

**PLANNING & HIGHWAYS COMMITTEE**  
**THURSDAY, 21<sup>st</sup> JUNE 2018**  
**UPDATE:**

**1      10/18/0279 – Vacant land off Byrom Street/Wainwright Way,  
Blackburn**

Further to the position set out in the main report in relation to the principle of use – and in response to the third party objection from the owner and operator of The Mall in relation to the effect of the development upon the Town Centre, the Council has commissioned an independent review of the application.

The review is undertaken by GL Hearn and advises that the application;

- Is supported by the necessary supporting retail information, which covers the sequential approach to development and the impact of the proposal
- It has been demonstrated that there are no suitable or available sites to accommodate the application proposals
- The submitted shopper survey, which underpins the Retail Study, shows that there are a range of locations for both comparison and convenience goods where this development could draw its trade
- In light of these results and the intended operator, the diversion identified by the applicant appears reasonable. The objectors have not provided any evidence to demonstrate this to be contrary.
- The proposed development would result in low level of trade draw impact upon Blackburn Town Centre, though the level of impact can in no way be considered to be significantly adverse.
- There are no defined investments within defined centres that the proposal would prevent from occurring.
- The overall impact of the development could not be considered to be 'significantly adverse' and as such the proposed development is considered to be compliant with Policy 29 of the Local Plan Part 2 and paragraph 26 of the NPPF.

For completeness the full review of the application is set out within the following pages of this update.

## Wainwright Way, Blackburn Audit

**Proposals:** The erection of a 3,113 sq.m (33,500 sq.ft) Gross Internal Area ('GIA') retail unit alongside an ancillary outdoor sales area (garden centre), access and servicing arrangements, car parking, landscaping and associated highway works.

**Ref:** 10/18/0279

**At:** Wainwright Way, Blackburn

### Introduction and General Overview

GL Hearn has been instructed by Blackburn with Darwen Borough Council (BwDBC) to provide an independent assessment of the above planning application. It is understood that Home Bargains are the likely intended occupants for the unit, although the applicant on the form is Prescott Business Park Ltd/Trentmore Ltd.

The currently vacant site extends to around 1.15ha. The proposal is to redevelop the site to provide a broadly rectangular 3,113 sqm (33,500 sqft) Gross Internal Area ('GIA') retail unit alongside an ancillary outdoor sales area (garden centre) extending to 743sqm (8,000 sqft) with access and servicing arrangements, car parking, landscaping and associated highway works. The store will be served by a car park containing 167 spaces which includes 2 disabled spaces, with access taken off New Wellington St.

Of the proposed retail floorspace, the net sales area will be 2,801 sqm, representative of a 90% net to gross ratio. Of this net sales area it is understood that Home Bargains typically utilise between 70% and 100% for the sale of comparison (non-food) goods. This is typical for these type of operators to allow for seasonal variations in stock. As such up to 30% of the net floorspace could be used for the sale of convenience goods. In light of this, the applicant has assumed that a maximum of all of the net sales area (2,801 sqm) could be used for the sale of comparison goods and up to 840 sqm (30%) could be used for the sale of convenience goods.

We have also been provided with an objection prepared by Capital and Regional, who are the co-owners (along with BwDBC) and operators of The Mall, Blackburn. The objection covers:

- Compliance with the development plan
- Compliance with the sequential approach to development
- Impact on town centre investment
- Impact on town centre vitality and viability

These are considered further below:

### Planning Policy

Section 38(6) of the Planning and Compulsory Purchase Act states that *"the determination must be made in accordance with the plan unless material considerations indicate otherwise"*.

In this respect, policy CS12 of the Blackburn Core Strategy (2011) defines the Borough's retail hierarchy, including Blackburn Town Centre being at the top of the hierarchy. It expects that the town centre will be the focus of all major and significant minor retail development, but does go on to identify that *"if towards the end*

*of the Strategy period, sites to meet identified needs are not available within the Town Centres, development will be located according to the following sequential test: first: edge of centre sites”*

The Part 2 Local Plan (2015) includes Policy 29, which refers to potentially acceptable scale of proposals outside the defined boundaries of centres. In order to consider the scale of proposals, the policy explains that new development will be permitted where it is “appropriate to the position of the centre concerned within the hierarchy of centres” in Blackburn with Darwen.

When considering whether the scale of retail development is appropriate, regard will be had to the ‘maximum unit size’ figure set out for the centre within Policy 29, Table 1. In the case of Blackburn town centre, it is noted that there is ‘no limit’ in terms of the maximum acceptable unit size.

Policy 29 then goes on to identify the sequential approach to development and the impact of proposal, where it is noted that the local floorspace threshold is 1,000sqm, which this proposal breaches.

Accordingly the above policies are broadly consistent with the Framework.

Capital and Regional also identify the 2007 Freckleton Street masterplan SPD, but this was replaced and updated by the adoption of the Core Strategy (2011) and Part 2 Local plan (2015).

