

Proposed development: Full Planning Application for Demolition of Former Health Centre and construction of 5 storey Apartment Block consisting of 76 no, 1 and 2 bedroom apartments with associated car parking

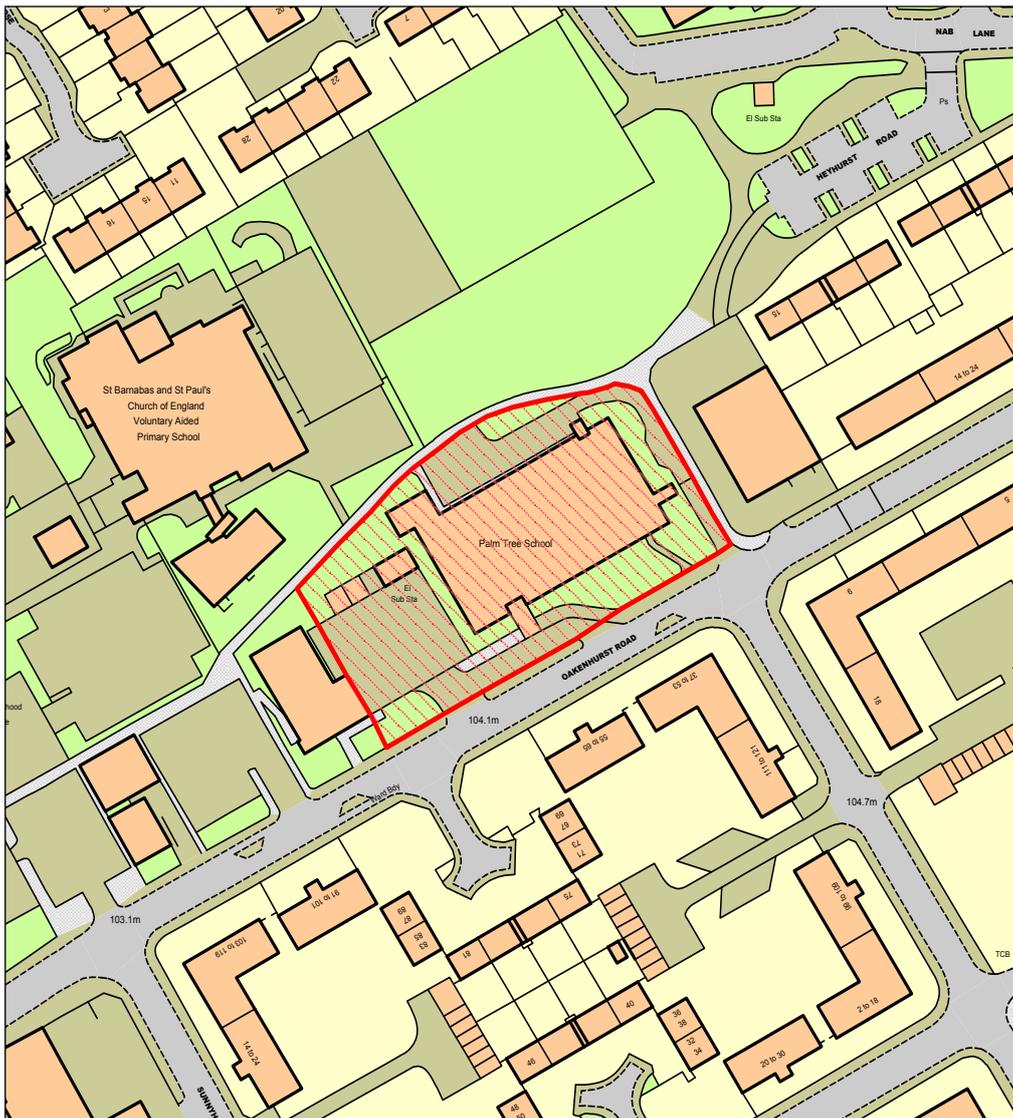
Site address:

**Palm Tree Islamic School (Former Montague Health Centre)
Oakenhurst Road
Blackburn
BB2 1SN**

Applicant: Homewood Properties Ltd

Ward: Wensley Fold

**Councillor David Harling
Councillor Mohammed Khan
Councillor Qesir Mahmood**



1.0 SUMMARY OF RECOMMENDATION

- 1.1 **APPROVE** – Subject to recommended conditions (see paragraph 4.0).

2.0 KEY ISSUES/SUMMARY OF PLANNING BALANCE

- 2.1 The Council's Development Plan supports new development within the Inner Urban boundary which constitutes sustainable development and accords with the Development Plan.
- 2.1 The proposal will deliver a high quality apartment scheme which will raise the standard of accommodation within the locality. It supports the Borough's planning strategy for housing growth as set out in the Core Strategy. The proposal is also satisfactory from a technical point of view, with all issues having been addressed through the application, or capable of being controlled or mitigated through planning conditions and the signing of the S106 agreement to ensure suitable persons occupy the apartments.

3.0 RATIONALE

3.1 Site and Surroundings

- 3.1.1 The site is approximately 0.38Ha in area and accommodated the former Montague Health Centre located on the north side of Oakenhurst Road, Blackburn. The building's last use was as an Islamic School.
- 3.1.2 The former Montague Health Centre building now demolished was purpose built around 1970 and while undergoing various internal alterations remained largely as originally constructed externally. The building was 2 storey with a flat roof, facing brick walls and regular fenestration. The building while not actually ugly, was somewhat non-descript and uninviting. Its construction was solid, comprising a masonry steel reinforced structure with concrete roof and floors. The internal layout was an array of small consulting type rooms around larger waiting spaces.
- 3.1.3 Externally there are tarmac areas to the side and rear for parking and grassed areas to the front and rear.
- 3.1.4 To the north and north/west of the site is St Barnabas and St Paul's Primary School, the school buildings are away to the west and the site bounds the play areas. To the south are substantial 3 storey residential apartment blocks with steeply sloping pitched roofs which provide significant scale.
- 3.1.5 To the east is a former public house, now used as a retail unit with residential accommodation at first floor, and to the west is a council / community facility building of two storeys operating as Blackburn Food Bank.
- 3.1.6 The site has direct access onto Oakenhurst Road for vehicles and pedestrians.

