

REPORT OF THE STRATEGIC DIRECTOR Plan Nos: 10/22/0959 & 10/22/0955

Proposed development:

10/22/0959 - Relevant Demolition (in a Conservation Area): Demolition of existing units (retrospective).

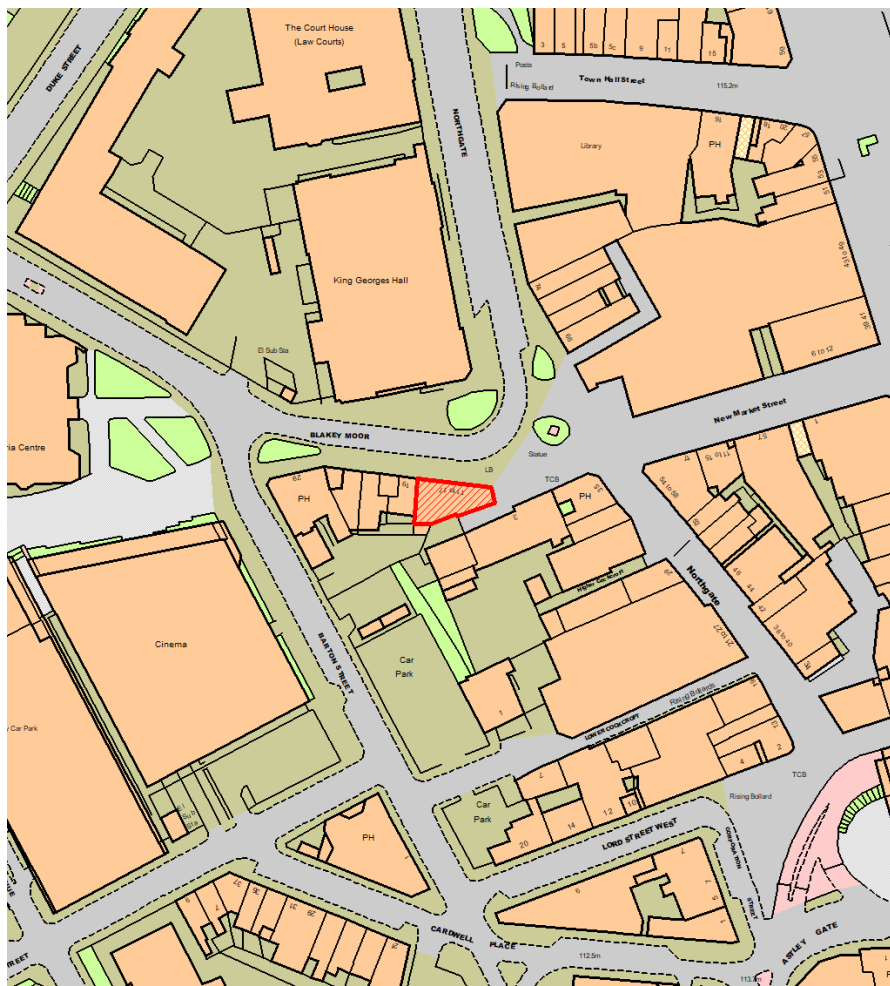
10/22/0955 - Full Planning Application (Regulation 4): Demolition of existing units and erection double storey extension to provide 1 new restaurant / cafe unit (Use Class E) at ground and first floor with new external seating area to front elevation (retrospective application).

Site address:

**No.11-17 Blakey Moor Terrace
Blackburn**

Applicant: Blackburn with Darwen Borough Council

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



1.0 SUMMARY OF RECOMMENDATION

1.1 APPROVE – Subject to conditions, as set out in paragraphs 4.1 and 4.2.

2.0 KEY ISSUES / SUMMARY OF PLANNING BALANCE

- 2.1.1 The applications are reported to Committee by reason of the Council being the applicant and owner of the application site, in accordance with the requirements of Regulation 4 of the Town and Country Planning General Regulations 1992.
- 2.1.2 Two applications are represented in this report. Assessment of 10/22/0959 is limited to *relevant demolition*; defined as demolition of an unlisted building with a volume of 115 cubic metres or more, within a Conservation Area. 10/22/0955 relates to the *demolition and erection of a double storey extension, to the existing terrace with new external seating area*.
- 2.1.3 The development will be funded by the Townscape Heritage Initiative. It will deliver a quality scheme which will significantly enhance the Blakey Moor Terrace and the wider Northgate Conservation Area (CA) setting. As well as the visual benefits of the development, introduction of a new eatery will supplement the existing retail and leisure / entertainment offers within the Northgate area, including King Georges Hall and the new cinema, thereby contributing towards the sustainability of the CA and Blackburn Town Centre.
- 2.2.4 Accordingly, the proposal(s) is consistent with the Borough's overarching growth strategy. It is also satisfactory from a technical point of view, with all issues having been addressed through the application, or capable of being controlled or mitigated through planning conditions.
- 2.2.5 Members are advised that the application represents an amendment to the design of the subject building (11 – 17 Blakey Moor Terrace) from that previously approved by Committee in July 2020 (ref. 10/20/0536) for the whole of the Blakey Moor Terrace (nos. 11 – 27) which involved refurbishment and change of use to restaurants / cafes of the existing buildings. The amendment arises due to the need to demolish and rebuild the building due to its evident structural instability, as confirmed by extensive survey work.
- 2.2.6 Structural instability was first established on 16th February 2022, when engineers attending the site noted significant movement of the outer leaf of the upper floor façade with a significant risk of catastrophic failure. The imminent threat posed by Storm Eunice was recognised in this context and was decided that immediate action was required to safeguard the public, with the building declared as a dangerous structure. BwD Building Control were notified of the intention to shore up the façade and the area was isolated from the public, including closure of the highway. Subsequent to the passing of Storm Eunice, circa 18th February 2022, the condition of the building was confirmed to have deteriorated to the extent that full demolished was

necessary. BwD Building control were again notified and confirmed agreement to the urgent works.

3.0 RATIONALE

3.1 Site and Surroundings

- 3.1.1 The application site (the site) relates to 11-17 Blakey Moor; the corner unit at the eastern end of the terrace. The building is a key heritage asset owned by Blackburn with Darwen Borough Council, positioned within the Northgate Quarter of the Northgate Conservation Area in Blackburn Town Centre.
- 3.1.2 Immediately prior to demolition, the site comprised a vacant two storey building, most recently occupied by retail uses at ground and first floor.
- 3.1.3 In an historic context, the overall terrace was constructed between 1848 and 1894 and was part of a complex of ground floor shops and 1st floor offices (13-27 Blakey Moor). The upper floors were the former offices of the National Federation of the old Age Pensioners Association. storey and predominantly residential scale. The double storey arched windows were replaced at this point. The terrace features two distinct sections. The first part being the remnant of the former pension's office with two storey and a double height first floor benefitting from arched windows. The Second part of the terrace is a series of terrace buildings arranged over three floors. There are partial basements below each part of the terrace. The main structure of the building comprises of traditional construction with brick external walls in English garden wall bond, brick chimney stacks, stone cornice gutters, stone sills and keystones and brick arch window openings. Over time, the historic ground floor fabric has been eroded through incremental and unsympathetic shop front alterations. The upper floors remain largely intact and retain several heritage features to be refurbished and preserved.
- 3.1.4 The wider Northgate Conservation Area is defined by a typical range of town centres uses of varied scale. Therein, buildings of historic importance include many of Blackburn's municipal buildings, such as the Grade II listed Town Hall, Central Police Station and Courthouse. A number of other buildings within the conservation area are also listed, whilst several are unlisted yet historically and / or architecturally significant, such as Blakey Moor terrace.
- 3.1.5 The site and immediate surroundings are illustrated below in the location plan and image of Blakey Moor Terrace:



Proposed ELEVATION (2022)



Design & Access Statement, Group Ginger, Sept 2022.

3.2.2 The development originally approved is shown below:



Design & Access Statement, Group Ginger, June 2020.

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

3.3.4 Local Plan Part 2

- Policy 1 – The Urban Boundary
- Policy 7 – Sustainable and Viable Development
- Policy 8 – Development and People
- Policy 9 – Development and the Environment
- Policy 10 – Accessibility and Transport
- Policy 11 – Design
- Policy 26 – Town Centres a Framework for Development
- Policy 30 – Managing Specific Uses Within Town Centres
- Policy 39 – Heritage

3.4 **Other Material Planning Considerations**

3.4.1 National Planning Policy Framework (The Framework)

- Section 2: Achieving sustainable development
- Section 6: Building a strong, competitive economy
- Section 7: Ensuring the vitality of town centres
- Section 12: Achieving well-designed places
- Section 16: Conserving and enhancing the historic environment

3.4.2 Blackburn Town Centre SPD

3.4.3 Northgate Conservation Area Development Guide

3.4.4 Northgate Conservation Area Appraisal (CAA)

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
- Heritage impacts
- Amenity impacts
- Highway impacts
- Design impacts

3.5.2 Principle

As a site located within the Inner Urban Area of Blackburn and Blackburn Town Centre, designated as a Primary Shopping Area, the proposal is consistent with the Policies CS1 and 1 of the Development Plan which state that the urban area is the preferred location for new development.

