

Planning Committee Agenda

Wednesday 6 March 2024

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1	21/0894	AFC FYLDE, MILL FARM SPORT VILLAGE, CORONATION WAY, MEDLAR WITH WESHAM, PRESTON, PR4 3JZ	Approve subject to s106 agreement	4
		ERECTION OF NORTH STAND WITH STANDING CAPACITY OF 1,800 AND ASSOCIATED SUPPORTER FACILITIES BELOW, INCLUDING CAR PARKING AREA AND ANCILLARY FACILITIES		
2	23/0651	ICE CREAM KIOSK - STANNAH BANK, FAIRHAVEN LAKE AND GARDENS, INNER PROMENADE, LYTHAM ST ANNES	Grant	33
		1) DEMOLITION OF EXISTING ICE CREAM KIOSK BUILDING, 2) ERECTION OF ICE CREAM KIOSK BUILDING FOR THE PRODUCTION AND SALE OF ICE CREAM, AND SALE OF FOOD AND DRINK, WITH COVERED SEATING AREA, HARD LANDSCAPING AND GROUND RE-PROFILING WORKS, AND 2 PARKING SPACES.		

Background Papers

The background papers used in the compilation of reports relating to planning applications are listed below, except for such documents that contain exempt or confidential information defined in Schedule 12A of the Local Government Act 1972:

- Fylde Local Plan to 2032 (incorporating Partial Review) – December 2021
- Joint Lancashire Minerals and Waste Local Plan
- Bryning-with-Warton Neighbourhood Plan
- Saint Anne's on The Sea Neighbourhood Development Plan
- National Planning Policy Framework 2021
- National Planning Practice Guidance
- The Community Infrastructure Levy Regulations 2010 (as amended)
- Conservation of Habitats and Species Regulations 2010 (as amended)
- Other Supplementary Planning Documents, Guidance and evidence base documents specifically referred to in the reports.
- The respective application files
- The application forms, plans, supporting documentation, committee reports and decisions as appropriate for the historic applications specifically referred to in the reports.
- Any additional information specifically referred to in each report.

These Background Documents are available online at www.fylde.gov.uk/resident/planning

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Item 1

Application No:	21/0894	Case Officer:	Andrew Stell Area Team 2
Applicant:	Tangerine Group Holdings Ltd	Agent:	Mr Wyatt
Location:	AFC FYLDE, MILL FARM SPORT VILLAGE, CORONATION WAY, MEDLAR WITH WESHAM, PRESTON, PR4 3JZ		
Proposal:	ERECTION OF NORTH STAND WITH STANDING CAPACITY OF 1,800 AND ASSOCIATED SUPPORTER FACILITIES BELOW, INCLUDING CAR PARKING AREA AND ANCILLARY FACILITIES		
Ward:	Medlar with Wesham New	Parish:	Medlar with Wesham
Date Received:	28 September 2021	Earliest Decision:	24 October 2022
Reason for any delay:	Awaiting additional details from applicant / agent	Online application file here	
Officer Recommendation:	Approve subject to s106 agreement		
Location Plan			

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Summary of Officer Assessment

The application site relates to part of the wider Mill Farm Sports Village site located to the north of Wesham. This is the part of that site that is immediately to the north of the football pitch, with the scheme relating to the provision of a revised design for the North Stand for the pitch and an area of car parking to the rear (north) of that which is associated with the football stadium use. The application is determined retrospectively as the stand and car parking have been built and operational for some years.

The site is largely allocated for mixed employment and leisure uses, under Policy SL4 of the Fylde Local Plan to 2032 (incorporating Partial Review), with areas of the site also including an area of allocated employment land under Policy EC1, and a small area of Countryside as designated under Policy GD4 of that Plan.

The stand is of a capacity that reflects the stand that was approved for that location in the original extant planning permission from 2015 and so does not in itself bring forward any increase in the overall capacity of the stadium beyond that previously approved. It is also of a design that is complementary to the remainder of the stadium, although it is of a larger scale than the previous approval and provides its spectator facilities in an entirely seated arrangement compared to the previously proposed standing arrangement. These elements are all considered acceptable, with the use of the site to provide a football stand and supporting car park satisfying the requirement of the mixed use and other policies that apply to the application site.

One of the consequences of the operation of the football stadium at Mill Farm is that there have been concerns raised by local residents, Wesham Town Council and the local highway authority about the potential for spectators visiting the site in private cars to cause highway congestion and amenity issues. This is an area that is the subject of a planning condition to the original outline planning permission which required the submission and approval of a Car Parking Management Strategy, with that original approval indicating an overspill car parking area to the north of the site that was, at the time, considered necessary to provide sufficient car parking on the site to accommodate larger attendances. The approval of this Car Parking Management Strategy remains outstanding, and the overspill car park has not been provided.

Whilst further work on the preparation of a suitable car park management strategy is required, the current application seeks to clarify the quantum of parking that is to be provided on site. This is through the submission of a legal agreement that limits the capacity at the Stadium to that which can be provided on site through the use of the existing car park areas, including that provided with this application. The limit that is imposed is 1 parking space for every 10 spectators, with that figure reflect the content of the Fylde Council Parking Standard SPD that was adopted in October 2023.

Officers believe that this is an appropriate solution for this aspect of the parking arrangements, with the council's legal team having also reviewed and secured amendments to the legal agreement that has been presented to ensure it is a legally sound document.

The application is considered acceptable in all regards and so it is recommended that Committee support the approval of the application. The recommendation is to delegate the ultimate decision to the Head of Planning with that decision to be made when the applicant provides a completed version of the legal agreement as the agreement is presently unsigned, although that is expected to be provided very shortly after Committee. This agreement would be enacted in the event that planning permission is granted and could be enforced by the Council at any time thereafter should

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there be a breach either through capacity in excess of the agreed level at the time, or the parking areas which should be available not actually being available.

A series of conditions are proposed to confirm the details of the planning permission and to secure the appropriate surfacing and marking out of parking areas to assist in their safe operation in the future.