Capital and Regional also point towards the Draft Town Centre SPD. In relation to this document it has not been adopted and the results of the recent consultation and any potential alterations to the document are unknown. As such the weight to be afforded to it as a draft document is significantly reduced as directed by para 216 of the NPPF.

#### **Sequential Approach to Development**

The applicant’s sequential assessment is focused on Blackburn town center, which is a reasonable approach based on the proposal and relevant case law. The applicant has demonstrated reasonable flexibility by seeking to identify sites with a 10% tolerance of the proposed site size, which requires a site between 0.92ha da 1.38ha.

The sequential approach considered eight sites, the majority of which are far too small to be considered suitable.

- Site 1 – 0.37 ha
- Site 2 – 0.32 ha
- Site 3 – 0.32 ha
- Site 4 – 0.28 ha
- Site 5 – 0.12 ha
- Site 8 – 0.35 ha

**Site 7** is the Thwaites Brewery site, which is significantly larger than the application site extending to 2.4ha making the site unsuitable. Furthermore, the site is currently in use as a brewery, although Thwaites have made clear their intentions to move to a new site in the Ribble Valley in the not too distant future. This however may be slightly closer now that the site was recently subject to a break in which cause a significant amount of damage to the site and the brewery equipment.

What is relevant is that the Council benefit from a long leasehold of the car park on the roof of the Thwaite’s building. As part of this instruction, the Council has confirmed that they still use the car park. As such, the site is rendered unavailable for the development proposed.

Overall this site is not considered suitable for the development proposal as it is significantly larger than the application site, but in any case the site is not available.

**Site 6** is the former indoor market site. This site extends to around 1.3ha and is partially in use as a town centre car park, with the remainder of the site subject to a live planning application for the redevelopment of the site to provide events space, additional car parking and footpath improvements (Ref: 10/18/0169). Although the site would appear to be suitable in size, the site is owned by BwDBC who have confirmed that the site is not currently available.

The objection from Capital and Regional does not seem to raise any other potential sequential sites. Furthermore the Council has not identified any other sequential sites which warrant investigation

As such, there are no suitable and available sites; therefore the proposal complies with the sequential approach to development

#### **Retail Impact**

The detailed impact assessment is covered within the applicant's Town Centre Statement at Section 4

In GL Hearn's experience on advising Local Authorities and retailers on similar sized stores, the catchment used by the applicant would appear reasonable given the intended end operator, location of the site, location of surrounding centres and the location of the intended operator's existing trading estate. It is also noted that the comparison goods and convenience goods elements of the store are assessed separately, as detailed in para 4.10.

In terms of shopping patterns in this area, the applicant uses the results of the 2011 Retail Study. Whilst it is acknowledged that this pre-dates some of the changes in the convenience store retail market such as the emergence of the 'discounters' and the movement away from the 'big 4', this is the most up to date evidence. It is accepted that there have been little change in this area in terms of significant new provision and it is also accepted that the RIA's should be proportionate, as advocated by the PPG. As such not providing a new shopper survey in this situation is acceptable.

The test year of the proposal is identified as 2023. It is noted within the sequential approach to development the applicant states that the unit needs to be available now in order that they can be developed and open and trading within 12 months. This would indicate settled trading patterns by 2021/2022. But this is not a fatal flaw in the submission, especially as the NPPF advocates considering impact up to 10 years into the future.

The turnover of the proposed store is identified to be £6,449 per sqm for comparison goods and £6,296 per sqm for convenience goods. These appear reasonable for the intended end operator, but in any case there is some 'double counting' in the proposed impact assessment to allow some flexibility in the use of the floorspace.

The level of expenditure in 2023 in the catchment area is £469.76m for comparison goods and £294.41m for convenience goods. Although the growth in convenience goods is effectively negative, comparison goods expenditure is growing, with an increase in comparison goods of over £55m in the next five years.

The applicant's key statistics are:

- For comparison goods, Blackburn town centre is the dominant comparison goods shopping destination within the catchment area, attracting 31.6% of all comparison goods expenditure (or £131.0m in 2018).
- Blackburn's out-of-centre retail parks represent the next most popular destinations, attracting a combined total of 26.7% (£108.9m in 2018) of total available comparison goods expenditure.

- Some 36.5% of the comparison goods expenditure (£151.4m in 2018) generated by the catchment population 'leaks' to shopping destinations beyond the defined catchment area.
- For convenience goods, the vast majority of the catchment area's convenience goods expenditure is being spent in Blackburn's mainstream edge and out-of-centre food superstores. This includes the:
  - Asda store at Grimshaw Park Retail Park (22.1% / £65.4m in 2018),
  - Morrisons on Railway Road on the edge of the town centre (16.8% / £50.0m), and
  - Tesco at Hill Street (12.0% / £35.5m).
- Blackburn town centre attracts a relatively limited amount of the convenience goods expenditure generated within the catchment area (5.5% / £16.5m).
- food shopping facilities located within the defined catchment area attract 86.1% of the convenience goods expenditure generated by the population residing within it.