3.1.7 The site is within 500m of Blackburn town centre, 200m of Blackburn College campus and the leisure centre and also within easy walking distance of all the shops and amenities that are within the Town Centre.

3.2 Proposed Development

3.2.1 This planning application is for the construction of a 5 storey apartment block comprising 76no, 1 and 2 bedroom apartments within a secured site. The building is to be operated by the applicant and a 24 hour concierge is to be available.

3.2.2 The roof of the building is to accommodate a roof top garden area.

3.2.3 Cycle parking and refuse storage would occupy part of the ground floor area.

3.2.4 Car parking would occur around the frontage, western side and to the rear of the building. 56 car parking spaces are proposed.

3.2.5 The site will have an electronic gated access.

3.3 Development Plan

3.3.1 Core Strategy:

- Policy CS1 – A Targeted Growth Strategy
- Policy CS5 - Locations for New Housing
- Policy CS6 – Housing Targets
- Policy CS7 – Types of Housing
- Policy CS16 – Form and Design of New Development
- Policy CS15 - Protection and Enhancement of Ecological Assets
- Policy CS20 - Cleaner, Safer, Greener
- Policy CS21 - Mitigation of Impacts / Planning Gain
- Policy CS22 - Accessibility Strategy

3.3.2 Local Plan Part 2:

- Policy 2 - The Inner Urban Area
- Policy 7 - Sustainable and Viable Development
- Policy 8 – Development and People
- Policy 9 – Development and the Environment
- Policy 11 – Design
- Policy 12 – Developer Contributions
- Policy 18 – Housing Mix
- Policy 19 – Apartment Development and Housing Developments
- Policy 36 - Climate Change
- Policy 40 – Integrating Green Infrastructure & Ecological Networks with New Development

3.3.3 Supplementary Planning Documents/ Guidance

- Houses in Multiple Occupation and Apartment Development SPD

- Residential Design Guide
- Air Quality Planning Advice Notice

3.4 Other Material Considerations

3.4.1 The most relevant national policy and guidance is contained within:

- National Planning Policy Framework, updated February 2019
- Planning Practice Guidance, updated March 2019

3.4.2 The Legislation relevant to the proposals is as follows:

- The Town and Country Planning Act 1990 (as amended)
- The Planning and Compulsory Purchase Act 2004
- The Crime and Disorder Act 1998
- Conservation of Habitats and Species Regulations 2017

3.5 Assessment

3.5.1 In assessing this application there are a number of important material considerations that need to be taken into account as follows:

- Principle of development;
- Highways and Access;
- Design and Layout;
- Amenity impact;
- Drainage;
- Affordable housing and planning contributions; and,
- Biodiversity

Principle of Development

3.5.2 The adopted Policies Map defines the site as being within the Inner Urban Area. The site is within 150 metres of the Town Centre boundary for Blackburn and is thus considered to be within walking distance of the Town Centre and its services and amenities. The site is therefore considered to be suitably located for new residential accommodation.

3.5.3 Local Plan Part 2 Policy 18 concerns itself with Housing Mix. Policy 18 4. States;

Apartment development for the general market will only be acceptable where it is the most appropriate form of housing given the local context or the characteristics of the site.

3.5.4 The site is located opposite a 3 storey apartment development and thus the proposed apartment block would fit within the local context. Councillors concerns relating to the height of the building will be discussed in the Design section of this report.

3.5.5 Local Plan Part 2, Policy 19 concerns itself with apartment development and Houses in Multiple Occupation. It states the following:

The Council will only exceptionally support the development of bedsits, bed and breakfast and hostel accommodation, either through new build or through the conversion of existing buildings. Apartment developments will only be supported where they comply with Policy 18. The forms of development referred to above will only be acceptable where all the following criteria are met:

i) the proposal does not, in isolation or in conjunction with other planned, committed or completed development, erode the amenity of neighbouring properties, the physical, social, environmental or economic character of the surrounding area, or the supply of family housing;

ii) in the case of conversions, the property is suitable for conversion without the need for any substantial extensions which would have an unacceptable effect on residential amenity and the character of the area;

iii) the site can accommodate the necessary parking and manoeuvring areas in a way which preserves residential amenity and the qualities of the street scene; and

iv) adequate refuse / recyclable waste collection facilities are provided.

3.5.6 The Council's Houses in Multiple Occupation and Apartment Development SPD advises Blackburn with Darwen has areas of poor quality housing, particularly in the private-rented sector, which accounts for 13% of the total housing stock in the Borough and 20% in inner urban areas. It also advises, a total of 54% of private-rented properties in the Borough do not meet the Decent Homes standard, a figure which increases to 72% in respect of converted flats.

3.5.7 The Borough also experiences substantial pressure to create houses in multiple occupation or HMOs and such uses and developments are having a seriously detrimental impact on the growth, regeneration, image, attitudes to investment (both inward and local) and sustainability of communities and neighbourhoods where they are concentrated. As a result of these concerns, an Article 4 Direction removing the permitted development right of converting a dwellinghouse within the Town Centre and the wards surrounding it was imposed in 2013. The site is located in one of these wards.

- 3.5.8 Due to the sites location concern has been raised by the Council's Strategic Housing team that the proposed number of apartments, whilst having been reduced from the previous 111 apartments is still on the high side based on the Council's local demand evidence. The developer has provided some further evidence through a draft legal contract from a company wishing to lease the apartments and want this to be conditioned as part of any planning approval to ensure that this is forthcoming.
- 3.5.9 The team recognise that this proposal seeks to provide a new type of letting property to the market but want a condition asking the developer to provide a clear marketing plan, lettings policy and name of agents and full maintenance proposals for the proposed scheme.
- 3.5.10 The team seek to secure a formal/signed contract for lease of a percentage of the apartments as per the draft submitted and for full marketing plan, lettings policy, management and maintenance plan details. After much deliberation Officers considered the only way to secure these details will be through a S106 agreement. By entering into a S106 Agreement the local planning authority will have more certainty and control relating to the type of tenure within the apartments, and this will also be more enforceable than imposing a standard planning condition. Any approval of this application will therefore be subject to the applicant signing a S106 agreement.
- 3.5.11 For the reasons given above and subject to a S106 agreement, the proposals are considered to accord with Local Plan Part 2 Policy 18 and the Supplementary Planning Document relating to apartment development.

