

Proposed development: Full Planning Application (Regulation 4) for Change of use of land to residential garden (C3) with erection of fencing

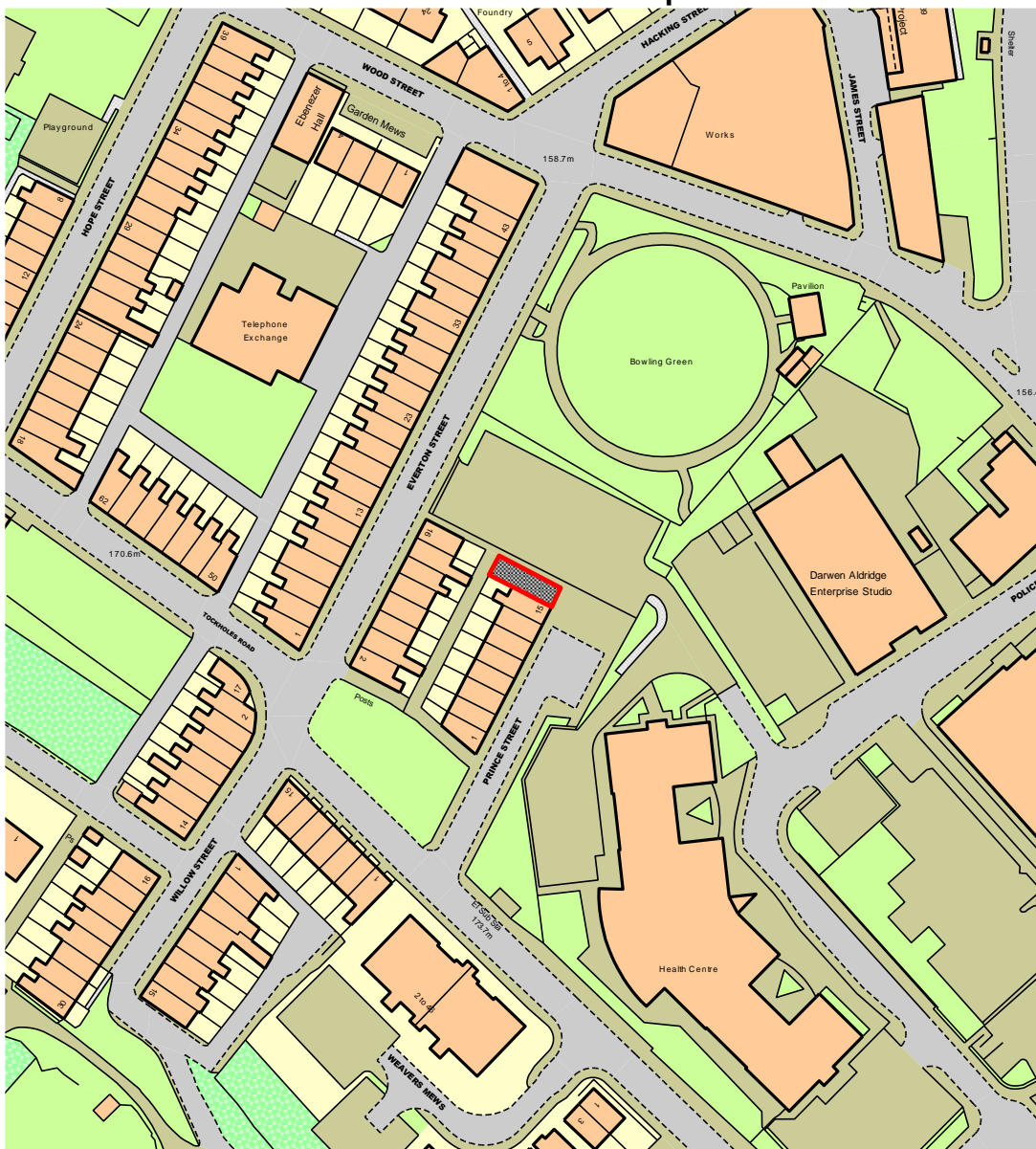
Site Address:

**Land adjacent to No.15 Prince Street
Darwen
BB3 1AP**

Applicant: Mr Samuel Creegan

Ward: Darwen West

**Councillors: David Smith, Brian Taylor
Stephanie Brookfield**



1.0 SUMMARY OF RECOMMENDATION

- 1.1 **APPROVE** – The proposed development is recommended to be granted planning permission, subject to the conditions detailed in Section 5 of this report.