Reason for Decision Level

The application site is wholly within the area of Medlar with Wesham Town Council. Whilst they have not objected, their support is qualified by a number of factors that are not met by the application and so their comments must be construed as an objection. Accordingly, as the officer recommendation is to support the development it is necessary to present the application to the Planning Committee for a decision in accordance with the Scheme of Officer Delegation.

This is also an application of some public interest that the Head of Planning considers should be most appropriately determined by the Planning Committee.

Site Description and Location

The application site is an irregular area of land that forms part of the Mill Farm Sports Village site. The land is all to the west of Fleetwood Road and generally north of the football pitch but includes the north stand area for that pitch, an area of land between the football stadium and Fleetwood Road, and area of land to the north of the stadium, and a section of Coronation Way which is the internal access road serving the Mill Farm development.

Mill Farm is a mixed use development with an employment building (occupied by Trilenco) to the west of the stadium, a petrol filling station and associated retail units to the south and an Aldi store. The former dwelling and agricultural buildings at Mill Farm are to the north of the stadium with some of these included in this application site. Further to the north is an area of land that is the subject of application 22/0616 for a large employment building.

With regards its allocation in the Fylde Local Plan to 2032 (incorporating Partial Review), the Mill Farm site, including the entire area of this application, is designated for mixed use purposes under Policy SL4 which promotes development in the Kirkham and Wesham Strategic Location for Development, Policy GD5 which promotes development on this site and others as Large Developed Sites in the Countryside, and Policy GD6 which refers to Mixed Use development on a number of specified sites across the borough.

Around the Mill Farm site, the land uses to the west and east are in agricultural use, that to the south is the town of Wesham, and that to the north is in a mixture of employment use and features a single dwelling.

Details of Proposal

The application relates to the erection of the north stand at the AFC Fylde football stadium and the associated car parking area. This was constructed during 2021 and was completed in time for the game on Boxing Day 2021 with the parking areas completed shortly afterwards. This determination is therefore retrospective, and has been delayed for a considerable period whilst discussions were held with the applicant's agent regarding how they are to provide for the parking requirements of the

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stand itself and stadium. As some progress has been made on that the application is now presented for a decision.

Scope of Built Development

The application is submitted in full and relates to the erection of a North Stand at the AFC Fylde stadium. The stand has a seating capacity of 1,800 and completes the stadium with the other three stands having been built when the stadium was first constructed in 2015. At that time the area to the north of the pitch remained undeveloped, although there was a stand of the same capacity, but a different design, approved in this location as part of the original planning permission.

The stand occupies the full width of the pitch and provides supporting facilities for spectators and the wider operation of the stadium at ground floor with the area for viewing the match elevated above that and provided with an entirely seated capacity. The supporting facilities include an extensive concourse area, kiosks, toilets and a museum area. The building has overall dimensions of 67m in width, 19m in depth back from the pitch perimeter, and has a height of 7m to the top of the roof and 9m to the top of the supporting steel frame. The materials of construction are a mixture of brick to the ground floor elements and concrete hung under a steel frame to the spectator seating areas, with the design featuring a gently curved roof to reflect that of the other stands at the Stadium.

The other built development in this application sees an area of tarmac surfaced car parking provided to the north of the stand with this providing spaces for 126 vehicles. An unsurfaced area of parking is provided to the east of the stadium in the area between it and Fleetwood Road. The application site includes the carriageway of Coronation Way although no works are shown to that other than the provision of two coach parking spaces where that internal spine road currently terminates.

Supporting Information

The application was originally submitted with a Design and Access Statement, Planning Statement and a Highway Note. An addendum to the Planning Statement was provided in January 2023 to reflect the position that was proposed at that time with regards the parking requirements of the stadium in terms of both quantum and management.

Most latterly, and most relevantly for the consideration of the application, a draft planning obligation has been provided. This is in the form of a Unilateral Undertaking that, if it were enacted, would restrict the capacity at the stadium to an agreed figure with this based on the available car parking on the Mill Farm site. This Unilateral Undertaking is supported by a legal note to explain the rationale further and a Car Parking Plan, with these all being the subject of consultation with the local highway authority.

Relevant Planning/Appeal History

The table below shows the most recent applications at the wider Mill Farm site that have been submitted since the site was developed in its current form.

Reference	Description	Decision	Date	Appeal
23/0256	FORMATION OF A SURFACE WATER ATTENUATION POND & REMEDIATION OF EXISTING SURFACE WATER ATTENUATION POND	Granted	10 November 2023	

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22/0345	ERECTION OF TELEVISION GANTRY INCLUDING INSTALLATION OF ASSOCIATED EXTERNAL STAIRCASE AND SHELTER TO EAST STAND	Granted	21 June 2022	
22/0616	ERECTION OF EMPLOYMENT BUILDING PROVIDING A MIXTURE OF MANUFACTURING/ASSEMBLY (CLASS B2) AND STORAGE / DISTRIBUTION (CLASS B8), AND ANCILLARY OFFICES / SHOWROOM AREA, INCLUDING CAR PARKING AND LANDSCAPING AREAS	Under consideration		
21/0620	HYBRID PLANNING APPLICATION COMPRISING: 1) FULL PLANNING APPLICATION FOR CONSTRUCTION OF SIGNAL-CONTROLLED JUNCTION TO FLEETWOOD ROAD TO NORTH OF STADIUM WITH CONNECTING SPINE ROAD AND ASSOCIATED ROAD INFRASTRUCTURE, CONSTRUCTION OF NORTH STAND AT STADIUM, AND FORMATION OF CAR PARKING AREA. 2) OUTLINE APPLICATION (ALL MATTERS RESERVED) FOR ERECTION OF BUILDING TO HOUSE INDOOR COMMUNITY SPORTS PITCH ADJACENT CORONATION WAY, AND RESIDENTIAL DEVELOPMENT OF UP TO 99 DWELLINGS TO NORTH OF NEW JUNCTION	Withdrawn by Applicant	10 August 2022	
22/0751	FORMATION OF SIGNAL-CONTROLLED JUNCTION WITH SPINE ROAD AND ASSOCIATED ROAD INFRASTRUCTURE	Withdrawn by Applicant	06 March 2023	
20/0135	APPLICATION TO DISCHARGE DETAILS ASSOCIATED WITH CONDITIONS ON PLANNING PERMISSION 13/0655 - CONDITION 33 (CAR PARKING MANAGEMENT STRATEGY)	Under consideration		
17/0690	CHANGE OF USE OF SECOND FLOOR OF MAIN STAND TO USE AS A 19 BEDROOM HOTEL (USE CLASS C1) WITH ASSOCIATED ALTERATIONS TO EXTERIOR OF STAND	Granted	25 May 2018	
17/0016	CONSTRUCTION OF PERMANENT CAR PARK BETWEEN STADIUM AND FLEETWOOD ROAD (60 SPACES) AND TEMPORARY CAR PARK ON PROPOSED HOTELAND BULKY GOODS SITE (95 SPACES) FOR AFC FYLDE FOOTBALL CLUB	Granted	28 July 2017	