Below is the trade diversion provided by the applicant:

Comparison	Proportion of store's trade	£m diversion
<b>Blackburn Town Centre</b>	36%	£7.25m
<b>Central Retail Parks' Diversion</b>	32%	£6.41m
<b>Peel Centre Diversion</b>	8.7%	£1.75m
<b>Darwen Town Centre</b>	4.2%	£0.85m
<b>Audley St Retail Park</b>	2.2%	£0.45m
<b>Clawback</b>	14.8%	£2.98m
<b>Convenience</b>		
<b>Asda, Grimshaw Retail Park</b>	42.6%	£2.25m
<b>Morrisons, Railway Rd</b>	18.1%	£0.95m
<b>Tesco, Hill St</b>	13.5%	£0.71m
<b>Blackburn Town Centre</b>	2.7%	£0.14m

Although the majority of the comparison trade diverted to the store is accounted for above, the convenience trade is drawn from much wider range of stores, therefore only the key stores have been identified. Overall the proposed allocation of trade diverted from these stores appears reasonable, given the evidence available.

The main consideration is the impact on centres. Given that the trade to be diverted from Darwen is low (£1.21 total) and the centre is trading at around £58.33m in 2023, the review below will focus on Blackburn given that this is the centre closest to the proposal and where the majority of trade will be drawn from.

#### Trade drawn from Blackburn town centre

It is noted that the applicant has not considered the overall impact on Blackburn town centre, only the impact on the separate convenience and comparison elements within the centre. Overall the impact would total £8.35m, whereas the centre has a total overall turnover of around £339.69 in 2023. This would indicate a total diversion of around 2.4%.

The objector has not put forward any evidence to counter the shopping patterns in the area, nor an alternative trade diversion upon which GL Hearn could comment. They only state that the applicant has *“understated the trade draw levels from the town centre and overstated the trade drawn from out of town locations to offset this”*. Accordingly they have provided no evidence to support this claim.

In terms of considering the impact on town centre vitality and viability, it is noted that the applicant does not undertake a full vitality and viability assessment addressing all of the topic headings identified within the PPG. The summary of the health of the centre is contained in paragraphs 4.49 and 4.50, including a reference to best high street in Britain in 2016.

There are a number of supporting shops and services within the centre which would be unaffected by the proposal in that no trade would be drawn from these stores. There may be the potential for some benefits from additional people shopping in this edge of centre location if the level of clawback identified is realised and the trade is drawn from other locations elsewhere in Blackburn. This would be a benefit to the centre overall given the site is adjacent to the centre boundary on the Proposals Map, although actual additional shoppers would be small which tempers the potential for this to be a benefit.

Overall Blackburn town centre is sufficiently healthy for this level of diversion not to be considered significant.

In relation to the impact on town centre investment the objector does not identify an impact on any existing, committed and planned public and private investment, in a centre. It only identifies *“uncertainty in the retail market in Blackburn”* and that *“decisions now will influence commercial decisions made by retailers in future years”*. These are generic statements, and there are no specific committed investments in the centre which this scheme would prejudice.

BwDBC have not identified any investment in their centres which this proposal would prejudice.

BwDBC have not identified any investment in their centres which this proposal would prejudice.

As such there can be no significant adverse impact in this respect.

#### **Summary**

In summary, the proposed development would result in a low level of trade draw impact on Blackburn town centre. The level of impact in no way could be considered significantly adverse. There are no defined investments in centres which this proposal would prevent from occurring. As such, the proposed development is considered compliant with Policy 29 of the Local Plan Part 2 and paragraph 26 of the NPPF.

#### **Conclusion**

The application is supported by the necessary supporting retail information which covers the sequential approach to development and the impact of the proposal. It has been demonstrated that there are no suitable or available sites to accommodate the application proposals.

In terms of impact, the results of the shopper survey which underpins the Retail Study shows that there are a range of locations for both convenience and comparison goods, where this proposal could draw its trade. In light of these results and the intended operator, the diversion identified by the applicant appears reasonable. The objectors have not provided any evidence to demonstrate this to the contrary.



The proposed development would result in a low impact on Blackburn town centre and this level of impact in no way could be considered significantly adverse.

In relation to investments in centres, BwDBC have not identified any potential investment which this could prejudice and the objector has not identified any specific investment in Blackburn. They only identify general statements about general investments.

The overall impact of the proposal could not be considered 'significantly adverse' and as such the proposal would comply with the retail policies of the Local Plan and the NPPF.

**GL Hearn June 2018**

The applicant's agent has also provided a rebuttal to the objection received from the owner and operator of The Mall. This is set out below:



AJS/AMM/3129-02/LPA

Via email Only

18 June 2018



Ref: 10/18/0279 - Proposed Retail Store and Garden Centre at Land at Byrom Street, Blackburn

I refer to the above and in particular to the letter of 1 June 2018 from Capitol and Regional setting out objections to the current planning application.

On behalf of the Applicant (Prescot Business Park Ltd/Trentmore Ltd.) we are instructed to provide a brief response to the Capitol and Regional objections.

