approval is granted then a number of conditions need to be applied to further mitigate noise from the skatepark and provide additional safeguards going forward.*

*Opening Hours:*

*The later the premises opens, the more likely there is to be an impact as a result of the noise generated. This is as background noise levels reduce and peoples sensitivity to noise increases.*

*The proposal is for a 22:00 finish time Mon – Sat and a 19:00 finish time on a Sunday.*

*There is good evidence to suggest that Sunday nights will have a greater noise impact as background noise levels are lower. See the table below from the BS 4142 assessment figures.*

| CONDITION | LOCATION   | RATING LEVEL<br>L <sub>AeqT,1h</sub> | ASSESSMENT LEVEL (dB) |     | BS4142:1997 ASSESSMENT  |
|-----------|------------|--------------------------------------|-----------------------|-----|---|
|           |            |                                      | FRI/SAT               | SUN |   |
| Concrete  | Receptor 1 | 42 dB                                | -9                    | -1  | Between 'Complaints are unlikely' and 'Marginal Significance' |
|           | Receptor 2 | 47 dB                                | -4                    | 4   | Between 'Complaints are unlikely' and 'Marginal Significance' |
|           | Receptor 3 | 41 dB                                | -10                   | -2  | 'Complaints are unlikely'                                     |
| Wood      | Receptor 1 | 47 dB                                | -4                    | 4   | Between 'Complaints are unlikely' and 'Marginal Significance' |
|           | Receptor 2 | 50 dB                                | -1                    | 7   | Between 'Complaints are unlikely' and 'Marginal Significance' |
|           | Receptor 3 | 45 dB                                | -6                    | 2   | Between 'Complaints are unlikely' and 'Marginal Significance' |

*I think therefore that the earlier closure time on a Sunday is welcomed and needs to be conditioned.*

*In addition, I would be more comfortable with an earlier closing time generally on other nights of the week. Potentially 21:00 although I accept there is less evidence to support this I am concerned about the impact still. This would relate to the outdoor areas only.*

*Much will depend on the viability of the use and the timing of sessions that they wish to run but a discussion could be had in this regard. The following times might be appropriate but this is open to debate.*

*There might be scope to increase these hours in the future by an application to vary the condition should the operation of the facility be shown to run smoothly from a noise perspective.*

- *Following conditions recommended:*
- *Opening hours limitation;*
- *Limitation on number of Special Events / Accommodation*
- *Noise Management Plan*
- *No gaps between acoustic screen / barrier*
- *External lighting scheme*
- *Unexpected contamination*

Additional comments:

*Following on from my previous comments. These can now be considered final comments with the following additional clarifications.*

- The contamination situation can be dealt with via the “unexpected contamination” condition used by the authority
- I acknowledge the difficulties in defining “competition” events so understand that this could be dealt with by via a section noise management plan instead.
- I do of course remain concerned about the noise impact from the development.

## 6.2 Sport England

*Sport England has sought to consider the application in light of the National Planning Policy Framework (particularly Para. 97) and against its own playing fields policy. Unfortunately there is insufficient information to enable Sport England to adequately assess the proposal or to make a substantive response. Please therefore could the following information be provided as soon as possible:*

*Sporting benefits that outweigh the loss of natural turf playing field to meet Sport England Policy Exception E5 and paragraph 97(c) of the NPPF:*

### **EXCEPTION 5**

*The proposed development is for an indoor or outdoor facility for sport, the provision of which would be of sufficient benefit to the development of sport as to outweigh the detriment caused by the loss, or prejudice to the use, of the area of playing field.*

*I provided advice to the applicant prior to this application being submitted advising the sporting benefits information would need to be submitted with the application. The supporting information submitted by the applicant is insufficient as it provides an outline of benefits with statements that require more substantiated information. Although the area of useable playing field has been significantly reduced in area by other developments it can still accommodate a small sided pitch. For that reason I need information that clearly articulates what the sporting benefits are, who has been consulted, and any written confirmation of support from proposed users. I have attached an E5 guidance note which the applicant is advised to refer to when building the case for E5.*

*Sport England's Playing Fields Policy and Guidance document, which includes the type of information required in order for us to evaluate a planning application against our policy, can be viewed via the below link:*

*[https://www.sportengland.org/how-we-can-help/facilities-and-planning/planning-for-sport#playing\\_fields\\_policy](https://www.sportengland.org/how-we-can-help/facilities-and-planning/planning-for-sport#playing_fields_policy) (see Annex B)*