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16/0621	APPLICATION TO DISCHARGE DETAILS ASSOCIATED WITH CONDITIONS ON PLANNING PERMISSION 13/0655 RELATING TO CONDITION 11- MAINTENANCE OF THE COMMUNAL AREAS, CONDITION 33- CAR PARK MANAGEMENT PLAN, CONDITION 34 - AFC FYLDE EVENT MANAGEMENT PLAN, CONDITION 34 - TRAFFIC MANAGEMENT PLAN AND CONDITION 46 - HOURS OF OPERATION	Refused	29 May 2018	Dismissed 12 November 2018
15/0733	CONSTRUCTION OF 11 NO. ALL WEATHER FLOODLIT FOOTBALL PITCHES, 1 NO. ALL WEATHER FLOODLIT HOCKEY PITCH, 1 NO. HOCKEY PITCH SPECTATOR STAND PROVIDING SEATING FOR 256 SPECTATORS AND TEMPORARY CHANGING FACILITIES.	Granted	11 July 2017	
13/0655	<p>HYBRID PLANNING APPLICATION (PART FULL / PART OUTLINE)</p> <p>FULL PLANNING APPLICATION – 6,000 CAPACITY FOOTBALL STADIUM, 11,431m2 WAREHOUSE AND DISTRIBUTION CENTRE (CLASS B8), 1,518m2 NEIGHBOURHOOD RETAIL STORE (CLASS A1), INTERNAL SPINE ROAD WITH ACCESS FROM A585 ROUNDABOUT, ASSOCIATED PARKING, LANDSCAPING, DRAINAGE AND INFRASTRUCTURE</p> <p>OUTLINE PLANNING APPLICATION (ACCESS SOUGHT WITH OTHER MATTERS RESERVED) – , 8 X OUTDOOR FLOODLIT ALL WEATHER PITCHES, CHANGING ROOM BLOCK, PETROL FILLING STATION, 785m2 NON-FOOD BULKY GOODS RETAIL UNIT (CLASS A1), HOTEL (CLASS C1), PUB / RESTAURANT (CLASS A4), DRIVE THRU RESTAURANT (CLASS A3/A5), 492 SPACE OVERFLOW CAR PARK & THE FORMATION OF A SURFACE WATER ATTENUATION POND.</p>	Granted	17 February 2015	

Parish/Town Council Observations

The site is wholly within the parish area covered by Medlar with Wesham Town Council. It is however close to other parish boundaries and so comments from those have also been sought and are reported below:

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Parish/Town Council	Observations
Medlar with Wesham Town Council	<p><u>Initial Comments received on 31 October 2021</u></p> <p><i>Medlar-with-Wesham Town Council held a public open meeting and residents gave their opinion on this planning application and their views could be considered and incorporated into the Council's response.</i></p> <p><i>The Town Council are concerned that they are being asked to comment on a development that is substantially underway. The application also states that construction has not commenced. Thus, the Town Council also has grave concerns regarding lack of enforcement by Fylde Borough Council Officers</i></p> <p><i>The Town Council also wish to bring to attention of the Planning Committee that to date the developers' does not have in a Car Parking Management Strategy that meets the requirement of Application 13/0655, condition 33. Hence issues of highway safety and the operation of the Mill Farm Sports Village on match days is still a major issue considering residents and motorists.</i></p> <p><i>The Council wishes to make the following observations and comments: -</i></p> <p><i>Option C – The Council OBJECT to the proposal</i></p> <ul style="list-style-type: none"> <i>• The Council noted that the construction has commenced prior to the application being made and permission being granted by Planning Authorities.</i> <i>• The Council also wish to express concern that the construction is being undertaken with the approval of the Fylde BC Planning Officer. Despite querying the decision, the Council have not been made unaware of any rationale for this decision.</i> <i>• This development has an immediate loss in car parking spaces which results in concerns relating to safety and disruption to the local community. The Council assume by approving the development without planning permission the Officers of Fylde BC are accepting responsibility for this increased risk. In practical terms, the risk will be that due to increased traffic parked on the streets, access to Wesham for emergency vehicles will be restricted either through blocked streets or delayed by the sheer volume of traffic. This risk should be, as planners have agreed the work can continue, the responsibility and accepted by the planners. The Council would be interesting to know what mitigation Fylde BC have in place to manage the risk.</i> <i>• Existing landscaping and trees were removed from the site as groundworks for the building of the North Stand.</i> <i>• Extending stadium results in increase in spectator capacity but the new car parking spaces will be insufficient for the increased numbers. In the Developers own analysis of car volumes attending a football match it was reported that on average one car attends the site per every 3.5 people. The new stand will have</i>

