

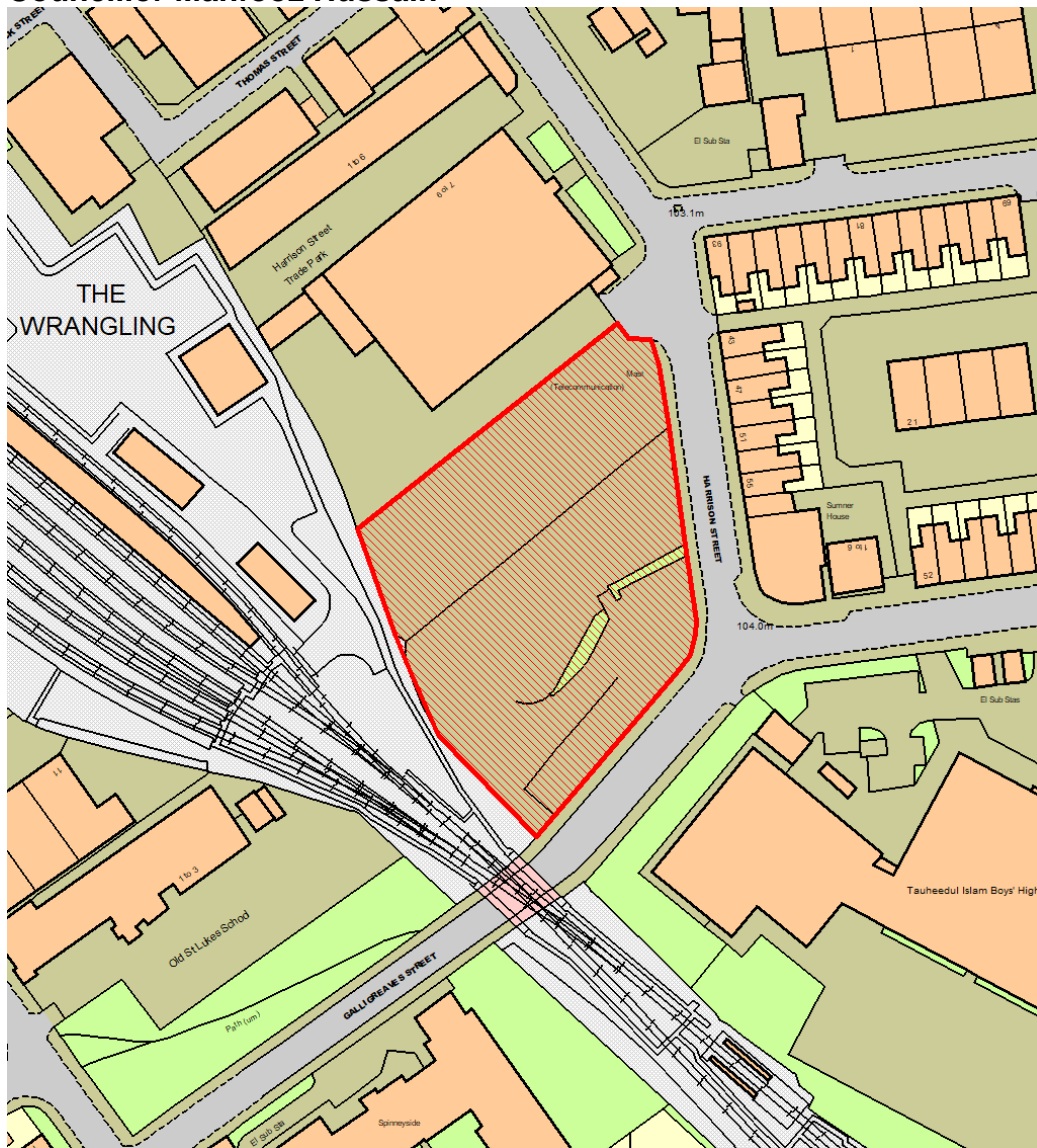
Proposed development: Full Planning Application for change of use of former builders' yard to a car park to serve the Grand Venue, including land level alterations (part retrospective).

Site Address:

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

Applicant: Vali Investment Ltd

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



1.0 SUMMARY OF RECOMMENDATION

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

2.0 KEY ISSUES/SUMMARY OF PLANNING BALANCE

- 2.1 The application is reported to Committee on account of the application site (the site) being Council owned (leased by the applicant) and the management responsibility of the Director of Growth and Development / Deputy Chief Executive. This is in accordance with Regulation 10 of the Town and Country Planning General Regulations 1992 and the Council's adopted Scheme of Delegation.
- 2.2 The proposal is in the form of an application for full planning permission. Detailed assessment finds that the development corresponds with the Council's strategic and development management objectives of the Local Plan 2021 – 2037. All technical issues have been addressed through the application or are capable of being controlled or mitigated through application of planning conditions.

