

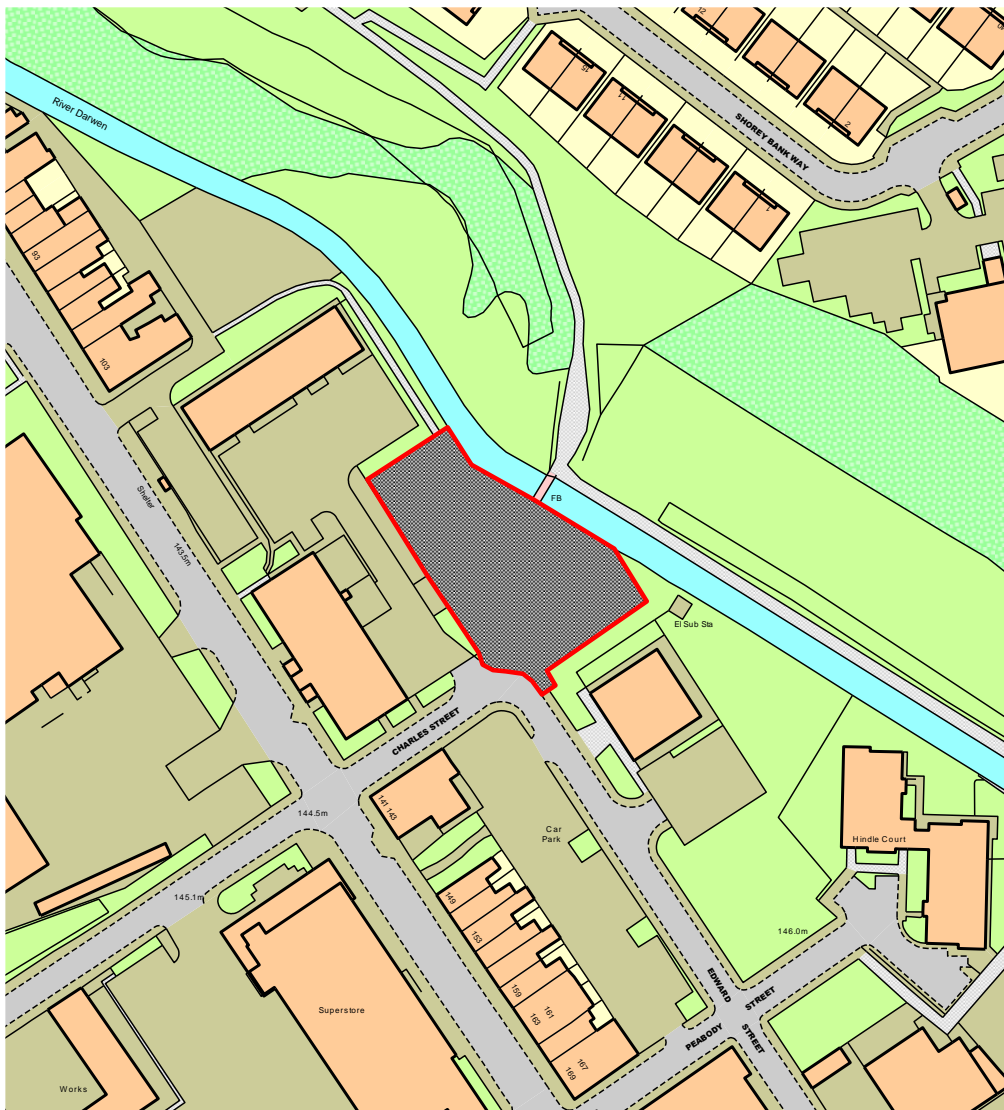
Proposed development: Full Planning Application (Regulation 4) for Creation of new parking area, alteration to existing footpath, replacement access gates and boundary fencing and new vehicular access

**Site Address:
Land adjacent to Units 1 To 3 Charles Street
Darwen
BB3 1BF**

Applicant: Mr Leadley

Ward: Darwen East

**Councillors: Katrina Fielding, Matt Gibson
Martin McCaughran**



1.0 SUMMARY OF RECOMMENDATION

1.1 **APPROVE** subject to the conditions set out within section 4 of this report

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 and the management responsibility of the Strategic 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 change of use. 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 the application of planning conditions.