2.0 KEY ISSUES/SUMMARY OF PLANNING BALANCE

- 2.1 This application is presented to the Planning and Highways Committee, in accordance with the Council's Constitution, as the application site is owned by Blackburn with Darwen Brough Council.
- 2.2 The proposal is in the form a full planning application for a change of use of a small strip of land to form a garden extension associated with No.15 Prince Street with boundary fencing. The applicant has entered into discussions with the Council's Property Team who have agreed to a garden tenancy for this aforementioned use of the land. Members should be advised that this land agreement does not prejudice any decision on this subsequent planning application, and an application is assessed on its own planning merits. The correct Certificate B has been signed on the application form and notice served on the Council. The application is valid and procedurally correct in accordance with the statutory requirements of the Town and Country Planning (Development Management Procedure) (England) Order 2015.
- 2.4 In summary, assessment of the application finds that the proposal is acceptable, with all material planning considerations and issues having been addressed throughout section 4 of this report.

3.0 RATIONALE

3.1 Site and Surroundings

- 3.1.1 The application site relates to a currently open parcel of grassland situated on the western side of Prince Street within the Darwen urban boundary. It adjoins the side (northern) elevation of No.15 Prince Street which is an end-terraced dwelling.
- 3.1.2 According to historical maps and imagery, the site previously hosted a dwelling (i.e. No.17 Prince Street) but this was demolished before the 2000s. A footpath runs parallel with the northern boundary of the site which acts as a thoroughfare to and from Prince Street / Everton Street.
- 3.1.3 The surrounding area is characterised by a residential terraced housing stock. To the immediate north is an overflow car park used in connection with Darwen Health Centre which lies directly to the south-east. Just beyond the parking area is Everton Street Bowling Club and Darwen Aldridge Enterprise Studio.



Figure 1: Google aerial view of the application site

3.2 Proposed Development

3.2.1 Planning permission is sought for a change of use of the small area of undeveloped land to residential garden (Use Class C3) as an extension to the existing yard area associated with No.15 Prince Street. The plot of land, as defined by the submitted location / site plan shown below at figure 1 measures approximately 4.4m in width and 14.7m from front to back giving an overall area of 64.7sqm.



Figure 2: Location / Site Plan

3.2.2 The proposal also involves the installation of a 1.8m high close boarded fence around the perimeter of the site as a means of enclosure to the proposed private garden area. Figure 3 demonstrates the illustrative details of the fence to be installed. It has been confirmed the existing boundary treatment will be retained with a small gap made to access the extended garden space. No

hard-surfacing is sought with the grass being fully retained, and no other building operations are proposed.



Figure 3: Proposed 1.8m high close boarded fence detail

3.3 Case Officer Photos



3.4 Development Plan

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

3.4.2 The 'Development Plan' comprises the Blackburn with Darwen Borough Council Local Plan 2021 – 2037. The following policies are considered most relevant in assessment of the proposed development:

3.4.3 Blackburn with Darwen Borough Local Plan 2021 – 2037

- Policy CP1: A Balanced Growth Strategy
- Policy CP2: The Spatial Approach
- Policy CP6: The Natural Environment
- Policy CP8: Securing High Quality and Inclusive Design
- Policy DM02: Protecting Living and Working Environments
- Policy DM10: Residential Gardens and Boundaries

- Policy DM15: Protection and Enhancement of Wildlife Habitats
- Policy DM27: Design in New Developments
- Policy DM29: Transport and Accessibility