3.0 RATIONALE

3.1 Site and Surroundings

- 3.1.1 The site measures circa 4,500sqm. It comprises an enclosed parcel of land at the junction of Harrison Street and Sumner Street, within the urban area of Blackburn. The site is *previously developed land* which is currently vacant of any defined use, though it has historically been used for storage of building materials.
- 3.1.2 The area is generally defined as mixed use in character, comprising industrial / commercial and residential uses.

3.2 Proposed Development

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

3.3 Development Plan

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

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

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

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

3.4 Other Material Planning Considerations

3.4.1 National Planning Policy Framework (The Framework).

3.4.2 National Planning Policy Guidance (NPPG).

3.5 Assessment

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

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

3.5.2 Principle

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

3.5.3 Policy CP1 confirms that the Council will pursue a 'Balanced Growth' strategy over the plan period, with an aspiration to help ensure a better quality of life everyone, both now and for future generations, achieved through:

3.5.4 Policy CP2 confirms the principles of future development and that the majority of new development over the plan period will be in the urban areas of Blackburn with Darwen.

3.5.5 Accordingly, the principle of the development is found to be acceptable, in accordance with The Framework's presumption in favour of sustainable development, which should proceed without delay, unless impacts which significantly and demonstrably outweigh the benefits of a proposal are identified, subject to assessment of the following matters:

3.5.6 Amenity

Policy DM02 requires development to contribute positively to the overall physical, social, environmental and economic character of the area. It is also required to secure a satisfactory level of amenity and safety for surrounding uses and for occupants or users of the development itself, with reference to noise, vibration, odour, light, dust, other pollution or nuisance, privacy / overlooking and the relationship between buildings; and to have a neutral or positive impact on air quality.

3.5.7 No significant amenity issues would arise from the proposal. The site is enclosed and sufficiently separated from any sensitive residential uses.

3.5.8 The Council's Public Protection consultee recommends the following (summary) conditions:

- Limited hours of use of the car park (11:00 – 19:00 hours);
- Air Quality Impact Assessment (AQIA); and
- Light pollution scheme.
- Contaminated land watching brief;
- Vibration monitoring programme if piling / vibro-compaction is required;
- Floodlight scheme;
- Dust control measures; and
- Limited hours of construction;

3.5.9 Limiting hours of use to those recommended is considered unnecessary. The use of the car park should instead align with the permitted opening hours of the Grand Venue. Whilst it is recognised that the Grand Venue may be trading beyond its permitted opening hours (11:00 to 19:00hrs), in breach of a temporary permission which expired 17th March 2023, for extended opening hours of 11:00 to 23:00 (ref. 10/21/1320), this matter is currently being re-considered under a new application proposing permanent hours of 11:00 to 23:00 – ref. 10/24/0233. In the meantime, the Grand Venue should revert to its original permitted hours of use of 11:00 – 19:00, unless and until permission is granted for any alternative hours.

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

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

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

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

3.5.14 The remaining matters would be secured via condition.

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

3.5.16 Network Rail recommend the following (summary) conditions:

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

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

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

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

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

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

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

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

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

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

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

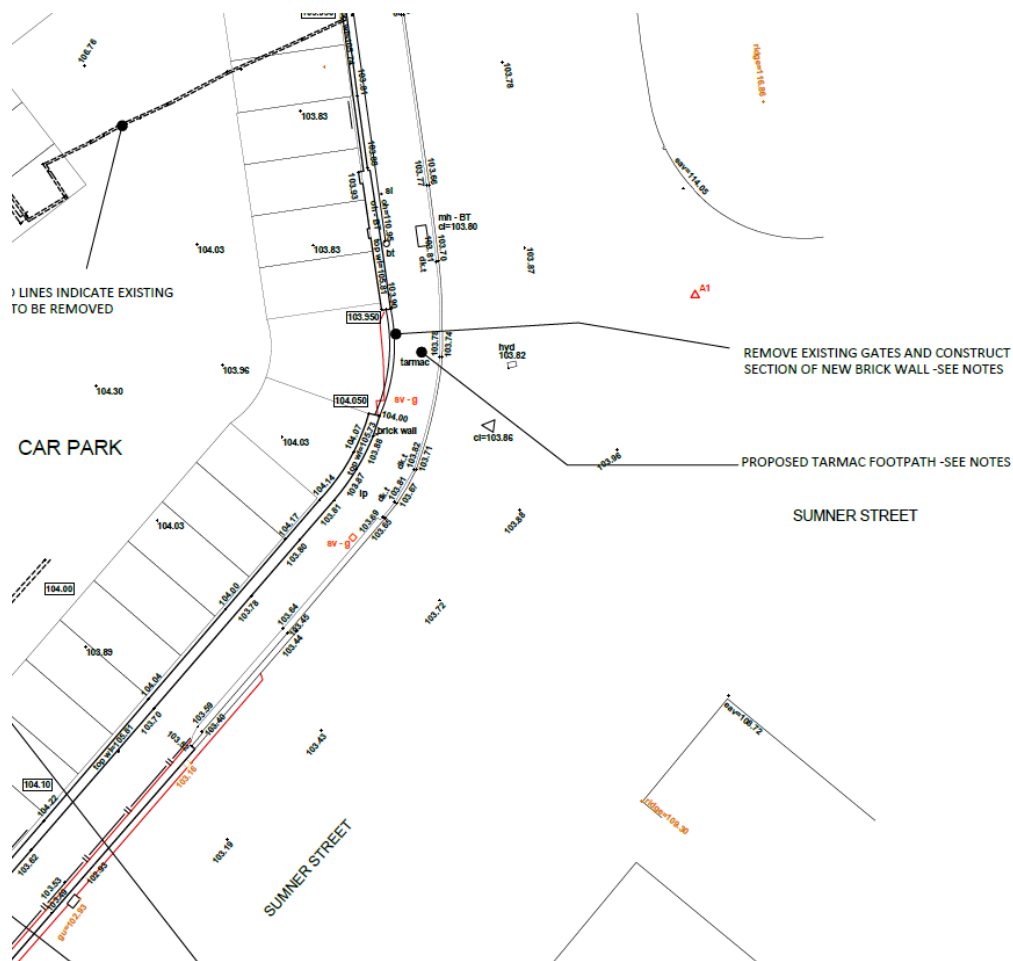
3.5.32 Accordingly, the proposed development is found to be in accordance with the requirements of Policies CP6, DM13, DM15, DM17 and The Framework..