Highways and Access

- 3.5.12 Core Strategy Policy 22: Accessibility Strategy and Local Plan Policy 10: Accessibility and Transport, aim to ensure that new developments provide appropriate provision for access, car parking and servicing so as to ensure the safe, efficient and convenient movement of all highway users is not prejudiced. Local Plan Part 2 Policy 10 concerns itself with the same matters.
- 3.5.13 Policy 11 of the Local Plan requires development to present a good standard of design, demonstrating an understanding of the wider context and make a positive contribution to the local area. The policy sets out a list of detailed design requirements relating to character, townscape, public realm, movement, sustainability, diversity, materials, colour and viability. This underpins the main principles of sustainable development contained in the NPPF.
- 3.5.14 A Transport Statement (TS) was submitted in support of the application which evaluated the existing transport and highways context of the site, access, parking and servicing conditions, trip generation and junction capacity. This allows an assessment as to whether the highways network has the capacity to accommodate the potential increases in traffic as a result of significant new residential development; and whether there would be any detriment to highway safety. The TS concluded that;

- The site has a sustainable location close to the services and amenities available within Blackburn Town Centre.

- The scheme accords with local and national policy as the application site is close to good transport linkages and other services and amenities to minimise trips.

3.6.5 Highways Colleagues appraised the submission and whilst no objection was offered in principle concerns were raised in relation to the undersupply of on-site parking provision, manoeuvrability within the site; construction vehicles traffic, and general access and egress to the site. The applicant has sought to address these concerns through, dialogue with council officers, submission of vehicle tracking details, moving the site entrance further in to the site to enable cars entering the site to be clear of the highway, alongside off-site highway works relating to the review of Oakenhurst Road and the wider network and also parking availability along Oakenhurst Road.

3.5.15 Following the initial submission and subsequent discussions on highways issues raised by Council Officers, the applicant has put forward additional details to overcome the issues and also shown commitment to undertake some off-site highway works to provide some on-street parking provision. Whilst the Council's Highway Team having reviewed the supplementary information welcomes the changes, they are of the opinion that the off-site highway works submitted do not extend far enough, they will work with the applicant to devise suitable off-site parking provision whilst ensuring Oakenhurst Road remains safe for all highway users. They also set out a series of conditions required in order to support the proposal;

(1) A construction management plan will be required through application of a condition, setting out how the construction process will be managed to ensure that consideration is given to highway safety and residential amenity during the construction phase. The plan will include the following:

- The parking of vehicles of site operatives and visitors;
- Loading and unloading of plant and materials;
- Storage of plant and materials;
- Erection and maintenance of security hoardings,
- Wheel washing type and location;
- Control of dust and dirt;
- Recycling and disposing of waste;
- Turning of vehicles within the site
- Overall management of site operations
- Phasing of the development

(2) A scheme for the site access.

(3) Details of any boundary fencing and Sightlines at vehicular access point as shown on Drawing 17059-221 to be safeguarded in perpetuity.

(4) Implementation of parking layout

(5) Closure of existing access(es)

(6) Wheel cleaning

(7) Prior to commencement a condition survey of the highway would need to be undertaken to ensure a record is taken of the condition of the highway. All damage sustained as a consequence of the development (construction work) to the highway would need to be remediated by the developer, at their costs.

(8) Grampian condition, for off-site highway works to be carried out as part of a 278 scheme.

(9) Travel Plan submission, agreement and implementation.

3.6.9 Overall, the scope of information submitted in support of the transport and highways aspects of the proposal illustrate an acceptable highways layout and off-site highways works that will mitigate the likely impacts on the network. As such, subject to compliance with the aforementioned conditions, it is in accordance with the requirements of Policy 10 of the Local Plan Part 2.

Design, Layout and visual amenity

3.5.16 Policy 11 of the Local Plan requires development to present a good standard of design, demonstrating an understanding of the wider context and make a positive contribution to the local area. The policy sets out a list of detailed design requirements relating to character, townscape, public realm, movement, sustainability, diversity, materials, colour and viability. This underpins the main principles of sustainable development contained in Section 12 of the NPPF.

3.5.17 The design and layout of the scheme is considered to provide a suitable standard of accommodation and amenity space for future occupiers of the development.

3.5.18 The proposals also seek to provide a suitably sized area for refuse storage and cycle storage.

3.5.19 Whilst the proposals provide an insufficient number of parking spaces, the Highways Authority considers that changes can be made to the layout of Oakenhurst Road to alter existing traffic calming measures and to provide additional on-street parking provision and traffic calming measures. The applicant has demonstrated their willingness to work with the Highway Authority to address the undersupply of car parking provision on the site.

3.5.20 In respect of the impact on the street scene, the prevailing character of the area is of two and three storey properties. The proposed apartment block will be five storeys in height. Whilst it is acknowledged that the proposals will be two/ three floors and a roof top garden higher than the prevailing character of the area, the photomontages accompanying the application site

illustrate that the proposals will provide an attractive development which will raise the standard of design in this immediate locality. For these reasons the proposals are considered to accord with the requirements of Local Plan Part 2 Policy 11.

Amenity Impact

- 3.5.21 Policy 8 of the LPP2 relates to the impact of development upon people. Importantly, at section (ii) of the policy there is a requirement for all new development to secure satisfactory levels of amenity for surrounding uses and future occupiers of the development itself. Reference is made to matters including; noise, vibration, odour, light, dust, privacy/overlooking and the relationship between buildings.
- 3.5.22 The Residential Design Guide SPD indicates an appropriate separation of 21 metres between facing windows of habitable rooms of two storey dwellings, unless an alternative approach is justified to the Council's satisfaction. For each additional floor and additional 3 metres should be added. Where windows of habitable rooms face a blank wall or a wall with only non-habitable rooms a separation of no less than 13.5 metres shall be maintained, again unless an alternative approach is justified to the Council's satisfaction. The apartment development would be separated from the 3 storey apartment development opposite by a distance of approximately 30 metres. The five storey development is consistent with these requirements.
- 3.5.23 A first floor flat exists above the property to the East of the site, formally known as the Three Pigeons Public House. The building is separated from the proposed development by a distance of approximately 15 metres. The site is considered to be suitably sited to prevent a direct impact on this window and thus the amenity of the occupiers of the first floor flat will not be significantly harmed.
- 3.5.24 Overall, the effect on neighbouring residents is considered to accord with Local Plan Part 2 Policy 8.