First and foremost we would reiterate the content of the Planning Statement (Steven Abbott Associates LLP) and Retail Statement (WYG) submitted with the planning application. It remains the case that those documents provide a clear and objective assessment of the relevant matters. This letter will deal directly with Objection 1 which relates to compliance with the Development Plan and to Objections 2, 3 and 4 which relate to sequential and retail impact aspects. The letter incorporates direct input from WYG on the sequential and retail impact aspects.

#### 1. Compliance with the Development Plan

It is unclear what exactly is being referred to by Capitol and Regional when they refer to the 'Development Plan', as the letter refers only to aspects contained within the Freckleton Street Masterplan SPD (2007) and not to policies contained within the adopted Core Strategy (2011) or the Site Allocations and Development Management Policies DPD (2015). It is those two documents which together comprise the adopted Local Plan and which are properly described as Development Plan documents.

Supplementary planning documents (SPD's) are capable of being a material planning consideration but do not form part of the Development Plan. Moreover, as set out in the National Planning Policy and Practice Guidance SPD's provide guidance only and do not set policy.

We note that the Capitol and Regional letter suggests that the SPD "zones the application site for public sector/office development". In fact the SPD has three primary purposes:

- To formulate a clear and comprehensive spatial vision for the area;
- To identify development opportunities within the area;
- To act as an urban design guide for the area.



## 2. Compliance with the Sequential Approach

Capital and Regional state at point 2 of their letter that:

**'the application site is defined as an "edge of centre" site in retail planning terms, so is sequentially inferior to town centre locations. As such it is a requirement for the applicant to identify all sequentially preferable town centre sites, and justify why the proposed development cannot come forward in these locations. The applicant has identified six sequentially preferable alternative locations. However, we do not consider that the applicant has thoroughly considered the town centre opportunities that exist.'**

We agree with Capital and Regional that as the application site occupies an edge of centre location, there is a requirement for the applicant to assess all 'in' or better connected 'edge of centre' alternatives. This requirement is clearly set out at paragraph 3.1 of the submitted Retail Statement and on this basis sequential assessments of eight sites within or on the edge of Blackburn town centre have been undertaken (rather than the six suggested by Capital and Regional). A detailed assessment of each site is included within Section 3 and at Appendix 1 of the submitted Retail Statement. None of the eight sites were found to represent a sequentially preferable alternative to the application site capable of accommodating the scale and form of retail development for which planning permission is sought. Capital and Regional do not appear to dispute the specific findings of each of these individual assessments.

We note that Capital and Regional are of the view that the applicant has not thoroughly considered the town centre opportunities that exist. However, Capital and Regional provide no details in relation to specific sites which they consider to be sequentially preferable to the application site and of a scale capable of accommodating the development proposals. We would expect that if Capital and Regional were aware of a town centre site that could suitably accommodate the application proposal, then they would be able to provide full details in relation to the exact location of the site.

Capital and Regional seek to imply that there may be a unit within The Mall in Blackburn which could accommodate the application proposal by stating that *'the proposed occupier, Home Bargains, has not made contact with Capital and Regional to discuss how their requirements might be accommodated within the shopping centre'*. Again, if there were a unit available which could accommodate the proposed use, we would expect that Capital and Regional would be able to provide details in relation to its location and size. Indeed, we have undertaken a review of the handful of units which are currently being marketed as available within The Mall and note that none of them would be suitable to accommodate the application proposal, given their significantly smaller scale.

We are of the view that the submitted Retail Statement clearly demonstrates that there are no sequentially preferable development sites within or on the edge of Blackburn town centre which could realistically accommodate the scale and form of retail development proposed – even when demonstrating significant flexibility in terms of developable area. We do not consider that Capital and Regional have provided any robust evidence to dispute the findings of the Sequential Assessments and, in addition, have not provided details of any further sites or units which could suitably accommodate the application proposal. As such, it is considered that paragraph 24 of the NPPF, Policy CS12 of the Core Strategy and Policy 29 of the Local Plan (Part 2) have been accorded with, and the sequential test is passed.

At Section 1.1 the SPD document states clearly that *“the SPD cannot allocate development land”*. It is also noted that Figure 3 in the SPD is titled *“Illustrative Masterplan Map”* – it is this figure which identifies the application site as the potential *“Commercial and Public Sector Hub”*. However, in our view such identification must not be confused with, nor be given the status of, an allocation on a Local Plan Proposal Map. It is not a formal adopted development plan allocation contained within the Local Plan and the current application does not have to accord precisely with that *“zoning”* to be considered compliant with the Development Plan.

Indeed, we would reiterate the factors set out in our original Planning Statement relating to the relationship of the SPD to the current adopted Local Plan documents, which have been adopted subsequently to the adoption on the SPD. Even if one accepted that the SPD forms part of the Development Plan/Local Plan (and we do not believe that to be the case) National Planning Policy Guidance provides specific guidance on the relative weight to be given to different plan policies that may conflict with one another (paragraph: 012 reference ID: 216-012-20140306). The guidance provides the statutory basis (Section 38(5) of the Planning and Compulsory Purchase Act 2004) which states:

*38(5) “If to any extent a policy contained in a Development Plan for an area conflicts with another policy in the Development Plan the conflict must be resolved in favour of the policy which is contained in the last document to become part of the Development Plan”.*

In that context it is the SPD that would be out-of-date and the policy within the Core Strategy and the Site Allocations and Development Management Policies DPD would prevail.