3.5.33 Highways / Accessibility and Transportation

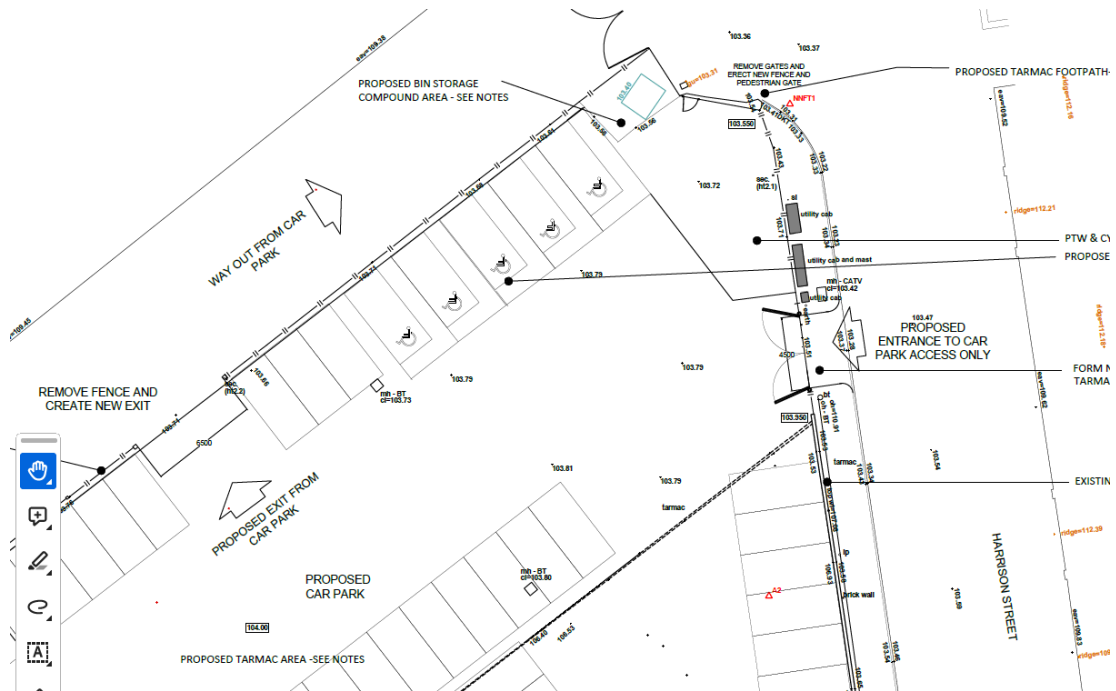
Policy DM29 requires, in general, that road safety and the safe and efficient and convenient movement of all highway users, included pedestrians and the disabled, is not prejudiced and that appropriate provision is made for off street servicing and parking in accordance with the Council's adopted standards.

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

Existing access to be removed.