Amenity of future residents

- 3.5.25 Local Plan Policy 8 states:

“Development will be permitted where it can be demonstrated that:

iii) in the case of previously developed, other potentially contaminated or unstable land, a land remediation scheme can be secured which will ensure that the land is remediated to a standard which provides a safe environment for occupants and users and does not displace contamination;”

- 3.5.26 The application site is classed as previously developed land within a High Risk Coal Mining area. The Coal Authority has thus been consulted and

subsequently advised that a thick coal seam (Pasture) outcrops to the north of the application site by approximately 29m which may have been worked in the past. Due to the direction that this coal seam is 'dipping' this could result in shallow workings being present beneath the northern western half of the site.

- 3.5.27 This planning application is accompanied by a Phase 1 Site Investigation Report prepared for the proposed development by Terra Consult (Ref 3696/01 Issue 1, 26th April 2018) which is considered to have been informed by an appropriate range of sources of information.
- 3.5.28 Based on this review of geological, historical and coal mining information, the report author considers that the site is not at risk from ground movement as a result of historic mining activity. Whilst site investigations have been recommended to assess geotechnical and contamination issues, Section 5.1.3 only highlights that *deep rotary holes may also be required depending upon discussions with the Coal Authority*.
- 3.5.29 The Coal Authority regards that site investigations in the form of deep rotary holes are considered necessary due to the conflict of information in relation to the 'Pasture' mine. Their information identifies this coal seam outcrops approximately 29m north of the application site; Section 6.1.2 of the Report identifies that as being 100m northwest of the site.
- 3.5.30 As a consequence, the Coal Authority considers that in order to determine the exact situation regarding shallow coal mining legacy, intrusive site investigations will be required to establish the depth and condition of the 'Pasture' coal seam and if found to have been worked, the amount of competent rock cover. The number, depth and distribution of the rotary boreholes will also need to be in agreement with the Coal Authority's Licensing and Permitting Department as part of the permit application process.
- 3.5.31 Subject to the imposition of the recommended condition a safe environment for occupants will be achieved and thus the proposal will accord with Local Plan Policy 8 iii).
- 3.5.32 The findings of these intrusive site investigations will then inform any mitigation measures, such as grouting stabilisation works, foundation solutions and / or gas protection measures, which may be required in order to remediate mining legacy affecting the site and to ensure the safety and stability of the proposed development.
- 3.5.33 Based on the discrepancy of the Pasture Seam outcrop they consider that the Phase 1 Report has not been able to demonstrate, beyond reasonable doubt that coal mining legacy will not impact on the proposed development. Therefore, they recommend the imposition of planning conditions which cover the issues set out below:

Prior to the commencement of development:

- The undertaking of the scheme of intrusive site investigations, designed by a competent person and adequate to properly assess the ground conditions on the site and establish the risks posed to future development by past coal mining activity;

- The submission of a report of findings arising from the intrusive site investigations and any remedial works and/or mitigation measures considered necessary;

- Implementation of the remedial works and/or mitigation measures.

3.5.34 Looking at the development itself, the proposal includes: 47 one bed 55 M² apartments, 13 two bed 74 M² apartments and 16 two bed 89 M² apartments. These sizes accord with both the local and national space standards and the Council's Housing Standards team have raised no objections to the apartment sizes proposed.

3.5.35 The Council's Public Protection Team has reviewed the application and offers no objection to the development subject to conditions to safeguard the amenity of future occupants of the site and those existing residents in the area and occupants of the St Barnabas Primary School.

3.5.36 An acoustic report has been produced that identifies that mitigation can be installed that ensures that guidelines on noise design standards can be met with a particular specification of glazing. This can be conditioned. It also stipulates a plant noise limit that can be conditioned.

3.5.37 Due to the nature of the area there is also a need to condition the construction phase in terms of hours of operation and the control of noise and dust.

3.5.38 Subject to the imposition of the recommended conditions, the proposals are considered to accord with Local Plan Policy 8ii).

Crime and Disorder

3.5.39 Section 17 of the Crime and Disorder Act 1998 (as amended by the Police and Justice Act 2006) requires Blackburn with Darwen Council, as a 'responsible authority', to consider crime and disorder (including antisocial behaviour and other behaviour adversely affecting the local environment); and the misuse of drugs, alcohol and other substances in the exercise of all its duties, activities and decision-making. This means that all Council's policies, strategies and service delivery should consider the likely impact of crime and disorder.

3.5.40 The above legislation and policy supports the vision and delivery of the NPPF. This has a chapter focussing on 'promoting healthy and safe communities' with paragraph 91 stating;

Planning policies and decisions should aim to achieve healthy, inclusive and safe places, which:

b) are safe and accessible, so that crime and disorder, and the fear of crime, do not undermine the quality of life or community cohesion – for example through the use of clear and legible pedestrian routes, and high quality public space, which encourage the active and continual use of public areas;..;

- 3.5.41 Chapter 12 of the NPPF focuses on 'achieving well designed places' which again, amongst other things, concerns itself with creating safe places. Paragraph 127 states:

Planning policies and decisions should ensure that developments:

f) create places that are safe, inclusive and accessible and which promote health and well-being, with a high standard of amenity for existing and future users; and where crime and disorder, and the fear of crime, do not undermine the quality of life or community cohesion and resilience.

- 3.5.42 The Council Local Plan policies CS20 and 8.v) also support the vision and delivery of the Act and the NPPF.
- 3.5.43 Unfortunately, multiple occupancy accommodation can be vulnerable to persistent crime and anti-social behaviour. 'Tailgating' through access-controlled areas can be real risk, whereby an intruder follows a resident into the building who has legitimate access or enter via insecure entrance or exit doors. Certain valuable household and personal items are attractive commodities to criminals, such as TV's, easily removable electronic devices, jewellery, mobile telephones and money, which can be easy to steal for personal use or financial gain.
- 3.5.44 Burglary patterns indicate that rear ground floor doors and windows are most vulnerable to criminal attack; by prising them open, smashing the glazing or 'snapping' euro profile type cylinder door locks. Over the past 12 months, there have been a high number of crimes recorded within the Police Incident location that encompasses the proposed development, including burglary, vehicle crime, criminal damage and assaults. Therefore, the proposed scheme should be developed to Secured by Design (SBD) 'Homes 2019' principles, security standards and security rated products'. A condition requiring details of the crime protection measures being incorporated in to the development being in accordance with Secured by Design Standards which are to be agreed with Lancashire Constabulary and the Council.
- 3.5.45 Subject to the suggested condition, the overall impact of the proposed development is considered to accord with the provisions of Policy 8 of the Local Plan Part 2 as any potential harm to amenity has been addressed or can be adequately controlled or mitigated through the suggested planning conditions.