*Sport England's interim position on this proposal is to submit a holding objection. However we will happily review our position following the receipt of all the further information requested above. As I am currently unable to make a substantive response, in accordance with the Order referred to above, the 21 days for formally responding to the consultation will not commence until I have received all the information requested above.*

*Should the local planning authority be minded to grant planning permission for the proposal, contrary to Sport England's holding objection, then in accordance with The Town and Country Planning (Consultation) (England) Direction 2009, the application should be referred to the Secretary of State, via the National Planning Casework Unit.*

*I would be happy to discuss the requested information further with the applicant and/or the local planning authority if necessary.*

Additional comments:

*I have received additional information from the applicant in support of this application.*

*Although, not requested in my correspondence dated 30 November 2020, information has been sent about the use of the area of land proposed for the skateboard. At pre application stage it had already been established that the area had formed part of the wider playing field site and had formerly accommodated a rounders pitch, and that the remaining land could accommodate a small sided pitch if required. It should be noted that although this specific area of the wider site has not been used for sport over the last 10 years it does still form part of the wider 'whole of a site' definition contained in Schedule 4, Part Z of the GMPO. It should also be noted that the lawful use of a playing field, or part of a playing field, even if disused, is still that of a playing field until such time as its use is changed or it is developed. In any case there is no positive obligation, in planning law, for a playing field to be actively used as such.*

*With respect to the strategic need and sporting benefits information that demonstrates the proposal will be of sufficient benefit to the development of sport, that has been submitted by way of a Development Plan, and attached for reference.*

*The Development Plan demonstrates the following considerations have been taken into account and that the facility:*

- meets an identified local or strategic need e.g. as set out in a local authority or NGB strategy (rather than duplicating existing provision);*
- fully secures sport related benefits for the local community;*
- helps to meet identified sports development priorities;*
- complies with relevant Sport England and NGB design guidance;*
- is accessible by alternative transport modes to the car.*

*Also considered were any potential negative impacts of the facility. For example, it is unlikely that a loss would be acceptable if:*

- it would result in the main user being unable to meet their own minimum requirements for playing pitches.*

- *other users would be displaced without equivalent replacement provision;*
- *it would materially reduce the capability and flexibility of the playing field to provide for a range of sports and natural grass playing pitches; or the area of playing field is significant in meeting local or strategic needs.*

### **Conclusion**

*Having assessed all information against the above criteria Sport England **raises no objection** to the proposal as it meets Sport England Policy Exception E5, and paragraph 97(c) of the NPPF.*

*Sport England would also like to be notified of the outcome of the application through the receipt of a copy of the decision notice.*

*The absence of an objection to this application, in the context of the Town and Country Planning Act, cannot be taken as formal support or consent from Sport England or any National Governing Body of Sport to any related funding application, or as may be required by virtue of any pre-existing funding agreement.*

### 6.3 Heritage

*I looked at this proposal earlier in the year re the likely impact on the heritage, in this instance Middle Moss and Higher Moss Farmhouses on Moss Fold Road which is a Grade 2 Listed Building. The properties, likely one C17 house was split and altered in the C18. They together with other properties on Moss Fold form an interesting historic group. Sadly from my visit Higher Moss is largely now in a derelict state.*

*The application site lies north and is partially screened by an Lower Moss Fold Farm.*

#### *Legislation*

*The principle statutory duty under the Planning (Listed Building and Conservation Areas) Act 1990 is to preserve the special character of heritage assets, including their setting. LPA's should, in coming to decisions, consider the principle Act. Which states the following; Listed Buildings - Section 66(1)*

*In considering whether to grant planning permission for development which affects a listed building or its setting, the local planning authority shall have special regard to the desirability of preserving the building or its setting or any features of special architectural or historic interest which it possesses.*

#### *Planning Guidance and Policy*

#### *NPPF*

*In determining planning applications LPA's should take account of;*

- a. *The desirability of sustaining and enhancing the significance of heritage assets and putting them to viable uses consistent with their conservation;*
- b. *The positive contribution that conservation of heritage assets can make to sustainable communities including their economic vitality; and*
- c. *The desirability of new development making a positive contribution to local character and distinctiveness.*

*P.193 states that when considering the impact of proposals on the significance of a designated heritage asset, great weight should be given to the asset's conservation. The more important the asset, the greater the weight should be applied. This is irrespective of whether any harm is identified as being substantial, total loss or less than substantial harm to its significance.*