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	<p><i>a capacity for an additional 1,800 people and therefore an additional capacity of 515 parking spaces will be required for the North Stand. This excludes the outstanding matter of the provision of sufficient car parking for the existing stadium capacity.</i></p> <ul style="list-style-type: none"> • <i>Disabled parking provision – the Council believe there is no specific disabled parking provision currently on the site. It is unclear what effect on the parking provision for this stand the impact of spaces being designated for disabled use would have.</i> • <i>Coach parking - there seems to be a lack of consistency between the accompanying paperwork and the plans. The Council would welcome clarification of where the coach parking will be situated and the number of spaces available. Due to the size of the stadium and green issues the current 2 spaces are woefully inadequate.</i> <p><u>Subsequent Comments received on 11 August 2023</u></p> <p><i>WTC accepts this application subject to the following:</i></p> <ol style="list-style-type: none"> 1. <i>That it is dependent upon the conditions of 20/0135 being fully upheld. This application/build, brings stadium capacity up to the 6,000 and adequate car parking must be a contingent dependency of that.</i> 2. <i>It is recorded that this is a retrospective planning request made after the build and the developer should fully account for this irregularity before it is deemed acceptable.</i> 3. <i>Car Parking capacity must be entirely within AFC Fylde Football Clubs direct control.</i> 4. <i>Drainage conditions on the original application 13/0655 must be fully complied with and drainage requirements for application 20/0135 should be fully set out and completely satisfactory.</i>
Kirkham Town Council	<p><u>Comments received on 31 October 2021</u></p> <p><i>The Council have discussed these at their meeting last night. They have the following comments in respect of 20/0135 and 21/0894, they object to the proposals Options C and D:</i></p> <ol style="list-style-type: none"> 1. <i>They are concerned that there is already not enough car parking at Mill Farm, and that the overspill on match days impacts on residents.</i> 2. <i>Is the new building being placed on land designated for car parking?</i> 3. <i>Is there any intention to generate a fit for purpose parking area at Mill Farm?</i> 4. <i>The detail within the planning spec is often onerous and where issues are complex, Councillors have not had any training to understand the key issues being communicated.</i>

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Greenhalgh Parish Council	<p><u>Comments received on 28 October 2021</u></p> <p><i>It was resolved to offer NO OBJECTIONS - However, there may be a serious issue with car parking should the stadium be utilized to full capacity.</i></p> <p><u>Comments received on 21 February 2024</u></p> <p><i>Greenhalgh with Thistleton Parish Council understands that this long-outstanding application will be considered shortly by the Planning Committee. As it is many months since the views of this parish council were submitted, at its last meeting, it was resolved to set out the current views on the above application, in the light of the latest information published on Fylde Borough's planning website.</i></p> <p><i>The AFC site is located on the border of Wesham and Greenhalgh. Our residents are very concerned over the congestion and road safety problems associated; traffic management on roads around the Mill Farm Sports Village at times of home matches for the football club; access to residential streets is compromised; site lines at junctions and from drive accesses are blocked; grass verges damaged and personal hostile confrontations occur with football fans as a result.</i></p> <p><i>Access to other facilities at the Mill Farm Sports Village is impossible and use of the Fleetwood Road Playground, relied on by many Greenhalgh families, is impossible. The through routes to Kirkham and other locations are frequently snarled-up.</i></p> <p><i>The original Master Plan concept provided, on-site car parking capacity to meet the proposed 6000 fan stadium which would be needed in the future, without causing disruptive, on-street parking in the vicinity.</i></p> <p><i>This parish council has no objection to the completion of the stadium through the construction of the North Stand. The fact that it was built without the benefit of Planning Permission at the time and has operated for several years without any attaching conditions, causes us concern. The big issue which has been outstanding since the first opening of the stadium and, still remains a major community issue, is the lack of any appropriate or effective carpark management arrangements.</i></p> <p><i>The applicant agrees that, if the stadium capacity is kept to the licence limit of 4250, on-site capacity should be available for 425 parking places. He suggests that he will enter into a unilateral agreement within a Section 106 Agreement to abide by this arrangement and only seek to increase the stadium use if he provides pro-rata increases within on-site car parking.</i></p> <p><i>The latest schedule of parking places (revised 29/01/24) shows how the 425 places are made up and still includes the use of an area for</i></p>
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105 vehicles adjoining the Trilanco warehouse - not under the control of the applicant, and which cannot be guaranteed long-term (we understand, that there is no formal agreement in place). A further 81 places rely on the use of spaces allocated for users of the hockey pitch and clubhouse, 5-a-side facilities and 3G pitch which the applicant contends are made available for AFC Fylde supporters and visitors for home matches. Additionally, 47 places are stated to be available on Coronation Way. The carpark developed in the planted boundary area to the east of the stadium has yet to be drained, surfaced and marked out as required by the planning approval, but is shown as available for 40 places, with staff who usually use this area required to park elsewhere. The vacant plot west of the Aldi carpark is used, though its capacity is reduced as the levels at the margin are steep and the area is unsurfaced and not marked out.

If the stadium capacity is 'frozen' at its previous level, this application appears not to require any more on-site car parking, other than what was available before. However, over the past eight years of stadium operation, whilst there has been no formal agreement of the number of places required, at NO TIME has the Applicant actually provided the number of on-site places which his various draft Car Parking Management Plans have required.

Regular observations show that the hockey pitch and other facilities at the north of the site STILL OPERATE on home match days, largely denying many spaces to the stadium. Similarly, the potential parking places on Coronation Way are KEPT CLEAR with a combination of cones and more recently, double yellow lines. STAFF STILL PARK on the east car park which is also blocked by TV transmission trucks for big matches. Thus, as things stand at least 128 of the 425 places ARE NOT MADE AVAILABLE, and this might go a long way to explain the on-street congestion.

The plan showing the spaces allocated, includes a new access road linking Coronation Way to the A585, for which no planning application has been made. The significance of this is unknown.

It is clear from Lancashire Highways comments that there are a number of outstanding unresolved issues of highway safety which have not been satisfactorily resolved, as well as the capacity issues. It would be extraordinary if the Planning Committee decided to ignore the professional advice of the LHA and there would have to be overwhelming reasons for such action.