Drainage and Flood Risk

- 3.5.46 Policy 9 sets out that development will be required to demonstrate that it will not be at an unacceptable risk of flooding and impact on environmental assets or interests, including habitats, species and trees.
- 3.5.47 Following a review of the submitted information, no objection has been offered by United Utilities subject to conditions. The Lead Local Flood Authority also offers no objections to the proposals, subject to the imposition of the required conditions to ensure implementation of a suitable drainage scheme for foul and surface water, and a scheme for the future maintenance and management of surface water drainage to be agreed, the application is considered to accord with the Council's Development Plan policies for drainage and flood risk.
- 3.5.48 Affordable Housing and Planning Contributions
- 3.5.49 Core Strategy Policy CS8 advises that all new residential development will be required to contribute towards the Borough's identified need for affordable housing; this being achieved through on-site provision, or through a financial contribution towards off-site delivery. The overall target for affordable housing is set at 20%.
- 3.5.50 Local Plan Policy 12: Developer Contributions, which accords with the NPPF, indicates that where request for financial contributions are made the Council should be mindful of the total contribution liability incurred by developers.
- 3.5.51 The applicant has submitted a Viability Appraisal which has been independently assessed. in line with both the adopted NPPF and RICS Guidance Note (Financial Viability in Planning Guidance Note – GN 94/2012), a developer is entitled to deliver a reasonable return on their development. For an open market sales product this is generally between 15-20% profit on GDV. In terms of the subject site, independent assessors have benchmarked their appraisals against a target profit on GDV of 18%.
- 3.5.52 They have reviewed the proposed development and the appraisal submitted on behalf of the applicant. The applicant has assumed larger than typical apartment sizes and adopted aspirational sales values which are likely to prove very challenging to achieve having regard to the market for apartments in Blackburn. They have also adopted a very low build rate which the independent reviewer raises questions as to whether the development can be delivered to a suitable standard in order to achieve the aspirational values.
- 3.5.53 This assessment confirms that the proposed development is unable to viably make any Section 106 contributions.
- 3.5.54 Whilst concern has been raised by the independent reviewer of the low build rate, the Council, through its planning and housing standards team will ensure that a satisfactory standard of development is built. Therefore,

turning back to the subject of affordable housing, for the above-mentioned reasons, it would be unreasonable of the Council's to seek any affordable housing provision as part of this scheme.

Biodiversity

- 3.5.55 Policy 9 of the Local Plan Part 2 aims to ensure that the relationship between new development and our environment is managed, and that the right balance is always struck between environmental concerns and other factors.
- 3.5.56 Montague Health Centre was demolished and the site cleared, including the group of native trees, prior to the submission of this application.
- 3.5.57 Section 170 of the NPPF 2018 states that the planning system should contribute to and enhance the natural and local environment. To ensure the proposals enhance the local and national environment. It is noted that the proposed layout includes replacement tree planting, but whilst these appear adequate in number, the Council's Ecologist considers they are too close together for all to be retained in the long term. For these reasons it is recommend that native trees shall be planted and bird nesting habitat should also be provided in the form of bird boxes on trees or the proposed new build.
- 3.5.58 It is therefore recommended that a condition should be imposed requiring a landscape plan to be submitted to and approved in writing by the LPA, prior to any above-ground works. The content of the plan should include elements to mitigate for loss of trees and bird nesting habitat. The approved plan will be implemented in accordance with the approved details.

Summary

- 3.5.59 This report assesses the full planning application for 76 apartments on a parcel of previously developed land, located close to the boundary of the Town Centre. In considering the proposal a wide range of material considerations have been taken in to account during the assessment of the planning application
- 3.5.60 The assessment of the proposal clearly shows that the planning decision must be made in terms of assessing the merits of the case against any potential harm that may result from its implementation. This report concludes the proposal provides a quality residential development, which, subject to the recommended conditions, meets the policy requirements of the Blackburn with Darwen Core Strategy, Local Plan Part 2, and the National Planning Policy Framework 2019.

4.0 RECOMMENDATION:

4.01 Approve subject to:

- (i) **That delegated authority is given to the Director of Growth & Development to approve planning permission subject to an agreement under Section 106 of the Town and Country Planning Act 1990, relating to the provision of a to provision of formal/signed contracts for the lease of a percentage of the apartments as per the submitted details, or as otherwise agreed with the Local Planning Authority and details of their full marketing plan, lettings policy, management and maintenance plans to the satisfaction of the Local Planning Authority.**
- (ii) Should the s106 agreement not be completed within 6 months of the date of this resolution, the Director of Growth & Development will have delegated powers to refuse the application.
- (iii) **Conditions relating to the following matters:**
- Commence within 3 years
 - Approved details/drawings
 - Materials to be submitted and implemented
 - Details of boundary treatments
 - Sightlines clearance to be kept in perpetuity for all access/ egress points
 - Construction management plan to be submitted and implemented
 - Land contamination (standard conditions)
 - Limitation of construction site works to: 08:00 to 18:00 Mondays to Fridays, 09:00 to 13:00 Saturdays, Not at all on Sundays and Bank Holidays.
 - A scheme employing best practicable means for the suppression of dust during the period of construction to be agreed/ implemented.
 - Ecological enhancement measures
 - Surface and foul water drainage scheme
 - Surface Water Drainage Flows restriction.
 - Pre and post highway condition survey and repair strategy.
 - Grampian condition, for works to be carried out as part of a Section 278 scheme.
 - Landscaping and planting scheme to be agreed.
 - Provision of electric charging points to safeguard air quality.
 - A scheme for the site access.
 - Implementation of parking layout
 - Closure of existing access(es)
 - Wheel cleaning
 - Prior to commencement a condition survey of the highway would need to be undertaken to ensure a record is taken of the condition of the highway. All damage sustained as a consequence of the development (construction work) to the highway would need to be remediated by the developer, at their costs.
 - Travel Plan submission, agreement and implementation.