As set out in Section 4 of our original Planning Statement the relevant policies seek a flexible and diverse mix/range of development and land uses for the area containing the application site, which can assist in stimulating the regeneration initiatives generally. Indeed, paragraph 7.25 of the Core Strategy states: *“As part of this strategy of making the most efficient use of existing employment land, the Council recognises that in some cases, in order to facilitate development of the rest of the site for a new employment use, an element of “enabling” higher value development may be required, which may also bring about added regeneration benefits and employment potential”*. Retail development at the application site is not precluded as a matter of principle by the Local Plan policies – subject to compliance with other policies dealing with town centre and retail matters. Pre-application engagement with officers of the Council has confirmed that the provision of an element of retail development can comprise a form of policy compliant higher value enabling development for the application site, subject to compliance with other policies relating to retail and town centre matters. In forming that view officers were clearly conscious of the positive physical and economic regeneration benefits of the proposed development including the provision of a considerable number of new direct job opportunities.

It is accepted that the current application may be at variance with the area/site specific guidance and the illustrative masterplan ‘zoning’ for the site contained in the dated SPD. However, for the reasons set out above that does not represent a conflict with the Development Plan. Our view remains that when considered against the relevant policies of the Development Plan and other material considerations the proposed development is acceptable.

### **3. Impact on Town Centre Investment**

Capital and Regional are of the view that the development of the application proposal would divert the retail focus away from Blackburn town centre and reduce retailer interest in the town. We do not consider this to be the case, and indeed, are of the view that the application proposal will have some positive impacts on the wider town centre. The application proposal will result in representation and investment from a national multiple in an edge of centre location which is only 190m to the west of Blackburn's Primary Shopping Area and within an easy walking distance. As such, the introduction of a Home Bargains at this location will make a valuable contribution to the overall retail offer of Blackburn. The route between the proposed store and Blackburn's Primary Shopping Area is direct, level and well-lit. Accordingly, we consider that there are very good opportunities for linked trips between the application site and wider town centre.

Notwithstanding these positive effects of the scheme, we are not aware of any existing, committed or planned non-food retail investment in Blackburn town centre (or any surrounding centre) which would be adversely affected by the application proposal in any case. This position is set out in detail at paragraphs 4.64 to 4.66 of the submitted Retail Statement and Capital and Regional provide no evidence to the contrary. Furthermore, the Practice Guidance (Reference ID: 2b-016-20140306) is clear that the key issues to take into account when assessing impact on a specific 'investment' are: its policy status, the progress made towards securing it, and the extent to which the application is likely to undermine it. Capital and Regional fail to identify any individual investments or the threats to them, instead merely referencing the potential for uncertainty in unspecified future commercial investments in the town centre more widely. On the basis of this unsubstantiated claim we fail to see how any conflict could be identified with the first impact test set out at paragraph 26 of the NPPF and the relevant part of Policy 29 of the Local Plan (Part 2). We therefore maintain our view that the application proposal accords fully with these policies.

### **4. Impact on the Town Centre Vitality and Viability**

Capital and Regional state that they consider the applicant has underestimated the trade draw levels from the town centre and overstated the trade draw from other out of town locations to offset this. We assume that Capital and Regional are referring to 'trade diversion' as opposed to 'trade draw'. For clarity, 'trade draw' relates to 'the level of trade attracted to a particular facility/centre from a particular area', whereas 'trade diversion' relates to 'the level of trade diverted from a particular facility/centre to the application proposal'. It is difficult for us to provide a response to Capital and Regional's comment as they have not provided any specific details regarding which destinations they consider trade diversion has been overestimated or evidence to demonstrate why they consider alternative levels of trade diversion to be more appropriate. In contrast, the applicant has provided a detailed set of both convenience and comparison goods retail impact assessment quantitative tables as part of the submitted Retail Statement. In addition, detailed commentary is provided at Section 4 of the Retail Statement to explain the assumptions which have been applied in determining any impacts arising from the development proposal.

It is concluded within the submitted Retail Statement that the application proposal will result in a 5.7% cumulative comparison goods impact on Blackburn town centre at 2023 and a 2.0% cumulative convenience goods impact on Blackburn town centre at 2023. Even if the trade diversion

from Blackburn town centre were to be marginally increased as suggest by Capital and Regional - which we do not consider necessary as our trade diversion assumptions are entirely robust - the resultant impact on the town centre would still not be of a magnitude which could be deemed 'significant adverse'. In addition, as set out at paragraph 4.47 of the submitted Retail Statement, the anticipated cumulative comparison goods diversion from Blackburn town centre (£15.1m) is substantially less than Blackburn town centre's forecast growth in comparison goods turnover (£30.5m) between 2018 and 2023. Therefore, regardless of the impact of the scheme and commitments, Blackburn town centre would be in a better position in terms of its comparison goods turnover at 2023 than it is today.