3.0 RATIONALE

3.1 Site and Surroundings

3.1.1 The application site principally relates to an irregular area of open space measuring approximately 0.17 Hectares (Ha), located off Charles Street, Darwen. The site is mainly grassed and contains a number of immature trees and a footpath linking Charles Street to the Robin Road wildlife site on the opposite side of the River Darwen, which forms the north east boundary of the site. The site also includes a section of the hardstanding that provides vehicular access to commercial units located to the east of Duckworth Street.

3.1.2 The area is generally defined as mixed use in character, comprised of a range of commercial and residential uses.

3.1.3 Site Photographs





3.2 Proposed Development

3.2.1 Planning permission is sought for the change of use of the land from open space to a parking area, constructed with compacted stone. The proposal is to serve the existing business located immediately to the northwest of the site.

3.2.2 The proposal also provides for alterations to the position of the footpath crossing the site, new weld mesh boundary fencing, replacement access gates fronting Charles Street and provision of secondary gates within the hardstanding area serving the existing business uses.

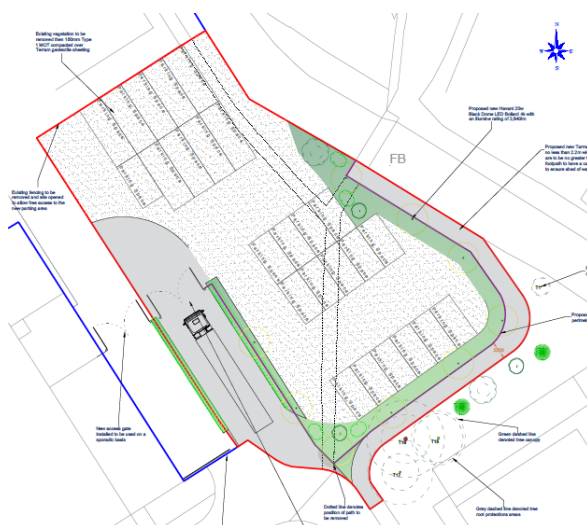


Fig 1: Proposed Site Plan

3.2 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). The following policies of the Local plan are of relevance;

- Policy CP1: A Balanced Growth Strategy
- Policy CP2: The Spatial Approach
- Policy CP6: The Natural Environment
- Policy CP9: Transport and Accessibility
- Policy CP10: The Economy and Skills

- Policy DM02: Protecting Living and Working Environments
- Policy DM13: Flooding / SuDS
- Policy DM15: Biodiversity
- Policy DM17: Trees and Woodland
- Policy DM19: Development of Open Spaces
- 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).

3.4.3 Blackburn with Darwen Adopted Parking Standards

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:

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: the quantum of development, the distribution of development and the overall approach to development.

3.5.3 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. The proposal is consistent with this approach.

3.5.4 The section of the site that relates to the proposed change of use to a car park area is currently designated as open space within the Local Plan. Policy DM19 (part 1) advises that development affecting designated open space will not be permitted unless one of the following criteria is met;

- i) *An up to date needs assessment has been undertaken which clearly demonstrates that the open space is surplus to requirements and is not required to meet a current and future need, or*
- ii) *The open space that would be lost would be replaced by new provision that is equivalent or better in terms of quantity and quality in a suitable location, or*
- iii) *The proposed development is for alternative sports and/or recreational provision, of which the benefits to the development of sport, physical activity, and health and well being would clearly outweigh the loss of the open space.*

Part 2 of the policy requires;

In all cases, including where the proposal would development on a smaller open space, it should not have a detrimental effect on the open space, the historic environment, environmental, landscape character and local distinctiveness or biodiversity value of the green infrastructure network as a whole.

3.5.5 The supporting text to Policy DM19, at paragraph 4.105 of the Local Plan, indicates the Council will take account of the most recent assessment of the Borough's open space provision and needs set out in the latest Open Space Audit (OSA). The latest OSA was undertaken in July 2021 and formed part of the evidence base in support of the adoption of the current Local Plan. The site is characterised as 'Natural and Semi-Natural Greenspace' within the OSA; with those types of open space commonly offering opportunity for walking, dog walking, sitting, quiet contemplation and nature watching.