- Intrusive site investigations
- Electrical vehicle charging points
- Security Statement
- Plant Noise Emission Limit
- Acoustic Glazing and Ventilation
- Construction site noise, vibration and dust

5.0 RELEVANT PLANNING HISTORY

5.01 The following is a table of the sites planning history:

APPLICATION NUMBER	DEVELOPMENT DESCRIPTION	DECISION	DATE
10/18/0685	Demolition of Former Health Centre and construction of 6 storey Apartment Block consisting of 111 no, 1 and 2 bedroom luxury apartments with associated car parking and ancillary provision	Withdrawn	31/01/2019
10/18/0681	Demolition of health centre	Prior Approval is given	01/11/2019
10/18/0334	Demolition of 2 storey former health centre	Withdrawn	20/07/2018

6.0 CONSULTATIONS

6.01 Statutory consultees have provided the following comments:

6.1 Coal Authority

This planning application is accompanied by a Phase 1 Site Investigation Report prepared for the proposed development by Terra Consult (Ref 3696/01 Issue 1, 26th April 2018) which has been informed by an appropriate range of sources of information. Protecting the public and the environment in mining areas 2

Based on this review of geological, historical and coal mining information, the report author considers that the site is not at risk from ground movement as a result of historic mining activity. Whilst site investigations have been recommended to assess geotechnical and contamination issues, Section 5.1.3 only highlights that *deep rotary holes may also be required depending upon discussions with the Coal Authority.*

The Coal Authority regards that site investigations in the form of deep rotary holes are considered necessary due to the conflict of information in relation to the 'Pasture' mine. As highlighted previously, our information identifies this

coal seam outcrops approximately 29m north of the application site; Section 6.1.2 of the Report identifies that as being 100m northwest of the site. As a consequence, the Coal Authority considers that in order to determine the exact situation regarding shallow coal mining legacy, intrusive site investigations will be required to establish the depth and condition of the 'Pasture' coal seam and if found to have been worked, the amount of competent rock cover. The number, depth and distribution of the rotary boreholes will also need to be in agreement with the Coal Authority's Licensing and Permitting Department as part of the permit application process.

The findings of these intrusive site investigations will then inform any mitigation measures, such as grouting stabilisation works, foundation solutions and / or gas protection measures, which may be required in order to remediate mining legacy affecting the site and to ensure the safety and stability of the proposed development.

It is a requirement of the current local policy: CS13(vii) – Environmental Strategy of the Core Strategy and the Revised NPPF, paragraphs 178 - 179, that the applicant demonstrates to the satisfaction of the LPA that the application site is safe, stable and suitable for development.

Based on the discrepancy of the Pasture Seam outcrop we do not consider that the Phase 1 Report has been able to demonstrate, beyond reasonable doubt that coal mining legacy will not impact on the proposed development. Therefore, you may wish to consider the imposition of planning conditions which cover the issues set out below.

Prior to the commencement of development:

- * The undertaking of the scheme of intrusive site investigations, designed by a competent person and adequate to properly assess the ground conditions on the site and establish the risks posed to future development by past coal mining activity;
- * The submission of a report of findings arising from the intrusive site investigations and any remedial works and/or mitigation measures considered necessary;
- * Implementation of the remedial works and/or mitigation measures.

The Coal Authority therefore has no objection to the proposed development, subject to the imposition of a planning condition or conditions to secure the above.

6.2 Ecology

Thank you for consulting the GMEU.

Summary

There are unlikely to be any significant ecological constraints associated with this development. The only features of ecological interest are the trees.

Retention of these features where possible is recommended. Potential issues relating to bats and nesting birds are likely to be resolved via condition and or informative. Clarification is however required regarding whether the mature trees on site were assessed for bats.

Bats

The building was assessed for bat roosting potential in 2018 by a suitably experienced and qualified bat consultant. This report is still valid. No evidence of bats was found and the building assessed as having negligible bat roosting potential. I have no reason to doubt the findings of the report. The photos of the building plus images on streetview clearly show a low risk building in a low risk location.

The precautionary measures recommended to be taken during demolition regarding removal of timber cladding under the conclusions of the report should be conditioned as part of any permission.

There is however no mention of whether the trees around the site have been assessed for bat roosting potential. These appear to be proposed for removal based on the proposed site layout. Whilst the trees along the frontage appear healthy and low risk, the Sycamore to the rear are not visible. Current guidance states it is essential that the presence or otherwise of protected species and the extent that they may be affected by the proposed development is established before the planning permission is granted otherwise all relevant material considerations may not have been addressed in making the decision. *If these trees are to be removed I recommend that prior to determination they are assessed for bat roosting potential.*

It is an offence under regulation 43 (1) of the habitat regulations 2017 to deliberately capture, kill or disturb a bat or destroy a breeding site or resting place of a bat. It is also an offence under schedule 5 & 6 of the Wildlife & Countryside Act (1981) (as amended)

Nesting Birds

No evidence of birds nesting on or in the building was recorded and the building assessed as low risk. No mention is made of the trees on the site proposed for removal, which will also provide potential bird nesting habitat. All British birds nests and eggs (with certain limited exceptions) are protected by Section 1 of the Wildlife & Countryside Act 1981, as amended. I recommend a condition along the following lines is applied to any permission.

No works to trees or shrubs shall occur between the 1st March and 31st August in any year unless a detailed bird nest survey by a suitably experienced ecologist has been carried out immediately prior to clearance and written confirmation provided that no active bird nests are present which has been agreed in writing by the LPA.

Contributing to and Enhancing the Natural Environment

Section 170 of the NPPF 2018 states that the planning system should contribute to and enhance the natural and local environment. The main ecological impact is the loss of the trees of which a number are silver birch a native species of known value to wildlife. As these trees are primarily around the perimeter of the site, it would appear that at least some could be retained on site. I therefore recommend that the proposed layout is revised to retain any trees not interfering with the footprint of the proposed building. Mitigation should be provided for the loss of those where removal can be justified.

I note the proposed layout includes replacement tree planting, but whilst these appear adequate in number, they are too close together for all to be retained in the long term.