Accordingly, even if the trade diversion from Blackburn town centre was to be increased (which we do not deem necessary), the loss of expenditure at 2023 would remain significantly less than the town centre's forecast growth over this period – providing strong quantitative evidence that the Home Bargains scheme will not result in a 'significant adverse' impact upon Blackburn's future trade and turnover. Added to this is the qualitative evidence provided at paragraphs 4.49 to 4.50 of the submitted Retail Statement which emphasises that Blackburn is a healthy town centre with a low vacancy rate. Indeed, this has been highlighted by the fact that the town centre was named "Best High Street in Britain" by the Department for Housing, Communities and Local Government in December 2016, reinforcing our view that it is a popular and successful centre. The modest level of trade loss predicted as a consequence of the Home Bargains unit will not change this, and will not lead to a 'significant adverse' impact upon its vitality and viability.

Given this evidence, we therefore maintain our stance that the application proposal accords with the second impact test set out at paragraph 26 of the NPPF and Policy 29 of the Local Plan (Part 2).

We hope that these comments in response to the objection from Capitol and Regional are of assistance. We believe that the comment in this letter provide an objective and robust rebuttal of the specific points raised by Capitol and Regional. We respectfully request that no weight is given to the objections raised.

Yours sincerely

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## 2. **10/18/0306 Pleckgate High School, Pleckgate Road, Blackburn**

Following the publication of the original report, it has been brought to the officer's attention that there is a discrepancy as to the approved parking layout plan. Taking into account the findings of the Local Government Ombudsman (LGO) (ref: 16 011 488, dated 11<sup>th</sup> August 2017), who investigated a previous complaint from the objector to the current planning application, the approved parking layout was altered when the discharge of conditions was undertaken in 2012. As such, the approved plan number (L-001 Rev D) specified in the main report is incorrect, and should read as L-001 Rev M. Unfortunately, this inaccuracy has occurred as discharging conditions was previously undertaken in a more informal process. For clarity the LGO noted:

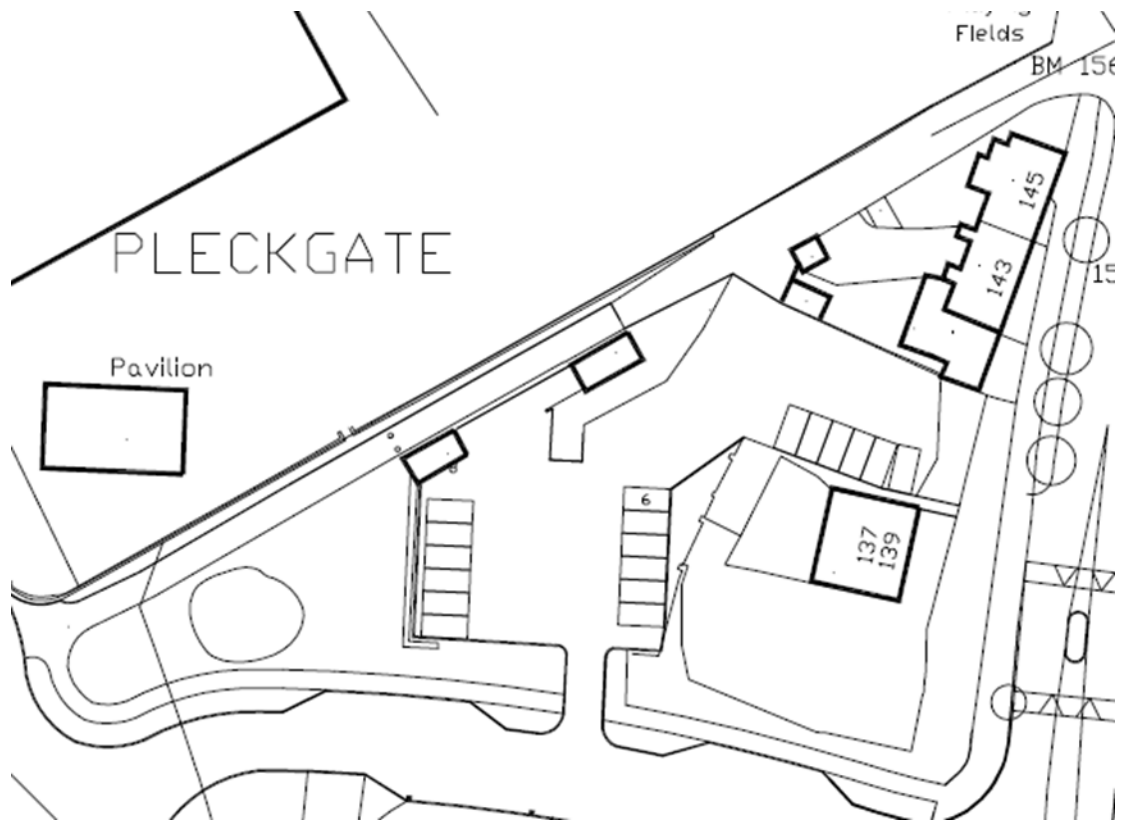
*"The Council received a number of changed plans for the site that altered Car Park A in different ways, including layout and removing the minibus garage. The applicant's agent sent a parking plan, Plan M in August 2012. But Plan M used the original car park size before the 2009 permission. It was a bigger car park without landscaping, and showed only 18 marked spaces. The Council discharged the condition without obviously noticing the differences. By 2013 Car Park A was constructed using the area shown in Plan M, but with 34 marked spaces."*