In view of the track record of non-compliance with planning requirements on this site and the LPA's reluctance to take enforcement action on matters raised, Greenhalgh with Thistleton Parish Council has little confidence that a fresh unilateral undertaking will ensure that the applicant meets the requirements, or that the unsatisfactory and unsafe parking nightmare on the streets of Wesham will be resolved

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	<p><i>The Parish Council recommends REFUSAL of the application until the CPMP is resolved with the Highway Authority. However, if approved, the application should be subject to the undernoted conditions:</i></p> <ul style="list-style-type: none"> • <i>A long-term formal agreement is made between the Applicant and Trilanco allowing use of the specified parking places when the stadium is in use.</i> • <i>A similar binding agreement is made with the hockey club and other regular user groups to allow all spaces on the north carpark to be used by the football club when the stadium is used</i> • <i>The east and south car parks are drained, surfaced and marked out</i> • <i>Coronation Way is made available as promised.</i> • <i>Additional provision is made for staff, hotel, restaurant and bar users parking on site</i> • <i>Any further development on this site shall be required to provide car parking to the requisite approved car parking standards adopted by the LPA.</i>
Weeton Parish Council	<p><u>Comments received on 18 October 2021</u></p> <p><i>It was resolved to OFFER NO OBSERVATIONS</i></p>

Statutory Consultees and Observations of Other Interested Parties

Consultee	Comments
LCC Highways	<p><u>Interim comments of 12 January 2023</u></p> <p>Summary</p> <p><i>This interim response reflects the Local Highway Authority's recent statutory comments regarding the application to discharge the CPMS and reference to the North Stand application. It is recommended that this application is not determined at this time. The LHA requests a dialogue with the Applicant to overcome the issues with the parking provision and the construction of the North Stand.</i></p> <p><i>In the interim the LHA considers there is insufficient information in order to be able to make a recommendation. If determination of the application is sought in advance of the Applicant and the LHA liaising with a view to seeking agreement on all outstanding matters, the LHA will need to submit final comments on the proposal in advance of consideration.</i></p> <p>Background</p> <p><i>These comments have been provided in conjunction with comments on the application to discharge the Car Parking Management</i></p>