3.5 Other Material Planning Considerations

3.5.1 National Planning Policy Framework (The Framework) (December 2023)

4.0 ASSESSMENT

4.0.1 In assessing this full application there are a wide range of important material considerations that need to be taken into account, which include the following:

- Principle of the Development
- Amenity Impacts
- Design / Appearance
- Highways
- Environment and Biodiversity Net Gains

4.1 Principle of the Development

4.1.1 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 parcel of land is unallocated and is situated within the Darwen urban area, as defined by the Adopted Local Plan Policies Map. Its underutilised and currently lacks any frequent maintenance. Furthermore, the proposal relates to a residential use of the land that would be consistent with the principal use in the locality.

4.1.2 In land use terms, therefore, the principle of a change of use of an undesignated grass verge to a residential garden is supported. The principle of the development is therefore acceptable, in accordance with the presumption in favour of sustainable development detailed in the Framework, as well as compliance with Policies CP1 and CP2 of the Development Plan.

4.2 Amenity

4.2.1 **Policy DM10: Residential Gardens and Boundaries** sets out the Council's approach for proposals for additional private garden space. It seeks to protect the character of an area from the unacceptable introduction of domestic features and maintain land to an otherwise unaltered landscape or area of amenity land. The below requirements outline how the Council will manage this issue.

1. *Outside of the urban boundary, an extension to a residential garden or boundary will only be permitted where it will not, in isolation or in*

combination with other committed or completed development, lead to any detriment to visual amenity or to the character of the surrounding landscape. In appropriate cases, the Council will remove permitted development rights in order to protect the character and amenity of the landscape.

2. *Proposals to extend a residential garden within the urban boundary will be assessed against all other relevant policies of the plan. All proposals will consider issues around privacy, overlooking and amenity, and should be of an appropriate scale or size for the area*

4.2.2 As a parcel of land within the urban area enclosed by residential development, no detrimental visual impact arises on the amenity or character of the surrounding landscape. The grass verge is relatively modest in size and would share an appropriate relationship with the associated dwellinghouse, i.e. No.15 Prince Street.

4.2.3 The removal of permitted development rights is considered prudent for Part 1 Classes A, E and F of the GPDO which will prevent the erection of extensions, outbuildings or any introduction of hard-surfacing on the land without first obtaining planning permission. This will safeguard the visual amenity of the area by virtue of retaining its open landscape and an appropriately worded condition will be imposed to cover this matter.

4.2.4 It is important to consider the potential impact the proposed development would have on the residential amenity of the occupiers of nearby dwellings. Policy DM02 requires a satisfactory level of amenity and safety is secured for surrounding uses and for occupants or users of the development itself; with reference to, light, privacy / overlooking, noise and the relationship between buildings.

4.2.5 With reference to privacy and noise impacts, the extended garden space will not pose any greater harm than that currently offered by the current yard space at No.15. It is acknowledged that there would be opportunities of views from the rear upper floor windows of adjacent dwellings on Everton Street towards the proposal site. However, it should be noted this is a typical arrangement in the urban context and would therefore not warrant a refusal on these grounds. The erection of the proposed 1.8m timber fence would provide a degree of privacy from the public realm for future users of the extended garden.

4.2.6 For the above reasons, the proposal will not result in any adverse impacts to the living conditions of neighbouring occupiers nor users of the development and maintains a satisfactory level of amenity, in accordance with the requirements of Policies DM02 and DM10 of the Local Plan.

4.3 Design / Appearance

- 4.3.1 Policy CP8 requires new development to be of a high standard of design, and to respect and reinforce local character. DM27 reflects a similar position relating to design demonstrating an understanding of a number of characteristics, including but not limited to context, identity, built form and nature.
- 4.3.2 The single design consideration relates to the installation of the proposed 1.8m high timber fence. It is accepted this is not a common form of boundary treatment in the immediate vicinity. Nevertheless, there is variation within the street scene in terms of the existing terraced properties being enclosed by walls and neighbouring car park featuring black mesh fencing. As such, the proposed timber fence detail would not result in detrimental visual impacts to the property itself and surrounding area. A condition is to be attached to ensure the submitted illustrative fence detail is erected before first use of the extended garden area.
- 4.3.3 Accordingly, the proposal is considered acceptable in design and appearance terms, thus complying with Policies CP8 and DM27.