### Amendment to Report:

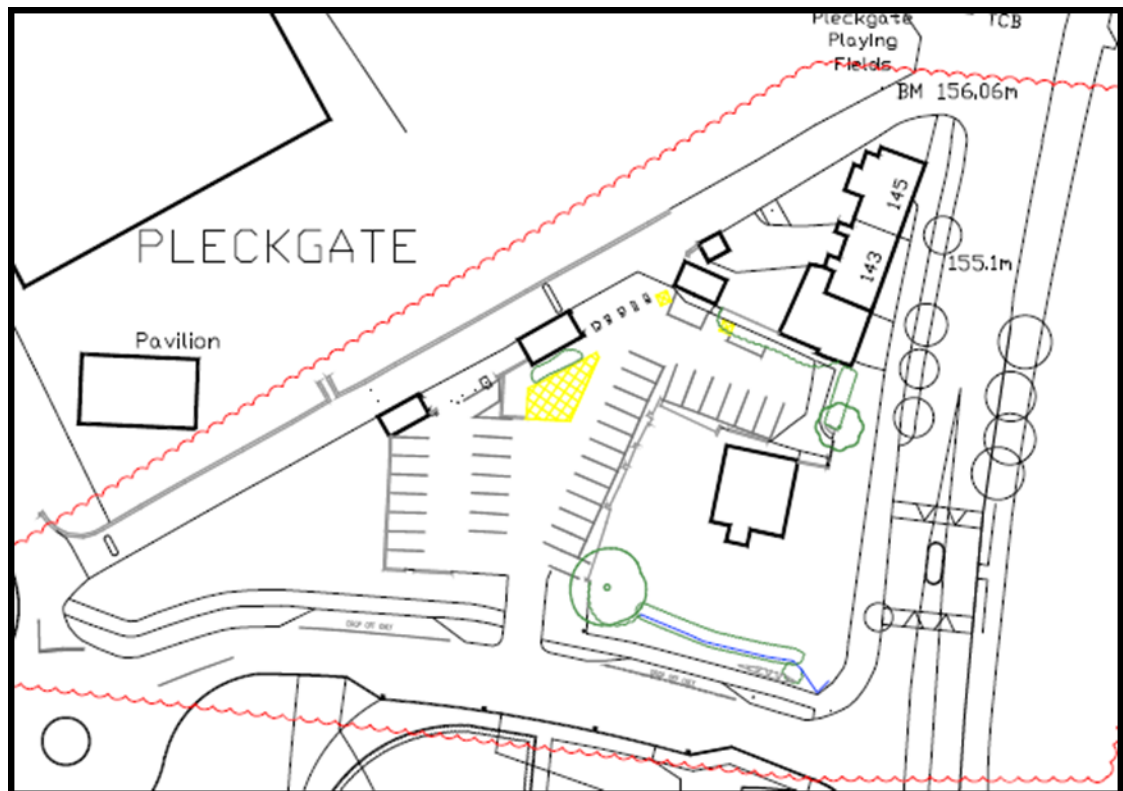
Paragraphs 3.5.3 and 3.5.4 to be read as:

3.5.3 The proposed increase of parking spaces between the approved plan L-001 Rev M and variation plan L-001 Rev N provides *an additional 16 spaces*. As with the original assessment, the proposed amendment should be viewed in the context of the pre-existing car park layout, rather than the introduction of an additional car park.

3.5.4 Whilst it is accepted that the amendment introduces additional parking spaces as part of a revised layout which further reduces amenity space, it is not considered that the area will result in a significant degree of additional noise or other nuisance from users, beyond that of the approved car park. It should be noted that outdoor and indoor uses are controlled by conditions as part of the original permission (10/09/0895), and noise will be centred around people entering and leaving vehicles. Indeed, should complaints be raised the Enforcement Team can determine what breaches have occurred and take the necessary action.



Approved scheme at discharge of condition 2012 - Plan M



Variation: Plan N as built – subject to the current application

### **Public Protection consultation response dated 19th June 2018:**

*“Whilst there have been complaints in respect of one or two issues from one local resident in particular I don’t believe that this minor change presents a threat to people’s amenity beyond what is already approved. Accordingly, the Public Protection team have offered no objection to the variation nor have any proposed conditions be recommended. It is considered therefore, that the amended proposal will not excessively erode residential amenity; in compliance with Local Plan Part 2, Policy 8.”*

### **Additional comments on submitted on objection.**

For clarity and soundness of decision making, officer’s would like to provide an additional response to the objection received to ensure the Committee Members can reach a justified recommendation, which is consistent and, where necessary, robustly justify the granting of permission.