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



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

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

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

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

3.5.39 Design / Character & Appearance

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

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

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

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

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

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

3.5.45 Summary

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

4.0 RECOMMENDATION

4.1 Approve subject to conditions.

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

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

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

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

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

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

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

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

Monday to Friday: 08:00 to 18:00

Saturday: 09:00 to 13:00

Sundays or Bank Holidays: No site operations

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

9. Prior to commencement of any further works hereby approved, and notwithstanding the submitted details, a soft landscaping scheme shall be submitted to and approved in writing by the Local Planning Authority. Planting shall be implemented in accordance with the approved details, during the first available planting season following completion of the development. Trees or shrubs dying or becoming diseased, removed or being seriously damaged within five years of planting shall be replaced by trees and shrubs of similar size and species to those originally required to be planted during the first available planting season after the loss of the trees and/or shrubs.

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

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

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

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

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

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

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

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

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

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

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

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

5.0 PLANNING HISTORY

5.1 There is no relevant planning history for the site.

6.0 CONSULTATIONS

6.1 BwD Public Protection

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

Comment: Grand Venue

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

Condition – Hours of Use Restriction

The approved use shall be restricted to the following times:

Monday to Sunday: 11:00 – 19:00 hours

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

Reason

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

Condition - Unforeseen Ground Contamination

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

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

INFORMATIVE:

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

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

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

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

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

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

Artificial Flood Light Pollution

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

Condition – Floodlighting

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

Reason

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

Informative:

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

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

Condition - Air Quality (Large Commercial Development)

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

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

Construction Phase Control Conditions

Condition – Hours of Site Works

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

Monday to Friday 08:00 – 18:00 hours

Saturday 09:00 - 13:00 hours

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

Reason

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

Condition – Dust Control

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

Reason

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

Vibration Control

Condition

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

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

Reason

To minimise vibration disturbance at adjacent residential premises.

Floodlighting Control (Construction Phase)

Condition

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

Reason

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

Informative:

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

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

Informative - Construction/Demolition Noise

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

Other Informatives:

Informative: Statutory Noise Nuisance Loss of Amenity

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

6.2 BwD Drainage – as Lead Local Flood Authority

We have no objections but require the following conditions:

Condition 1

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

Reason

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

Condition 2

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

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

Reason:

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

Condition 3

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

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

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

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

Reason:

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

6.3 BwD Highways

Parking

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

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

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

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

Access

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

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

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

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

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

Other

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

Matters also to be considered are:

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

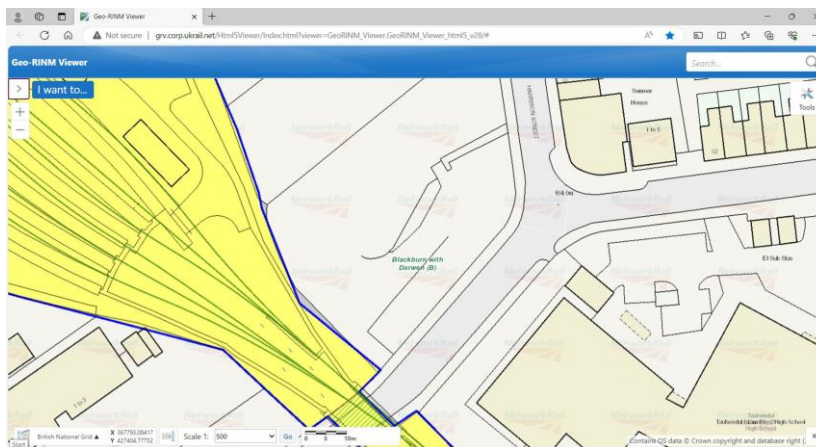
To conclude, we offer no objections, subject to the above matters bring conditioned addressed

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

6.4 Network Rail

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

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



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

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

Measurements to railway tracks and railway boundary

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

Obligations

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

RAMS

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

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

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

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

Fencing

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

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

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

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

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

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

Reason: To protect the adjacent railway from unauthorised access

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

Encroachment

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

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

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

Lighting

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

Scaffolding

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

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

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

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

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

Vibro-Impact Machinery

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

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

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

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

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

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

Access to Railway

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

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

Demolition

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

Condition:

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

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

Drainage proposals and Network Rail land

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

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

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

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

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

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

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

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

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

Condition:

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

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

Protection of existing railway drainage assets within a clearance area

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

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

Excavation and Earthworks and Network Rail land:

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

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

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

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

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

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

Condition:

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

Reason: To protect the adjacent railway and its boundary.

Boundary treatments

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

Gap between the railway boundary & outside party works

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

Noise

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

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

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

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

To note are:

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

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

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

Trees

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

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

Parking / Hard Standing Area

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

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

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

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

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

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

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

BAPA (Basic Asset Protection Agreement)

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

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

AssetProtectionLNWNorth@networkrail.co.uk

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

6.5 Environment Agency

We have no objection to the development as proposal.

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

6.6 Public consultation

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

7.0 CONTACT OFFICER: Nick Blackledge, Principal Planning Officer

8.0 DATE PREPARED: 21st February 2024