3.5.3 Policy 26 supports development involving main town centre uses within the town centres. Restaurants and cafes are defined as such in the Development Plan Glossary which is consistent with the definitions in The Framework. Furthermore, Policy 26 supports protection and expansion of the leisure offer within town centres and development of an evening economy, including restaurants and cafes, particularly within the defined Northgate Quarter of Blackburn Town Centre.

3.5.4 Policy 30, amongst other criteria, seeks to guard against the inappropriate over provision of hot food takeaways, Betting Offices and amusement arcades within the Northgate Quarter. As a proposed restaurant / café use, no policy conflict arises.

3.5.5 Accordingly, the principle of the development is supported, in accordance with Policies CS1, 1, 26 and 30 of the Development Plan as well as the Town Centre SPD, Northgate CA Appraisal & Guide, and The Framework's economic and environmental objectives of sustaining viable town centres.

3.5.6 Heritage / Design Character & Appearance

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.

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

3.5.8 The Blakey Moor Terrace is identified in the Northgate CAA as being a notable and positive building, notwithstanding that it has evidently deteriorated since the 2009 appraisal was made.

3.5.9 The demolition was based around the poor condition of the building, as aforementioned. Under the circumstances, the Council's Heritage consultee accepts that demolition was justified and that any harm arising to the character of the CA is low / less than substantial.

3.5.10 Balancing this is the fact that the application seeks to replace the demolished part of the terrace with a new 2-storey addition which forms an integral part of a new restaurant use for the whole terrace row. Again, no objection is offered to design approach, notwithstanding the abrupt termination of the pitch roof to the terrace and its replacement with a flat roof profile, which reflects and reads in conjunction with the adjacent flat roof building (to the east). Provision of the tall first floor windows with arched heads replicates the previous

building and maintains the clear distinction between the two elements of the terrace. The replaced new timber sashes and shop fronts will also provide a visual uplift for the building and is an improvement on the former arrangement. Moreover, the proposal is acknowledged as one which will invigorate the terrace whilst providing a viable new use, and will have wider benefits to the CA as well as the setting to King Georges Hall opposite.

3.5.11 The Framework, at paragraph 197, states that LPA's should take into account the desirability of sustaining heritage assets and putting them into viable uses. Paragraph 202 of The Framework allows LPA's to weigh the degree of *less than substantial* harm (from the demotion) to be weighed against the benefits accrued from the works. Whilst *great weight* should always be given to any harm (para.199), LPA's can consider the sustainable and wider benefits as part of its decision. Under the circumstances, it is considered that the benefits generated by the uplift across the whole terrace and the provision of a new use far outweigh the limited harm caused by the loss of the building. In doing so the scheme would accord with the guidance contained in Chapter 16 of The Framework.

3.5.12 Accordingly, the proposal would meet the duty to preserve, as required by the P(LBCA) Act 1990, the requirements of Policies 39 and 11 and those of The Framework.

3.5.13 Amenity

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.

3.5.14 No adverse impacts arise with reference to privacy / overlooking or relationship between buildings.

3.5.15 In the absence of proposed hours of use of the restaurants / cafes, the Council's Public Protection consultee recommends a condition limiting hours of use to those of other eateries in the locality, in order to guard against loss of amenity to occupiers of residential accommodation in the locality. Other such local eateries are not, however, subject to an hour's limitation, including those approved within the terrace under the original consent. Moreover, no residential uses are identified within close proximity to the site. The restriction is, therefore, considered unnecessary and unreasonable, within the town centre context.

3.5.16 A condition to secure a scheme for control of cooking odour and fan noise is also recommended. As no external extraction is included within the application, such a condition is considered unnecessary. It is understood that end users will be responsible for odour control. Therefore, subsequent installation of an external flue will require the submission of an additional planning application, at which time odour control and fan noise will be assessed; a position consistent with the original grant of planning permission.

3.5.17 A recommended condition to limit hours of demolition and construction is also considered unnecessary and unreasonable, on account of the town centre location and the absence of an identified and occupied residential use in proximity to the site.