- 3.5.6 The Borough's average provision rate for this open space typology is 3.03 Ha per 1000 population, which exceeds the Fields in Trust standard of 1.8 hectares per 1000 population. Table 11 of the OSA specifically identifies Darwen as having an estimated requirement of 100.97 Ha of this typology of open space based upon the population of circa 33,000. The actual level of provision is in excess of 236 Ha.
- 3.5.7 The OSA also considers the accessibility of the differing types of open space, with an 800m buffer (equivalent to a 10 minute walk) used to reflect local accessibility standards for this typology. Given the substantially larger portion of the Robin Bank open space on the north side of the adjacent River Darwen will be unaffected it is evident that appropriate accessibility will remain for local residents.
- 3.5.8 In summary, the OSA provides evidence that a surplus of natural and semi natural greenspaces exists in Darwen. Further, the loss of the modest area of 0.17 Ha of open space will not compromise the local community's access to this type of open space given the retained section of the open space to the immediate north of the site. On that basis the proposal can be considered to meet the requirement of Part 1(i) of Policy DM19. Further, the proposal is not considered to have a detrimental impact on landscape character and the other considerations within Part 2 of DM19.
- 3.5.9 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:
- 3.5.10 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.
- 3.5.11 No significant amenity issues would arise from the proposal. The proposed use amounts to a modest extension to the existing car park function that adjoins the site. Further, the site is sufficiently separated from any sensitive uses, such as residential. Compliance with Policy DM02 is achieved.
- 3.5.12 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.

3.5.13 Biodiversity: Policy CP6 of the Local Plan requires a 10% net gain in biodiversity. However, on account of the application being submitted prior to the national requirements becoming statute for smaller sites from April 2nd 2024, the Council has applied transitional flexibility to relax the 10% uplift requirement and ensure consistency between local and national policy requirements.

3.5.14 The site is principally made up of a grassed area, with a number of immature trees, the majority of which are grouped to the south-east edge. The application is supported by a tree report that found through visual assessment no significant defects in most of the trees, though a number showed signs of damage to their cambium and bark. A young Willow tree was noted as growing in close proximity to an existing perimeter fence and starting to cause damage. In conclusion it was found that the trees identified for removal are not of significance or of high quality to represent a loss of amenity or biodiversity at the site. In addition, replacement planting is identified to the perimeter of the site (see Fig 1). No concerns with this approach have been raised by the Council's Arboricultural advisor and broad compliance with Policy DM17 is achieved.

3.5.15 No objections are offered by the Council's ecological advisor, GMEU. In relation to protected species it is advised that whilst species such as otter may be present in the River Darwen and species such as badger and bat may forage over the site. the development is located on a small area of amenity grassland and restricted to laying of tarmac. GMEU are satisfied that it is very unlikely that there will be any protected species issues and that the proposed bollard lighting is very unlikely have a significant effect on the functionality of the River Darwen as a dark corridor for wildlife. No further information or measures are required.

3.5.16 GMEU also advise that as the existing footpath is to be relocated, in part along the bank of the river, there will be a moderate to low risk during construction of negative effects on the river resulting from sediment, debris falling into the river and pollution spills. These risks can be dealt with through best practice methods of working, controlled by planning condition.

3.5.17 Subject to the suggested condition to protect the watercourse and the replacement planting provision, the proposed development is found to be in

accordance with the requirements of Policies CP6, DM13, DM15, DM17 and The Framework..

3.5.18 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.

3.5.19 The Lead Local Flood Authority have considered the proposal and offered no objection to the scheme subject to a condition requiring a surface water drainage scheme being applied. Within their submission they have also identified the presence of a culvert beneath the site. Comments from United Utilities, who maintain this infrastructure, will be provided within the committee update report provided to Members.

3.5.20 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.

3.5.21 The proposals provide for the relocation of the existing footpath that links Charles Street to the footbridge over the River Darwen and to the Robin Bank open space beyond. The new footpath would be surfaced with tarmac, 2.2m wide, with any slopes having a gradient of no greater than 1:20. The footpath will be relocated to the eastern and northeastern edge of the site.

3.5.22 The Council's public rights of way officer (PROW) has indicated that there are no PROW issues arising from the application. The Highways team have also advised that the 2.2m provision will represent an upgrade to the existing footpath route. No concerns are therefore highlighted by this element and compliance with Policy DM29 is achieved.