4.4 Highways

- 4.4.1 Policy DM29 relates to highway considerations and includes at section 1(i) a requirement for successful development to provide for the safe, efficient and convenient movement of all highway users.
- 4.4.2 No highways impact arise from the proposal. Pedestrian access to the adjacent footpath will be maintained.
- 4.4.3 Compliance with Policy DM29 is achieved.

4.5 Environment and Biodiversity Net Gains

- 4.5.1 Policy DM15 states that development should be designed to protect and enhance existing habitats and ecological networks.
- 4.5.2 The proposed development will not result in any ecological harm given its relatively small size, urban context and absence of any ecological features.
- 4.5.3 Under Policy CP6, and the Environment Act 2021, all new developments must now provide a minimum of 10% BNG. The proposal is considered to be exempt from the mandated BNG requirements. The proposal involves the erection of a fence around the perimeter with the grassland being retained. A response from an ecologist has been submitted on behalf of the applicant to accompany the proposals. It sets out 'any impacts on the grassland during the

construction of the fence will be temporary i.e. they will be repaired / the habitat will regenerate within 2 years, which under the metric allows us to consider them retained'. The LPA concurs with this justification, and therefore this application is deemed to meet the de-minimis exemption.

4.5.4 Accordingly, the environmental impact of the development is found to be acceptable, and in accordance with the requirements of Policies CP6, DM15, and The Framework.

4.6 Summary

4.6.1 This report assesses the full planning application for the change of use of land to residential garden with erection of a boundary fence. In considering the proposal, a wide range of material considerations have been taken into account.

4.6.2 In taking account of these material considerations, the assessment demonstrates that planning permission should be granted when balancing the merits of the proposal against any potential harm that may arise from its implementation. This report concludes the proposal meets the policy requirements of the Blackburn with Darwen Local Plan and National Planning Policy Framework, subject to the imposition of specific planning conditions.

5.0 **RECOMMENDATION**

5.1 **Delegated authority is given to the Strategic Director of Growth and Development and Deputy 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 permission, the development hereby permitted shall be carried out in complete accordance with the proposals as detailed on drawings:

Drawing No.1 – Location / Site Plan - Received 19th July 2024

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

3. The development hereby approved shall not be brought into use until, the 1.8m high close boarded fence received on 31st July 2024 has been erected. The fence shall thereafter remain in perpetuity in good repair and any replacement fencing shall be of the same height and design.

REASON: To ensure a satisfactory form of development is achieved, in the interests of visual amenity, and to comply with the requirements of Policies CP8 and DM27 of the Blackburn with Darwen Borough Local Plan 2021-2037.

4. Notwithstanding the provisions of Article 3 and Schedule 2 of the Town and Country Planning (General Permitted Development) (England) Order 2015 (as amended), no development of the type specified in Classes A, E and F of Part 1 of that Schedule or Class A of Part 2 of that Schedule shall be carried out unless planning permission has been granted first.

REASON: To ensure enhanced control over future development of the property; in the interests of preserving amenity; in accordance with Policies DM02, DM10 and DM27 of the Blackburn with Darwen Borough Local Plan 2021-2037.

6.0 PLANNING HISTORY

- 6.1 No previous planning applications have been submitted at the site and 15 Prince Street.

7.0 CONSULTATIONS

7.1 Public Consultation

Neighbourhood consultation letters were sent out on 31st July 2024, to 3 properties surrounding the application site. No public representations have been received during the public consultation process.

7.2 Statutory Consultation

7.3 BwD Public Protection

With reference to the above application, I have no objections on environmental health grounds.

7.4 BwD Property

Property Management have no objections to this proposal.

8.0 CONTACT OFFICER: Jamie Edwards, Planning Officer

9.0 DATE PREPARED: 26th September 2024