3.5.18 Appropriate servicing and refuse storage is offered in support of the proposal, as confirmed by the Council's Cleansing consultee, who offers no objection.

3.5.19 Accordingly, it is found that satisfactory levels of amenity and safety would be secured. The development is also considered to contribute positively to the overall physical, social, environmental and economic character of the area, in accordance with the requirements of Policy 8 and The Framework.

3.5.20 Environment

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.

3.5.21 The site does not host any protected species. Existing trees will be retained as far as practicable. A soft landscaping strategy involving planting of new trees will be secured by condition.

3.5.22 The Council's drainage consultee, as Lead Local Flood Authority, offers no objection to the proposal.

3.5.23 Accordingly, the environmental impact of the development is found to be acceptable and in accordance with the requirements of Policies 9 and 40, The Masterplan and The Framework.

3.5.24 Highways

Policy 10 requires that road safety and the safe and efficient and convenient movement of all highway users is not prejudiced and that appropriate provision is made for off street servicing and parking in accordance with the Council's adopted standards.

3.5.25 No significant highway impacts arise, due to the sustainable town centre location and availability of on-street and off-street parking in the immediate vicinity of the site which supports the development.

3.5.26 Accordingly, highway impacts arising from the development are found to be acceptable and in accordance with the requirements of Policy 10 and The Framework.

3.5.27 Summary

This report assesses the full range of material issues affecting this planning application. The assessment demonstrates that the planning decision must be made in the context of assessing the merits of the proposal balanced against any potential harm that may arise from its implementation. This report finds that the proposal meets the policy requirements of the Blackburn with

Darwen Core Strategy, Local Plan Part 2, Supplementary Planning Documents and the National Planning Policy Framework.

4.0 RECOMMENDATIONS

4.1 10/22/0959 (Relevant demolition application): Approve subject to:

Delegated authority is given to the Strategic Director for Growth and Development to approve planning permission, subject to conditions which relate to the following matters:

1. Unless explicitly required by condition within this consent, the development hereby permitted shall be carried out in complete accordance with the proposal received (*to be added*)

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

10/22/0955 (Full planning application): Approve subject to:

4.2 Delegated authority is given to the Strategic Director for Growth and Development to approve planning permission, subject to conditions which relate to the following matters:

1. Unless explicitly required by condition within this consent, the development hereby permitted shall be carried out in complete accordance with the proposal received (*to be added*)

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

2. The development hereby approved shall be completed in strict accordance with the submitted walling and roofing materials.

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

3. Prior to operational use of the 'external terrace area' hereby approved, and notwithstanding the submitted details, a hard and soft landscaping scheme shall be submitted to and approved in writing by the Local Planning Authority. The scheme shall include details of materials to be used for hard surfaces, as well as native tree and shrub planting, and compensation for lost local priority habitat and net loss of biodiversity. Native trees and shrubs shall be planted on the site in accordance with the landscaping scheme during the first available planting season following completion of the development. The development shall proceed in accordance with the agreed details. 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.

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

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

5.0 PLANNING HISTORY

5.1 10/20/0536: Full planning permission for demolition of single storey rear extensions and a garage, change of use of existing units to 2no. restaurant / cafe units (Use Class A3) at ground and first floor, change of use and re-profiling of land to the rear to form an associated outdoor seating / courtyard area, and external alterations to provide new frontages. Approved 5th July 2020.

6.0 CONSULTATIONS

6.1 Heritage & Conservation

No objection

I have read through the submission documents which includes a comprehensive suite of documents, including the following relevant documents;

D&A Statement – Group Ginger (Sept 2022)

Heritage Statement – Group Ginger (October 2022)

Proposals

Largely the proposals involve approval for the demolition of the end units in the row (No's 11-17) for structural reasons and the erection of a new 2 storey building as replacement and the use of the whole terrace as a restaurant use on the ground and first floors. The work will involve the refurbishment of the external façade of the terrace to replicated the former ground floor row of shops and a re-modelled interior to provide an opened up first floor dining space and an outdoor terrace area above rebuilt end units. The new replacement extension in this regard will have a 2 storey brick façade with brick arched upper windows and a raised parapet to tie in with the eaves height of the existing retained terrace. On the ground floor there will be 3 replicated 'shop fronts'.

The new extension will be open with a semi enclosed first floor outdoor seating terrace and at the eastern end the proposal is to have a street level outdoor space. At the rear is a larger outdoor dining/seating space which runs behind the terrace row.

It is noted that because of safety concerns the demolition works have already taken place.

Duty under Act - 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 or, as the case may be, the Secretary of State 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.