3.5.23 The proposals also provide for amended access arrangements and the provision of additional parking to service the existing commercial units that adjoin the site to the west and north. The new access arrangements include the substitution of the existing hinged gates fronting Charles Street with a sliding gate – and the provision of a further internal gate as a demarcation of the parking area for the differing commercial units. The new perimeter gates pose no risks to highway safety as they replicate the existing position, height and general form of those they are replacing. They also improve access to the closest parking bays within the site due to the introduction of a sliding gate. Again, compliance with Policy DM29 is achieved.

3.5.24 The final area to consider is the provision of the additional parking area and its compliance with the Council's adopted parking standards. 25 spaces are shown on site, though the net increase in parking provision is likely to be moderately lower given the introduction of the internal access gates. Clear

justification for this uplift in parking provision is provided by the current under provision of the existing commercial units, which is partly affected by the storage of plant machinery within the existing service yard. On balance, compliance with Policy DM29 is achieved.

3.5.25 Design / 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. Policy DM27 also requires development to achieve a high quality and sustainable design, consistent with 10 identified characteristics.

3.5.26 The new development is limited to the construction of the car parking area with compacted hardcore, new 2m high boundary weldmesh fencing, new access gates and low-level lighting bollards (1m in height).



Fig 2: Example of weld mesh fencing



Fig 3: Example of lighting bollards

3.5.27 No significant impact on the character of the area would arise from the surface treatment to the car park use, given the prevailing mixed-use context of the area and the retention /introduction of landscaping to the site periphery.

3.5.28 The proposed weld mesh fencing is an established type within the urban area of the Borough and immediate setting of Charles Street and Edward Street. It is advantageous to other types of fencing, such as palisade fencing, as it enables 'through views' and is thus less obtrusive. No concerns are highlighted with its use. Similarly, the low level bollard lighting will not be visually obtrusive whilst providing clear benefits through the illumination of the new footpath.

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

3.5.30 Summary

This report assesses the proposed full planning application for change of use of an area of open space to car park, with associated boundary fencing, lighting and landscaping, as well as revised access arrangements for the existing commercial uses adjoining the site. 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. The development hereby permitted shall be begun before the expiration of three years from the date of this planning permission.
REASON: Required to be imposed pursuant to Section 51 of the Planning and Compulsory Purchase Act 2004.
2. Unless explicitly required by condition within this consent, the development hereby permitted shall be carried out in complete accordance with the proposals as detailed on drawings:

Proposed Plan: 002_Rev E, received 9th April 2024

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

3. No above ground works shall take place until a scheme for the disposal of surface water from the site has been 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 sewer, including provisions to ensure that the post-development discharge rate does not exceed the pre-development rate (incorporating a climate change allowance of 40%);
 - (ii) details of any necessary flow attenuation measures, including the use of SUDS where appropriate, unless unachievable for technical reasons;

- (iii) details of how the scheme will be maintained and managed after completion; and
- (iv) a timetable for implementation, including details of any phased delivery.

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 foul and surface water in accordance with the requirements of Policy DM13 of the Blackburn with Darwen Borough Local Plan 2021-2037 and the National Planning Policy Framework.

4. No development, site clearance, earth moving shall take place or material or machinery brought on site until a method statement to protect the River Darwen from accidental spillages, dust and debris has been supplied to and agreed by the LPA. All measure will be implemented and maintained for the duration of the construction period in accordance with the approved details.

REASON: To safeguard biodiversity interests, in accordance with the requirements of Policies CP6 and DM15 of the Blackburn with Darwen Borough Local Plan 2021-2037

5. Landscaping shall be undertaken in accordance with the details set out within the submitted 'Proposed Plant' drawing (reference: 002 Rev E, received 9th April 2024). The landscaping shall be undertaken during the first available planting season following completion of the works, and thereafter retained. 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. The landscaping shall be maintained and retained thereafter to the satisfaction of the local planning authority.

REASON: To ensure that there is a well laid scheme of healthy trees and shrubs in the interests of amenity in accordance with Policy DM17 of the Blackburn with Darwen Borough Local Plan 2021-2037

6. The new fencing and access gates hereby approved shall be in accordance with the siting and appearance detailed on the 'Proposed Plan' (drawing no. 002 Rev E, received 9th April 2024).