I recommend that any native trees removed should be replaced two for one to reflect the time it takes to reach maturity and the risk of losses. Mitigation for loss of bird nesting habitat should also be provided in the form of bird boxes on trees to be retained or the proposed new build.

However given the losses are only of importance at the site/street level I am happy for the details to be conditioned along the following lines.

A landscape plan shall be submitted to and approved in writing by the LPA, prior to commencement of development. The content of the plan should include elements to mitigate for loss of trees and bird nesting habitat. The approved plan will be implemented in accordance with the approved details.

6.3 Lancashire Police Constabulary

The proposed scheme should be developed to Secured by Design (SBD) 'Homes 2019' principles, security standards and security rated products; The Applicant should be asked to provide a security statement in relation to what specific measures and security rated products they intend to incorporate within the development e.g. access control, CCTV, fencing, gates, lighting, apartment entrance door sets, dwelling door sets, windows, landscaping, emergency door sets etc.

6.4 Housing Standards

I confirm that the Housing Standards team have the following comments in relation to the application:

The proposed building will be required to be compliant with current Building Regulations and if so it will not be deemed as a House in Multiple Occupation under the Housing Act 2004. Further information should be sought from Pennine Lancashire Building Control and Lancashire Fire and Rescue Service particularly in relation to fire precautions to be provided for the building/flats within.

The proposed layouts of the flats appear to be of suitable design with lobby access to all rooms within each of the flats.

Mechanical ventilation will need to be provided to the kitchen areas and bathrooms within all flats to ensure there is adequate ventilation provided to these rooms. I am unable to determine the openable window sizes on the plans provided.

6.5 Highways

Parking/Transport Assessment

In accordance with the adopted parking stands, the allowances for parking are based on the following:

- 1 car parking space for a 1 bed unit and
- 2 car parking spaces for a 2bed unit

The total no of parking spaces associated with this development is 105 The proposal received provided 57; this includes 6 disabled spaces. It is acknowledged that the site is sustainable for walking cycling, however there is still a demonstrable need to provide car parking to support the occupants of the apartments, such a shortfall within the curtilage will have a detrimental impact upon the highway. Further consideration should be given to this.

The following no of issues also require further consideration;

- The layout of the car park provided shows the car parking in an Acheron format, with adequate manoeuvrability into and out of the bays. Bay 36 is located to close to the gate, and would struggle to navigate out the bay safely, please seek removal of this space.
- Acheron format bays, often benefit with a landscaping strip to the front, to allow for a soft edge to park up to, rather than a hard wall/hard fence line – something to consider
- The cycle spaces for which we had previous (with regards to location) concern are now located with the building, albeit to the rear of the property- this is deemed acceptable.
- The proposal also provides 8 PTW's, details on how these would be secure and covered are to be provided for approval
- The TA reports 2 electric charging point bays, what charging mechanism is to be utilised.
- I understand from the submission that the site for parking of vehicles cycles is to be secured and controlled – which would be overseen 24 hours a day by the concierge system. A note on plan is provided to state that the access will be controlled by Fobs, supported by intercom support from the concierge. It may be prudent to set the gates back two cars lengths rather than one to allow multiple vehicles to wait off the highways rather than a singular car.

Servicing

A swept path of a 3 axle refuse vehicle has been provided. It is shown to operate on a one-way system, this is deemed acceptable, however no details

have been provided on the frequency of visits, or type of service vehicles other than a refuse vehicle - please request further details.

Access

A one-way vehicular route into and out of the site is proposed – to support this sightlines details are required – please request further details.

The boundary of the site, impacts upon the adopted highway along the frontage of the site, and incorporate areas of highway within their site. This should be adjusted accordingly.

Offsite highway works

To support and address some of the inefficiencies, if we are minded to support the application and the clients are agreeable, we would consider a review of the highway network in this location; this would look at reducing traffic movements, and removal of the one way chicanes, and introduce some parking on alternate sides of the highway would which not only support parking needs but also provides traffic calming attributes. We acknowledge that a plan has been provided showing some changes, however a wider review of the full corridor along Oakenhurst Road needs to be undertaken to ensure the changes suggested are effective, this would also need to be carried out through a wider consultation. Please attach a Traffic Management Condition.

30th September 2019

Additional details received 5th November 2019

The details have been reviewed with reference to the issue highlighted previously, come have been address some not and some only partially:

- Bay 36 has been removed as requested
- An acceptance note for a condition to be attached is offered in relation to the PTW spaces
- Similarly, the same is supported for electric charge vehicle – please condition
- They have confirmed no highway land is to incorporated into the scheme
- The scheme does not address the request to move the gates back two vehicle lengths to ensure that the highway is not adversely blocked whilst the gates are opened. Please seek further amendment

Just on, the matter of servicing, details are offered confirming a relative small movement generated by the proposal. Just on further examination of the drawing and the note provided on plan, the red line of the swept path and that which indicates the wheels of the vehicles, highlights this to be travelling over and close to the footway and kerb, please request adjustment. This could be conditioned for further details to be provided

The acceptable of a traffic management condition is noted.

6th November 2019

Comments received verbally 06 December 2019

The amended Site Plan – Drawing Number: 17059 – 202 Rev B is acceptable. Provided previously suggested conditions and a S278 condition imposed no objections are raised.

6.6 Local Lead Flood Authority

We have no objections to the proposals but require the following conditions:

Condition 1:

Prior to commencement of the development, a foul and surface water drainage scheme shall be submitted to and approved in writing by the Local Planning Authority. The approved scheme shall ensure that foul and surface water is drained on separate systems. The surface water drainage scheme shall be based on the hierarchy of drainage options in the National Planning Practice Guidance with evidence of an assessment of the site conditions (inclusive of how the scheme shall be managed after completion). The surface water drainage scheme must be in accordance with the non-statutory Technical Standards for Sustainable Drainage Systems (March 2015) or any subsequent replacement national standards and, unless otherwise agreed in writing by the Local Planning Authority, no surface water shall discharge to the public sewerage system either directly or indirectly. REASON: To ensure a safe form of development that poses no unacceptable risk of flooding, pollution to water resources or human health in accordance with Policy 9 of the adopted Blackburn with Darwen Borough Council Local Plan Part 2 (December 2015).