*P.196 identifies that where a proposal would lead to less than substantial harm to the significance of a designated heritage asset, this harm should be weighed against the public benefits of the proposal including, where appropriate, securing its optimum viable use.*

#### *Local Plan*

*Core Strategy Policy CS17: Built and Cultural Heritage*

*Local Plan Part 2 – Policy 39*

#### *Assessment*

*I have reviewed the submitted documents which includes a Heritage Statement dated October 2020.*

*Moss Fold is evident on the C19 historic maps and whilst the 'Fold' is still evident as a collection of farms and agricultural buildings the enclosure itself has been somewhat lost/degraded by the development of the School and grounds to the north. Indeed much of this development already existing when the building was Listed in 1984. I do however feel the immediate character of the Moss Fold contributes to the setting of Middle Moss and Higher Moss.*

*Historic England's advice on setting is contained in its Planning Note 3 (second edition) entitled The Setting of Heritage Assets describes the setting as being the surroundings in which a heritage asset is experienced and explains that this may be more extensive than its immediate curtilage and need not be confined to areas which have public access. Whilst setting is often expressed by reference to visual considerations it is also influenced by the historic relationships between buildings and places and how views allow the significance of the asset to be appreciated.*

*In the above context I do not feel the current site adds any discernible significance to the historic setting. However the new structures will be visible, especially the area closest to the southern boundary, which forms the boundary to Lower Moss Fold Farm. The plans show the formation of a tall boundary formed by shipping containers and new tree planting. Visually whilst some additional planting will help screen the development I think it will still be evident and the new structures/containers will appear somewhat at odds with the rural character of the Fold. In this respect I agree with the applicants own assessment that the level of harm on the setting to Middle Moss and Higher*



*Moss Farmhouse will be low/medium. The level can to some extent be mitigated by the implementation of a new planting scheme.*

*Conclusion/ recommendations*

*As I am required to do so, I have given the duty's imposed by s66(1) of the P(LBCA) Act 1990 considerable weight in my comments. NPPF Paragraph 193 states that great weight should be given to the conservation of heritage assets regardless of the level of harm. High Court decisions have made it clear been clear decision makers need to ensure that proper weight is given to the duty to preserve in its planning balance.*

*The level of harm to the setting equates to being 'less than substantial harm' as defined by the NPPF and should be assessed by the LPA under P.196 of the NPPF. It is down to the LPA to consider the wider public benefits of the proposal against the level of harm in its planning balance, remembering that great weight should always be given to any identified harm to a heritage asset.*

*Subject to a positive outcome of that balancing exercise the scheme would meet the objectives of Chapter 16 of the NPPF, Policy 39 of the Local Plan Part 2 and Core Strategy Policy CS17.*

6.5 BwD Drainage

*Lead Local Flood Authority Position*

*We have no objections to the proposals but require the following condition  
Condition:*

*Prior to commencement of the development hereby approved, a drainage scheme shall be submitted to and approved in writing by the Local Planning Authority. The scheme shall detail measures for attenuation, and the disposal of foul and surface waters. The development shall be implemented in strict accordance with the approved detail.*

6.6 Property Management

*No further comments from Property*

6.7 United Utilities

*No objection subject to submission of a surface water drainage scheme.*

6.8 Highways

**Parking**

*The proposal is a standalone use, and therefore does not necessarily fall into a specific parking use category. The application form and its accompanying details offer a parking area for 28 vehicles, (this is inclusive of two disabled*

bays). The narrative offered in support of the number of spaces proposed, is arrived at reviewing their existing provision.

No provision has been made for cycle and ptw parking; these should be sited near the entrance covered and secure

The plan is not at scale, so I am unable to assess whether the spaces are to the correct manoeuvrability.

### **Access**

The existing access from the A666 is intended for use. This is an unadopted access road, although situated close to the signalised junction; we have recognised that this is already an established access point. No changes are proposed.

There is an existing footway leading from the highway into the site, this is welcomed.

### **Technical Note**

This has been reviewed. The technical note that accompanies the application reports an increase in traffic movement. However no firm national or regional data is offered to support the increase, instead it is based on forecast data provided by the applicant. I acknowledge the trips may well be outside peak generally, but would nonetheless affect a strategic highway network. There is no mention of spectator numbers, or how this will be managed for parking purpose. No or what increase in vehicles this will attract on a regular basis.