REASON: In the interests of visual amenity and highway safety, in accordance with the requirements of Policies DM27 and DM29 of the Blackburn with Darwen Borough Local Plan.

7. The new lighting bollards hereby approved shall be in accordance with the illuminance levels, siting and appearance detailed on the 'Proposed Plan' (drawing no. 002 Rev E, received 9th April 2024).

REASON: In the interests of visual amenity and biodiversity, in accordance with the requirements of Policies DM15 and DM27 of the Blackburn with Darwen Borough Local Plan

5.0 PLANNING HISTORY

5.1 There is no relevant planning history affecting the site.

6.0 CONSULTATIONS

6.1 Public Consultation:

12 neighbouring premises were individually consulted by letter and a site notice displayed. This process was repeated following the receipt of amended details. No comments have been received.

6.2 Ecology – GMEU:

Summary

Ecological issues include proximity to the River Darwen and Biodiversity net gain.

Protected Species

Whilst species such as otter may be present in the River Darwen and species such as badger and bat may forage over the site. the development is located on a small area of amenity grassland and restricted to laying of tarmac. I am satisfied that it is very unlikely that there will be any protected species issues. I am also satisfied that the proposed bollard lighting is very unlikely have a significant effect on the functionality of the River Darwen as a dark corridor for wildlife. No further information or measures are required.

Nesting Birds

Whilst trees are present on the site and one tree proposed for relocation, I am satisfied that the risk to nesting birds is very low. As a precaution, I recommend and informative along the following lines.

The applicant is reminded that, under the Wildlife and Countryside Act 1981 as amended it is an offence to remove, damage, or destroy the nest of a wild bird, while the nest is in use or being built. Planning consent does not provide a defence against prosecution under this act. If a birds nest is suspected work should cease immediately and a suitably experienced ecologist employed to assess how best to safeguard the nest(s).

Proximity to the River Darwen

The existing footpath is to be relocated, in part along the bank of the River. There will be a moderate to low risk during construction of negative effects on the River resulting from sediment, debris falling in to the river and pollution spills. I am satisfied that these risks can be dealt with through best practice methods of working. The details can be provided via a condition along the following lines.

No development, site clearance, earth moving shall take place or material or machinery brought on site until a method statement to protect the River Darwen from accidental spillages, dust and debris has been supplied to and agreed by the LPA. All measure will be implemented and maintained for the duration of the construction period in accordance with the approved details.

Contributing to and Enhancing the Natural Environment & Biodiversity Net Gain (BNG)

Section 180 of the NPPF 2023 states that the planning policies and decisions should contribute to and enhance the natural and local environment. The development will result in the loss of a small area of low ecological value grassland to car parking, with mitigation provided in the form of enhancement of the retained grassland and additional tree planting. There appear to be no wildlife issues associated with this development.

With regards biodiversity net gain, I assume that the application would be regarded as a non-major application and therefore not subject to mandatory 10% BNG.

I would note that if BNG was mandatory for this development the metric would be required to assess the River Darwen as there is development proposed within 10m of the River. As not mandatory, I am satisfied given the river is already modified that in this instance as long as the river is protected during construction, that no further information is required.

6.3 Highways:

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.

The proposed alterations to the footpath represent an improvement on the current provision given the increase in width and proposed surfacing.

6.4 Lead Local Flood Authority:

Consultation with United Utilities is required given the presence of a surface water drain / culvert beneath the site.

No objection subject to the following condition;

No above ground works shall take place until a scheme for the disposal of surface water from the site has been 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 sewer, including provisions to ensure that the post-development discharge rate does not exceed the pre-development rate (incorporating a climate change allowance of 40%);
- ii details of any necessary flow attenuation measures, including the use of SUDS where appropriate, unless unachievable for technical reasons;
- iii details of how the scheme will be maintained and managed after completion; and
- iv a timetable for implementation, including details of any phased delivery.

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.

6.5 United Utilities:

See Update Report

6.6 Canal and River Trust:

No comment.

6.7 PROW Officer:

There are no PROW issues for this application.

7.0 CONTACT OFFICER: Martin Kenny, Planning Officer

8.0 DATE PREPARED: 10th May 2024