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	<p><i>Strategy (CPMS) and should be read with reference to the comments from the LHA on this matter.</i></p> <p>North Stand</p> <p><i>This application for the North Stand is awaiting determination by the Local Planning Authority.</i></p> <p><i>LCC wish to undertake a dialogue with the applicant in advance of determination of the application of the North Stand to consider the options to facilitate the construction and operation being acceptable. Therefore, my comments on the CPMS discharge were provided without regard for the acceptability of construction of the North Stand.</i></p> <p><i>Had the application been submitted in advance of construction, it is likely that LCC would have lodged an objection on the basis of highway safety and car parking management issues. The CPMS should not be discharged without a clear understanding of the future development of the site, including the construction of the North Stand being granted permission (with support from the LHA), and all matters of concern being resolved (to the satisfaction of the LHA). The early discharge of the CPMS would result in harm and a failure of the LHA and LPA to have any further mechanism to enable discussion to take place to find a long-term resolution to the unresolved issues. The LHA would then be limited to powers under the Highways Act 1980 and Traffic Management Act 2004, which I do not consider the most helpful approach to resolution.</i></p> <p>Summary</p> <p><i>I would ask the applicant reaches out to resolve the issue of the North Stand and work constructively with the LHA to develop a strategy to resolve the parking and related highways issues to the satisfaction of the LHA (and enabling the LHA to satisfy its own duties) so this matter can be laid to rest, and the club can focus on progression and future success.</i></p> <p><i>Safe and expeditious operation of the highway network supports development and growth, and its contribution to successful development and growth should not be underestimated, particularly for a site located where Mill Farm is, with strong Major Road Network and Strategic Road Network access.</i></p> <p><u>Further Comments – February 2024</u></p> <p>A meeting was held with your officers, officers from LCC as local planning authority, and the applicant’s planning and highway consultants in late 2023. This resulted in the submission of the planning obligation in January 2024. This was sent through to LCC at</p>
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	<p>that time with a request that comments were received to support the determination of the application at this meeting.</p> <p>These comments were received on 12 February 2024 and are included here in full:</p> <p>Summary</p> <p><i>Previous comments have set out the LHA's responsibilities, concerns and evidence. There are relevant comments also made by the Planning Inspectorate in the Appeal regarding CPMS discharge. The LHA would request when making this decision regard is had for all comments and evidence provided by the LHA to date.</i></p> <p><i>The LHAs concerns as presented in Statutory Comments have not been overcome. No evidence has been presented that in a future year an overflow car park will not be required and greater level of on-site management than what has been proposed.</i></p> <p><i>It is of paramount importance that the Applicant ensures that there are strategies in place to manage movement from development and that the traffic management plan is kept live in the interests of highway safety. In the event that the operation of the highway network becomes unacceptable due to poor operation of the stadium, the LHA will refer this matter to the Sports Grounds Safety Authority.</i></p> <p>Background</p> <p><i>The Local Highway Authority (LHA) provided comments on the application for 22/0616 on the 29th of November 2023. These should be read with reference to this application as well. These comments concluded:</i></p> <p><i>"The site proposed for development was set out in the outline application for the wider site masterplan as an overflow car park. Currently, there are a number of outstanding matters that require to be addressed by the applicant, and these are set out in the comments below (in general identified/ summarised by text highlighted in bold).</i></p> <ul style="list-style-type: none">• <i>Suitable parking provision for AFC Fylde having regard for the observed demand for parking provision;</i> <p><i>When the necessary further information and revised plans are presented, I expect to be able to conclude matters in an updated response. However, LCC Highways position at this time is to recommend that the Local Planning Authority (LPA) does not take this application to committee for a decision. If a decision is to be made, the Local Highway Authority objects to the proposal on highways grounds and would recommend refusal.</i></p>
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	<p><i>Planning Note: CPMS discharge (i.e. parking is delivered) and approval of the North Stand (Retrospective) Application are both still outstanding.</i></p> <p><i>In these comments, the LHA made points with reference to:</i></p> <ul style="list-style-type: none"><i>• Departure from Outline Permission Masterplan</i><i>• Legal, Policy, and Promotion Considerations with regard to the proposal to limit stadium capacity</i><i>• Safety on Sports Grounds</i><i>• Complaints from Elected Officials</i><i>• Parking Provision being diminished over time</i><i>• Parking Standards SPD</i><i>• Highway Safety Concerns</i> <p><i>The Applicant has provided a draft Unilateral Undertaking (UU) to limit the licensed capacity of the stadium. The LHA raised concerns regarding:</i></p> <ul style="list-style-type: none"><i>• The LHA have recommended the LPA seek Counsel advice.</i><i>• The proposal does not recognise the context of the site, the masterplan associated with the original permission, or overcome existing highways issues.</i><i>• There is no substantive evidence to explain the position that there is now no intention to provide the overflow car park (which was planned on this site).</i><i>• The calculation of the number of spaces required on site is not undertaken by a robust analysis of the actual operation of the Stadium or its potential capacity, or by the number and nature of trips to the site. As a consequence, the level of spaces provided on site under-estimates the number required;</i><i>• The overall level of parking provided on site is inadequate, and as a consequence there is an unacceptable degree of parking on the surrounding streets leading to undue impact on residential amenity through congestion and inconsiderate parking;</i><i>• The long-term availability of the on-site parking areas that are provided is uncertain and it is possible that the existing unacceptable situation could be exacerbated should some of these parking areas cease to become available for use during AFC Fylde games.</i><i>• The proposal further limits the scope for parking to be resolved. The creation of this also removes places where existing parking takes place on Coronation Way.</i><i>• The management of off-site parking is reliant on traffic management arrangements such as the coning of some streets that are ineffective in preventing parking on them and are legally unenforceable.</i><i>• The Local Highway Authority is extremely concerned about the highway safety risks to supporters and the general public at attendances over 2500-3000 (this is the level it appears to become unacceptable), and there is no evidence to date that this</i>
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	<p><i>is managed better than previously. The licensed capacity, whether this is 4000, or 6000, is not acceptable without this being resolved.</i></p> <ul style="list-style-type: none"><i>• AFC Fylde needs to provide adequate parking for the full development before further development takes place.</i> <p>Legal Note</p> <p><i>A Legal Note prepared by Pamela Chesterman of Irwin Mitchell has been provided in response to concerns expressed by the LHA. (Ref: 022974/022974/05466221-1/40028218-1). This has been provided to Lancashire County Council and has been reviewed.</i></p> <p><i>Previous comments explain the Planning basis for raising concern (i.e., departure from the masterplan removes the parking provision on site and does not provide for the full capacity of the stadium). NPPF Paragraph 135 states:</i></p> <p><i>135. Planning policies and decisions should ensure that developments: a) will function well and add to the overall quality of the area, not just for the short term but over the lifetime of the development;</i></p> <p><i>In the rebuttal provided by Irwin Mitchell, this has not been addressed. Whilst there are extensive comments on the LHA, the actual concerns and basis of those concerns are not well addressed. I am aware that Planning Conditions relating to parking have not been adhered to, the Applicant has deviated from the original masterplan, and that this is a retrospective planning application for the constructed North Stand.</i></p> <p><i>Adherence to the Unilateral Undertaking is therefore a concern. Whilst the LHA requested Counsel advice, the Legal Note provided is not Counsel advice. It is for the LPA to determine whether the Applicant funded advice is sufficient.</i></p> <p>LCC Review of Applicant's Legal Advice and UU</p> <p><i>The County Council would expect the UU to be to the County Council. Lancashire County Council is both the Local Highway Authority and awards the safety certificates for sports grounds on behalf of the SGSA.</i></p> <p><i>Lancashire County Council have issued the current sports ground safety certificate.</i></p> <p><i>The LHA have liaised with the authority and have agreed:</i></p> <ul style="list-style-type: none"><i>• The Local Highway Authority will be party to the cross-agency Safety Advisory Group (SAG) meetings regarding safety at Mill Farm.</i>
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	<ul style="list-style-type: none"> • <i>Licensed capacity on the certificate can be adjusted to reflect the proposed agreement (i.e., the currently issued certificate will be revised down).</i> • <i>If there are severe impacts on highway safety, as previously, the LHA has been assured that the licensed capacity of the stadium can be reduced to an acceptable level until this is resolved. Therefore, irrespective of the agreement, if emergency vehicles cannot get through the Local Highway Network in future, as a result of high levels of attendance and poor management, the licensed capacity is likely to be reduced by the licensing team. As current operation is adequate due to low attendances, it is expected this reduction will reflect current attendances.</i> • <i>If there are vehicles creating access issues or parking dangerously in Zone X (in the safety certificate), the Football Stadium will be held responsible and expected to manage this.</i>
Highways England	Raise no objection.
United Utilities	Raise no objection but make standard comments about the need for the development to be appropriately drained in accordance with the drainage hierarchy. They suggest that standard conditions be imposed to request the detail to deliver this.
Lancashire Fire and Rescue Service	Confirm that they note the application and make recommendations with regards the compliance with building regulations for fire access to the building and to the site in general, and that an adequate water supply is made available.

Neighbour Observations

Neighbours notified:	1 October 2021
Site Notice Date:	1 October 2021
Press Notice Date:	21 October 2021
Number of Responses	Total number of comments 5 representations have been received from 3 properties

Summary of Comments One property makes reference to the parking issues around the site on match days, but largely refers to the large number of young players who visit the site for training each day. They express concern over their welfare in the likely event that they don't progress to be professional players. They also refer to the climate change implications of the development of the site in the past.

The other 2 commenters raise objection to the application with their comments summarised as follows:

- The construction of the stand increases capacity to 6000, which is the amount allowed when the scheme was first approved.

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However, the overflow parking for that capacity has not been constructed.