Please seek further details

### **Servicing**

No details have been provided on servicing needs. What are they, how frequent will they be, where the servicing point and what size vehicles would visit the site, please request further details.

Swept paths should be provided where necessary.

### **Other**

Construction method statement would be required to support the development – no details are received, please request information or condition for submission.

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 would in principle offer our support to the application, subject to the above matters being addressed satisfactorily.*

Additional information was submitted, as requested, and was verbally agreed with the Highways consultee to be acceptable.

#### 6.9 Public Rights of Way

*Regarding application 10/20/1007 at the Land Car park area and vacant land , Junction 4 Skatepark Blackburn Road Darwen BB3 0AJ*

*The path running adjacent to the works is public footpath 10, Darwen. Please add highways 11(informative) with a comment to ensure the right of way is not obstructed at any time.*

#### 6.10 Arboriculture Officer

*The site is predominantly self-seeded scrub in the form of young Birch and Goat Willow trees. There has been an attempt to plant up the site with decent sized trees but nearly all have failed and are dead. No issue from a clearance of trees apart from not doing that during bird nesting season.*

*The proposals for landscaping are to dig up the existing and re-plant them on a bunding, although there are no details on exactly what they are proposing and where it is to be located. I would say that it would be far more desirable for the applicant to submit a detailed Landscaping Scheme that includes a planting spec of what species, sizes and numbers as well as where they are to be located.*

*If you are minded to approve the application any landscaping proposals can be dealt with via condition. If you need any more detailed comments get back to me and I will oblige.*

#### 6.11 Ecology

*The information submitted with the application includes an preliminary ecological appraisal. This appraisal has been undertaken by an experienced ecological consultancy whose work is known to the Ecology Unit. The ecological consultants appear to have undertaken a detailed survey of the site and carried out an appropriate level of survey.*

*The appraisal found the site to have limited ecological value. The main issue would be associated with nesting birds and the clearance of tree and scrub during the bird breeding season. We would therefore recommend that the following condition be attached to any permission, should it be granted:*

*No removal of or works to any hedgerows, trees or shrubs shall take place during the main bird breeding season 1st March and 31st August inclusive, unless a competent ecologist has undertaken a careful, detailed check of vegetation for active birds' nests immediately before the vegetation is cleared and provided written confirmation that no birds will be harmed and/or that there are appropriate measures in place to protect nesting bird interest on site. Any such written confirmation should be submitted to the local planning authority.*

*As the site supports the invasive Himalayan balsam would advise that measures to control this species are required and would recommend that the following condition be attached to any permission:*

*Prior to the commencement of development (including demolition, ground works, vegetation clearance), an invasive non-native species protocol shall be submitted to and approved by the local planning authority, detailing the containment, control and removal of Himalayan balsam on site. The measures shall be carried out strictly in accordance with the approved scheme.*

*We would expect any such scheme to include measures to enhance biodiversity at the site and to provide a net gain for biodiversity, in line with the requirements of the National Planning Policy Framework. We would therefore recommend that the following condition be attached to any permission, if granted:*

*A scheme for the Biodiversity Enhancement Measures shall be submitted to and approved in writing by the Local Planning Authority. The approved scheme shall be implemented prior to first occupation of the development (or in accordance with a phasing plan which shall first be agreed in writing with the local planning authority) and shall be retained thereafter.*

#### 6.12 Lancs Fire Service

*General Building Regulations advice.*

#### 6.13 Lancs Police

##### **BMX track & Skate Park**

*Lighting plays an important role in personal and property safety and crime prevention within enclosed or spaces. Bright, efficient and well-planned lighting and thoroughfares improves visibility, personal and vehicular safety and can decrease theft, vandalism and ASB.*

*Where applicable, landscaping in and around the site should not hinder sightlines and natural surveillance should be promoted throughout to deter crime and promote feelings of safety. Landscaping should be designed in conjunction with the lighting and the CCTV scheme, so one does not have a negative impact on the other. This is especially important during the summer*

months where dense foliage may have an adverse impact on the CCTV system and lighting provision. In addition, plant growth above 1m and below 2m should be absent to provide a window of surveillance, this does not preclude the use of hedging plants and feature shrubs and trees providing natural surveillance is maintained. Planting around the parking areas should be kept under 500mm in height to support natural surveillance and deter vehicle interference. A landscaping maintenance plan should be developed for the site.