Condition 2:

Surface water run off must be controlled to equivalent greenfield run off as recommended by the Ciria Suds Manual C753 Section 24.5 Part E Climate change allowance in the surface water drainage calculations must be 40%.

REASON: To ensure a safe form of development that poses no unacceptable risk of flooding, pollution to water resources or human health in accordance with Policy 9 of the adopted Blackburn with Darwen Local Plan Part 2 (December 2015).

6.7 Public Protection

We have no objection to the proposed development providing the following matters can be addressed / conditioned.

Contaminated Land

A report has been submitted with the application and more work is proposed. This matter can be conditioned using the standard contaminated land condition.

Air Quality

The site can be classified as a type one site as per our planning air quality guidance.

<https://www.blackburn.gov.uk/planning/planning-policies-strategies-and-guides/air-quality-advisory-note>

This would direct the developer to install standard mitigation measures at the development.

For flats this would be electric vehicle charging points for 10 % of parking spaces and minimum specification for boilers. It can be conditioned as below.

Air Quality Condition for a type 1 site type development (<100 residential units outside an AQMA)

The following mitigation measures will be implemented prior to the commencement of the approved use:

1. There shall be one electric vehicle charging point for at least 10 % of parking bays. An appropriate charging point will have a Type 2 connector and a minimum rating of 3.7kW 16A. External points will be weatherproof and have an internal switch to disconnect electrical power.
2. Gas fired domestic heating boilers shall not emit more than 40mg NOx/kWh

Reasons for recommending the above conditions:

Both conditions implement 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.

Noise

An acoustic report has been produced that identifies that mitigation can be installed that ensures that guidelines on noise design standards can be met with a particular specification of glazing. This can be conditioned.

It also stipulates a plant noise limit that can be conditioned.

Due to the nature of the area there is also a need to condition the construction phase in terms of hours of operation and the control of noise and dust.

Plant Noise Emission Limit

Plant and equipment associated with the development shall be so designed and installed that the following noise limits at surrounding receptors are not exceeded.

- St Barnabas and St Pauls Primary School – $L_{Aeq7:00-23:00}$ 36 dB(A) Daytime and $L_{Aeq,23:00-7:00}$ 33dB(A) Night Time
- Residential properties along Oakenhurst Road - $L_{Aeq7:00-23:00}$ 35 dB(A) Daytime and $L_{Aeq,23:00-7:00}$ 33dB(A) Night Time

Reason – to ensure that noise from plant and equipment installed at the development does not impact surrounding receptors by being 10 dB(A) below the measured background level.

Condition – Acoustic Glazing and Ventilation

The development hereby permitted shall not be commenced until a scheme for the noise insulation and ventilation of the residential accommodation has been submitted to and approved in writing by the Local Planning Authority. The approved scheme shall be completed prior to the first occupation of the development and shall thereafter be retained.

Reason: To minimise the disturbance by noise to future residential occupiers of the dwellings hereby permitted.

Informative

Reference should be made to the Xacoustics report XA127.P1 dated 15th July 2019 in addition to relevant acoustic standards.

Condition- Redevelopment Working Hours

Construction and / or demolition works shall not be permitted outside the following hours:

Monday to Friday	8:00 to 17:00
Saturday	9:00 to 13:00

Construction and demolition works shall not be permitted on Sundays or Bank or Public Holidays.

Reason- to limit noisy activity to within normal working hours

Condition - Construction Site Noise/Vibration

Demolition or construction work shall not begin until a scheme for protecting the surrounding residential premises from noise, vibration and dust from the

site during these works has been submitted to and approved in writing by the Local Planning Authority. All measures which form part of the approved scheme shall be adhered to throughout the period of demolition and/or construction.

Reason: To safeguard the amenity of neighbouring properties by reducing the noise/vibration levels emitted from the site.

6.8 **Strategic Housing**

The proposal includes - 47 one bed 55 M² apartments, 13 two bed 74 M² apartments and 16 two bed 89 M² apartments

The proposed number of apartments have been reduced from the previous 112 but is still on the high side based on the Council's local demand evidence. The developer has provided some further evidence through a draft legal contract from a company wishing to lease the apartments and we would want this to be conditioned as part of any planning approval to ensure that this is forthcoming.

We recognise that this proposal seeks to provide a new type of letting property to the market but would want a condition asking the developer to provide a clear marketing plan, lettings policy and name of agents and full maintenance proposals for the proposed scheme.

Conditions requested:

- Formal/signed contract for lease of a percentage of the apartments as per draft provided.
- Full marketing plan, lettings policy, management and maintenance plan

Further detail is also requested on how the developer will address the Council's Affordable Homes Policy to provide 20% of the scheme for affordable housing. This can be on-site, off-site or through a S106 commuted sum payment.

6.9 **Transport Planning** – response to amended Travel Plan.

I have taken a look at the revised Travel Plan and all the recommendations I have previously made are now reflected within this October 2019 Travel Plan, I therefore accept this Travel Plan.

6.10 **United Utilities**

With regards to the above development proposal, United Utilities Water Limited ('United Utilities') wishes to provide the following comments:

Drainage

In accordance with the National Planning Policy Framework (NPPF) and the National Planning Practice Guidance (NPPG), the site should be drained on

a separate system with foul water draining to the public sewer and surface water draining in the most sustainable way.

We request the following drainage conditions are attached to any subsequent approval to reflect the above approach detailed above:

Condition 1 – Surface water

No development shall commence until 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 promote sustainable development, secure proper drainage and to manage the risk of flooding and pollution.

Condition 2 – Foul water

Foul and surface water shall be drained on separate systems.

Reason: To secure proper drainage and to manage the risk of flooding and pollution.

6.11 Neighbours

Neighbour notification letters were sent to 124 properties on the 30th July 2019, in addition site notices were posted, and a press notice was advertised in the Lancashire Evening Telegraph on the 9th August 2019. No representations have been received, although objection has been received from Ward Councillor Mohammed Khan (see summary of representations in Section 9).

7.0 CONTACT OFFICER: Claire Booth – Senior Planning Officer

8.0 DATE PREPARED: 05 December 2019

9.0 SUMMARY OF REPRESENTATIONS

Ward Councillor Mohammed Khan – 30th July 2019

These apartments should not be more than three story and they must match the existing development in the area.

Kind Regards

Cllr Mohammed Khan