- The additional parking in this application is a benefit, but is well short of the amount required for the stadium.
- The parking on site also relies on businesses allowing use of their land which cannot be relied upon.
- As there is inadequate parking on site to meet current needs there has been substantial parking on neighbouring streets on every match day.
- The erection of a new stand can only increase the parking issues that are evident at the site whenever it is in use.
- The police and other emergency services are not equipped to respond to complaints over inconsiderate parking.
- The stewarding of the matches is ineffective at preventing inappropriate parking.
- The management of the parking with charging of a fee to access the site creates congestion and deters use of on-site parking.
- The site includes part of the former residential and agricultural lane at Mill Farm which is not designated for leisure use.
- There are concerns over the adequacy of the drainage arrangements on site at present and the additional of new development with additional foul drainage flows can only compound issues.
- The application is submitted retrospectively and this shows a lack of regard for the proper processes and is done simply for the financial benefit of the applicant.
- The failure of Fylde Council to pursue enforcement action to address the unauthorised situation has prolonged the impacts on the local community and businesses from the haphazard parking and vehicle movements.

Relevant Planning Policy & Government Guidance

Paragraph 38 (6) of the Planning and Compulsory Purchase Act 2004 requires that development proposals are determined in accordance with the development plan unless material considerations indicate otherwise. This requirement is reinforced in paragraph 2 of the National Planning Policy Framework.

The Fylde Local Plan to 2032 (incorporating Partial Review) – referred to hereafter as the ‘FLPPR’ – was adopted by Fylde Council at its meeting on Monday 6 December 2021 as the statutory development plan for the Borough in accordance with s23 of the Planning and Compulsory Purchase Act 2004.

Fylde Local Plan to 2032 (incorporating Partial Review):

SL4 - Kirkham & Wesham Strategic Location for Development

GD5 - Large Developed Sites in the Countryside

EC1 - Overall Provision of Employment Land and Existing Employment Sites

GD6 - Promoting Mixed Use Development

GD7 - Achieving Good Design in Development

T5 - Parking Standards

SPD6 - Provision of Parking on New Developments

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National Guidance

NPPF – National Planning Policy Framework

NPPG – Planning Practice Guidance

Environmental Impact Assessment

This development does not fall within Schedule 1 or 2 of the Town and Country Planning (Environmental Impact Assessment) Regulations 2017.

Comment and Analysis

Policy Background

The application site is covered by three designations in the Fylde Local Plan to 2032 (incorporating Partial Review). The football stand, access road and some of the parking areas are within the Mill Farm mixed use allocation. There are 3 policy elements that relate to this designation with these being that it is a part of the Kirkham and Wesham Strategic Location for Development with Policy SL4 indicating the provision of employment uses on the land as allocation MUS3, with Policy GD5 designating it as a Large Developed Site in the Countryside, and with Policy GD6 identifying it as one of the locations where Mixed Use development will be supported. The remaining area of parking is largely within land that is designated as being for Existing Employment Use under Policy EC1, with a small area of the parking that is closest to Fleetwood Road being within the Countryside under Policy GD4.

The compliance of the development with these policies will therefore be a key assessment in the overall determination of this application and so will be covered in detail in this report.

The other policy that has key relevance is Policy TR5 which relates to relating to parking and has recently been supported with the adoption of a Parking Standards SPD in October 2023. In addition, Policy GD7 relating to the good design of new development is also of relevance.

Planning History

The current phase of development at Mill Farm began with the grant of a hybrid planning permission under reference 13/0655 in February 2015. This granted full planning permission for the erection of a football stadium as the home for AFC Fylde, an employment building for Trilenco, a retail store now occupied by Aldi, and the access for these from a new roundabout to Fleetwood Road. It also granted outline planning permission for other elements of development, most of which have now come forward and been developed, with the exception being a hotel which was approved for a plot that is to the immediate south of the football stadium which remains vacant. As the outline planning permission has now expired, that part of the development can no longer come forward without a further planning permission being granted.

The planning permission for the stadium was in full and included stands on all four sides of the pitch, with those to the west, which is the main stand, and to the south and east all constructed in accordance with the plans that were approved at that time. The stand to the north of the pitch was not built, but as the remainder of that planning permission was implemented it remains extant and so could be constructed in accordance with that planning permission. The capacity of the stadium approved under that original 2013 planning permission was 6,000, although its actual capacity was only 4,250 due to the north stand not being constructed.

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A football stadium of that scale creates a demand for parking to accommodate those who will inevitably attend games by vehicle. To address that, the 2013 outline planning permission included some areas of parking on site, principally around the stadium itself, and a condition that required the approval of a Car Parking Management Strategy that confirm the detailed management arrangements for that parking and the vehicle activities around the stadium on match days such as stewarding, coning, release of parking areas, etc. The plans in 2013 also indicated that an overspill car park would be provided to the north of the Mill Farm site which a capacity of circa 500 spaces to provide an on-site location for spectators to park.

Whilst applications to discharge the requirements of the condition to secure the agreement of a Car Parking Management Strategy have been made, none have been approved. As such the condition remains outstanding and the operation of the Mill Farm Stadium for first team games is an on-going breach of this planning condition. The overspill car parking area has also not been constructed, with the site currently an overgrown and inaccessible area of land, albeit one that is the subject of a current planning application under reference 22/0616 for a large employment building.

Whilst the condition remains outstanding applications have been made to discharge the Car Parking Management Strategy condition. The first was under reference 16/0397 and was refused by Fylde Council, with a subsequent appeal being dismissed on the basis that the submitted scheme did not provide appropriate details to ensure that the parking arrangements, which did not include the provision of this overspill parking, would not lead to unacceptable residential amenity or highway safety impacts. A current application is under consideration for a revised Car Parking Management Strategy under reference 20/0135. This also omits the provision of the overspill parking, instead relying on the existing parking arrangements within the Mill Farm site to provide the parking arrangements with details of their management included in the submission.

There have been a range of other applications on Mill Farm, largely associated with the sporting facilities that are provided on site, and the employment and commercial development that has been established in the past years. There have also been a range of supporting applications such as advertisement consents, condition discharges, etc. None of these have any direct relevance to the current proposal.