In reference to conditions 11 (Landscaping) and 24 (Parking scheme) mentioned in the submitted objection. The conditions do not form part of this application as they have previously been discharged. Indeed, the LGO investigated this matter in 2013 with the 2016 LGO investigation reiterating there is no evidence of fault and no further investigation is required into these matters. It is important therefore to ensure that this application is determined on the matters put forward, and to address the application on its merits. However, in the interests addressing the objectors concerns the information will be given to the Council’s Enforcement to Team to investigate the parking signage and camera’s not being erected.

### **3 10/18/0484 Butlers Arms, Pleasington Lane, Pleasington**

Members are advised that a further letter of objection has been received since publication of the main report, from Mr and Mrs JC Caton, Bucklow House, Pleasington, Blackburn, BB2 5JH. Members are advised of the following issues raised and the considered response to each:

*An increase in noise from bowling events since introduction of the bowling hut, due to people congregating around it, to the extent that, on occasion the garden of Bucklow House was unable to be used.*

Notwithstanding the absence of evidence to support the objection, the issue of noise carries very limited weight due to the pre-existence of the outdoor area within which the ‘bowling hut’ is located. Bowling club members and patrons alike already have access to this area. Moreover, the hut provides basic and occasional welfare accommodation which is considered very unlikely to generate harmful noise in the context of the adjacent garden space of Bucklow House, which is circa 27m away from the rear of the dwelling, and

the wider public house area. It should also be recognised that noise nuisance can be regulated under the public House's licensing regime and statutory nuisance provisions of the Environmental Protection Act 1990.

*Why is the bowling hut required when storage for bowlers was shown on previously approved plans for an enhanced outdoor seating area?*

The storage area referred to is a very modest space, used sparingly for storage of equipment. It is not large enough or otherwise suitable to provide welfare accommodation. Although need for the bowling hut is considered reasonably justified, need alone would not be a determinative factor in assessment of the application.

*Previous negative pre-application advice for a dwelling at Bucklow House – some of the reasons given would be relevant for this proposal.*

Pre-application advice provided to Mr and Mrs Caton for a proposed apartment development in 2014 within their rear garden is not in any way relevant to the proposal presented.

The content of Mr John Pearson's objection is included at paragraph 7.0 in the main report. In response to the issues raised, members are advised as follows:

The design of the 'bowling hut' is considered appropriately sympathetic to its setting. The timber cladding offers a suitable external walling finish, reinforcing the timber characteristics of the recently approved pergola and wider rural setting. The white UPVC windows are, however, acknowledged as inappropriate. Accordingly, it is recommended that they are treated in an agreed colour; specifically 'Seclusion Grey', to soften their appearance and to match the recently approved decking; through application of an appropriately worded condition.

It should be recognised that assessment under the planning process of the incremental matters referred to is limited to the erection of the decking, pergola and the bowlers hut. The outdoor seating area benefits from planning permission, in compliance with the Development Plan. The 'bowlers hut' currently under assessment is also considered policy compliant, as recognised in the recommendation for approval. The outside bar, music, fire pits are matters beyond the control of the planning process, as they do not require the benefit of planning permission.

Noise impact on neighbouring residential amenity from the approved outdoor seating area has been considered under previous applications. To reiterate the position; it was considered that enhancement of the area would not result in additional harmful noise. The pre-existence of the outdoor space was fundamental to the assessment, insofar as the space already offered the opportunity for patrons to congregate.



In response to the request to impose limitations on the outdoor area to no more than 3 days in any one week and to install an acoustic screen along the common boundary shared with Mr Pearson: Members are advised that the aforementioned planning permissions set the position for the outdoor seating area, and that retrospective imposition of limitations on its use would be unlawful.

Aforementioned legislative control of noise should be again be recognised.

**Members are also advised to impose an extra condition to the ones already listed in paragraph 4.1 of the main report.**

- **Completion of all elevations in half round timber cladding within 28 days of the date of approval.**

#### **4 10/18/0513 48 Lancaster Place, Blackburn**

An objection was received from Occupier of No. 50 Lancaster Place – 13th June 2018:

*“I the occupier of the property adjacent to the proposed of the building extension – ref: 10/18/0503 strongly object to the proposed extension to the rear of 48 Lancaster Place. The objection is based on the high likelihood that our property would suffer from a significant reduction in natural light into the ground floor areas of the rear parts of our residence. The reduction of natural light into the property would contribute to a decrease in quality of life.”*

Further correspondence was received from the occupier of No.50 Lancaster place – 20<sup>th</sup> June 2018, **withdrawing the objection:**

*“We wish to withdraw the objection we made previously to to this planning application. There was a misunderstanding on our part relating to the size and height of the extension proposed. Our previous understanding relating to the size of the extension, would have had an impact on the natural light coming in to our property. This has now been clarified and discussed with the family at the above address. “*

Gavin Prescott  
Development Manager  
21<sup>st</sup> June 2018