Tested and certified security bollards (or other suitable street furniture) to PAS68 (installed to PAS69) or IWA14 should be installed to protect vulnerable areas (retractable where necessary), such as roller shutter doors and fire doors to prevent obstruction. As an alternative, other tested and certified aesthetical measures can be incorporated into the final design, such as substantial planting boxes.

### **Shipping Container**

Shipping/storage containers in remote locations or in high crime areas, where activity at night and over the weekends is reduced, can become prone to criminal attack and vandalism through the walls and roofs. Therefore, the walls and roofs should be designed to withstand such attacks and materials resistant to manual attack or damage should be used to ensure the initial provision of security. On the doors/windows vibration sensors should be fitted and linked to the main building alarm systems.

Any waste bin stores should be well lit, have a lockable lid and be secured to reduce the risk of arson and nuisance caused by bins being removed, especially those with wheels that can be used as climbing aids. Any boundary treatments to the bin's store/service areas should allow some natural surveillance into these areas to reduce the risk of them being targeted for burglary, damage and nuisance. These areas should also be covered by the CCTV system.

Tested and certified security bollards (or other suitable street furniture) to PAS68 (installed to PAS69) or IWA14 should be installed to protect vulnerable areas (retractable where necessary), such as roller shutter doors and fire doors to prevent obstruction. As an alternative, other tested and certified aesthetical measures can be incorporated into the final design, such as substantial planting boxes.

Graffiti tends to attract further graffiti and should be removed as soon as possible. Targeted surfaces should be treated with anti-graffiti coatings to allow easy cleaning.

### **Car Parks**

Park Mark – The scheme incorporates additional parking spaces and a new access and egress to the car park. The car park should be developed to the standards within the Park Mark Safer Parking scheme in order to reduce the

*opportunities for vehicle related crime. Further details can be found at <http://www.parkmark.co.uk> The car park should be covered by CCTV and be well illuminated to promote feelings of safety. The above security measures are required for consideration, to keep people safe and feeling safe and to reduce the opportunity for crimes such as criminal damage and burglary.*

Informatives will be applied to the decision notice, in response to the Police comments.

#### 6.14 Neighbours:

The planning application was advertised in accordance with the relevant provisions of the Town and Country Planning (Development Management Procedure)(England) Order 2015. 112no residents in the surrounding area were consulted by letter, site notices were posted, and a press notice was advertised in the local newspaper on the 12<sup>th</sup> November 2020. Two representations were received, which are covered in detail in Section 9. The objections/issues raised can be summarised as:

- Noise impacts of the development
- Light pollution
- Loss of privacy
- Drainage impacts
- Traffic impacts
- Increased litter
- Anti-social behaviour arising from people trying to access the site via neighbouring properties.

**7.0 CONTACT OFFICER: Nick Blackledge – [Senior Planner]**

**8.0 DATE PREPARED: 3<sup>rd</sup> February 2021**

## 9.0 SUMMARY OF REPRESENTATIONS

### Objection - Mr Whalley, Lower Moss Fold Farm, Rec 30.11.2020

john whalley lower moss farm moss fold road darwen tel 01254 777642 07811317962 dear sir i am writing to object about the proposed expansion of the skate park we currently get high numbers of teenagers coming through the farm yard to access the astraturf pitch illegally at all times of day this has been an on going problem with the police involved on numerous occasions .if the park goes ahead there needs to be a proper security fence around perimeter .the next concern is the drainage of the area .we currenttly get alot of water coming through flooding farm house three times since the astaturf was built nobody wanted to take responsibility .next is the problem of noise with it being very close to house and also the privacy issue.when all the staff have gone home after ten o clock and a group youths break on it will be us that get all the problems believe me they will find away even if you think its impossible .at the end of the day its us that lives 30 feet away from it 24 hours a day.we cant block access through farm yard because off long standing footpath which is used as short cut to darwen vale school  
yours faithfully john whalley farmer

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### Objection – Stephen Rewaj (no address), Rec 26.11.2020

To Nick Blackledge or to whom it may concern,

I have a lot of concerns of the proposed site, concerns being the following:

- Blocked view from our garden
- drainage concerns due to flooding in the past
- noise and light pollution e.g evening meetings etc.
- P.A systems causing disturbance
- increase litter
- increase traffic
- youths breaking in via our property and farm lane as this has happened before with the school and football astroturf (sometimes caused vandalism and verbal abuse)
- being overlooked, invasion of privacy

Regards, Stephen Rewaj