Conservation areas – Section 72(1)

In undertaking its role as a planning authority, the Council should in respect to conservation areas pay special attention to the desirability of preserving or enhancing the character or appearance of that area. In relation to conservation areas decision makers should consider the impacts on the character and appearance of a conservation area (which includes its setting) separately and that development proposals need to satisfy both aspects (to preserve or enhance) to be acceptable.

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.199 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.200 states that loss or harm to the significance of designated heritage assets needs clear and convincing justification.

P.202 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

Policy CS17 (Built and Cultural Heritage)

Local Plan Part 2 – Policy 39

Northgate Conservation Area Character Appraisal, June 2009

Northgate Conservation Area Development Guide, June 2009

Assessment

Generally I am supportive of the scheme and find the scheme represents a positive approach to re-vitalise a partially used and rather run down terrace block in the Northgate CA.

The Blakey Moor Terrace is identified in the Northgate CAA as being a notable and positive building. I agree with that assessment, although the terrace is made up of two distinct elements – three if you count the PH at the western end and I think its condition has deteriorated since the 2009 appraisal was made.

The demolition was based around the poor condition of the building. Whilst this is made clear in both the HS and D&A statement the application does not include a Structural or Condition report. However from the evidence provided it is clear that the eastern end of the terrace had suffered from structural failure and it seemed reasonable that repair was not a viable option and that this had been worsened during recent storm damage earlier in the year. Although as noted above I have no evidence before me (other than the sections in the HS and D&A Statement), which actually confirms that fact. In this regard whilst I feel the removal wiped away some historic and evidential value I agree that the demolition was justified. However demolition of 'positive' buildings are normally a last resort and one which should not be considered lightly. However given the circumstances and the poor condition I would regard the harm caused from the demolition alone to be low- less than substantial.

Balancing this is the fact that the application seeks to replace the demolished part of the terrace with a new 2 storey addition which forms an integral part of a new restaurant use for the whole terrace row.

I support the general design approach taken (page 4 of the HS) and illustrated in the D&A Statement and feel that whilst I would have preferred to see the roof line continued across the terrace, the proposed new addition would be an acceptable design response and the new use will likely whole invigorate the terrace and have wider benefits to the CA and the setting to King Georges Hall which lies opposite.

I have no objections to the proposed design and the detailing. The provision of the tall first floor windows with arched heads replicates the previous building and maintains the clear distinction between the two elements of the terrace. The replaced new timber sashes and shop fronts will also provide a visual uplift for the building and is an improvement on the former arrangement.

I am not opposed to the changes to the floors internally to provide level access and the provision of a first floor terrace and large first floor void in the attached block. This is designed to provide a viable new use for the building.

Overall, I agree with the conclusion contained in the HA that the scheme will enhance the existing building as a whole. In the LPA's planning balance P.197 of the NPPF states that LPA's should take into account the desirability of sustaining heritage assets and putting them into viable uses.

Paragraph 202 of the NPPF allows LPA's to weigh the degree of *less than substantial* harm (from the demotion) against the benefits accrued from the works. Whilst *great weight* should always be given to any harm (P.199) LPA's can consider the sustainable and wider benefits as part of its decision. In this case I feel the benefits generated by the uplift across the whole terrace and the provision of a new use far outweigh the limited harm caused by the loss of the building. In doing so the scheme would accord with the guidance contained in Chapter 16 of the NPPF.

Conclusion

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

For the reasons above I consider that the proposed would meet the duty to preserve required by the act and the requirements laid down in Chapter 16 of the NPPF. Any low level harm caused by the works to enable the re-use are outweighed by the benefits gained by the active re-use and refurbishment of the building, as a whole.

As such I feel the proposal would accord with Policy CS17 (Built and Cultural Heritage) of the Core Strategy and Policy 39 of the Local Plan.

6.2 Public Protection

No objection subject to the following conditions:

- Controlled hours of opening to reflect those of eateries in the locality
- Submission of a scheme for control of cooking odour and fan noise from commercial kitchens
- Works to cease if contamination is unexpectedly encountered.

6.3 BwD Drainage (Lead Local Flood Authority)

No objection.

6.4 Environmental Services

No objection

6.5 Public Consultation

21 letters were posted to the local community on 11th October 2022 and a site notice was displayed. A press notice was also published on 21st October 2022. No comments were received.

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

8.0 DATE PREPARED: 1st December 2022.

9.0 SUMMARY OF REPRESENTATIONS – none received.