Principle of North Stand

This element of the application is on land that is allocated for mixed uses under Policy GD6 and the Mill Farm allocation under Policy SL4. More pertinently, it is land that has the benefit of an extant planning permission for the erection of a football stand and is sited immediately to the north of the operational Mill Farm stadium where the only logical use of the land would be to provide an additional facility to support the operation of that Stadium. Given these factors it is considered that the erection of the football stand element of this application is acceptable in principle being compliant with development plan policies and compatible with the neighbouring land uses.

Details of North Stand

Moving on from the principle of the stand there is a need to assess the details.

Firstly, the stand that is the subject of this application does not alter the overall capacity of the Stadium from that which was approved in 2015. The originally approved stand was a single tier terraced structure with limited supporting facilities such as food kiosks and toilets. The replacement is physically larger with the spectator capacity that is provided being all seating, and with a large

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concourse area underneath this and extending to the rear to provide enhanced supporter facilities with this partly a consequence of the priority given to social distancing at the time of its design.

Secondly the design of the stand is an appropriate one for the location. It features the same curved roof form as that used on the other stands with other structural elements following the same approach also used around the Stadium. The materials palette is complementary to that found elsewhere and so this all results in the structure having a harmonious relationship to the other Stadium structures when viewed from all aspects: within the stadium, within the Mill Farm site, and from views outside the site on Fleetwood Road. There is no conflict with Policy GD7 in that respect.

The main stand at Mill Farm provides supporter accommodation, but also features the administrative, hospitality, club shop, and other ancillary elements of the operation of the football club. It also features a small number of hotel rooms in the upper floor of the building. The main element of the North Stand does not provide anything other than supporter accommodation with a simple open concourse providing refreshment kiosks and WC facilities to support their attendance at the match. There is a museum and groundkeeper element to the application, but these are discreet elements.

There is a condition on the 2015 outline planning permission that requires that the Mill Farm Stadium can only be used for football matches, meaning that any other uses such as concerts, car boot type markets, etc. could not be undertaken without the revision of the condition so that the implications of any such proposals can be properly examined at that time. With the North Stand providing enhanced facilities for those attending the site then it is considered appropriate to impose a similar restriction by way of planning condition for consistency.

Access and Parking

This has been a key issue with the development of the various uses on Mill Farm, particularly given the outstanding details to discharge the Car Parking Management Strategy condition as described in the Planning History section of this report. One of the reasons that this application has been delayed in its determination is to allow for those elements to be clarified, and it is only now brought forward for a decision as the applicant's agent has provided additional details in the form of a legal agreement and an associated parking plan that is presented by them to attempt to demonstrate that the quantum of parking that is available on site will provide for the needs of the Stadium.

The merits of this approach are examined in this section of the report. To assist with that further comments have been secured from Lancashire County Council as the local highway authority, and are reported in full above. Whilst the latest comments do not themselves raise objection, they do raise a series of concerns with the approach taken and refer back to earlier comments which were opposed to the use of the site without the overspill parking area. As such it is reasonable to construe the local highway authority's position as being an objection to the current application based on the level of parking it provides and the enforceability of a restriction on the capacity of the stadium.

There is a significant history of complaints from local councillors, the Town Council and some local residents over the parking arrangements, and specifically that the traffic and parking associated with the football stadium is having unacceptable impacts on the local community. Very recent comments from the neighbouring Greenhalgh Parish Council make detailed reference to this based on the current proposal. The concerns raised relate to both the highway safety impacts of congestion on local road networks, and the neighbour amenity impacts from extensive use of the roads around the site for supporter parking, some of which is inconsiderate. Their collective view seems to be that if there were a greater level of parking provided on the Mill Farm site then the level of off-site parking would be reduced and so these issues would be alleviated to a degree.

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With that background there are several aspects to the consideration of this subject and these are set out in this section with a series of subheadings to provide some coherence to the assessment.

Access

There is a single point of access to Mill Farm which is a roundabout on Fleetwood Road which then leads to a central spine road within the development known as Coronation Way. This serves all the various developments on the site, including the Mill Farm Stadium. Coronation Way is not an adopted highway and is not scheduled to be adopted, but it is built to a good standard with a 6m wide carriageway that provides for traffic in both directions even with elements of parking to one side, and is lit and provided with a pedestrian footway to one side.

With the principle of the erection of the stand and its capacity being as previously approved, then the use of this route to access the development is considered to be acceptable.

The Parking Plan for the site has been revised since it was first submitted to confirm that Coronation Way itself is no longer to be relied on to provide parking arrangements for the Stadium. This area is used for parking at present and this has been a key concern as the parking restricts the useability of the road and there were concerns that parking could restrict emergency access and access to other units if required on match days. The prevention of parking on this roadside is a matter that can be enforced through the Car Parking Management Strategy that is expected to progress should this application be approved.

Parking Numbers

As set out earlier in this report the original capacity of the stadium was approved at 6,000 but that was not initially delivered as only the west, south and east stands were built for the opening of the stadium in 2016, thereby resulting in a capacity of 4,250. The 2015 outline planning permission includes a requirement to agree a Car Parking Management Strategy and through that the potential provision of overspill parking on the Mill Farm site to ensure that there is sufficient capacity on the site to meet the needs of the Stadium. These both remain outstanding.

The overspill parking was indicated as providing space for circa 500 vehicles and was to build on the circa 200 other spaces that were available on site for football activity use when it was completed. This equates to a parking level ratio of 1 space for every 8.5 spectators and was a figure that LCC Highways were satisfied was appropriate when they made their final comments on the 2015 application.

There are now three key factors that support a different approach being taken to the provision of an overspill car park area:

- A. FBC has recently adopted its own parking standards
- B. A Car Parking Plan has been provided which indicates parking areas are available around the site to provide for 436 spaces
- C. A legal agreement is offered that would become effective in the event that this retrospective planning application is approved which would legally restrict the capacity in the stadium

Looking at these elements in more detail:

A - Parking Standards

Policy T5 of the FLPPR states that *“Car parking should, wherever possible, be provided on site so as to ensure that there is no detrimental effect on highway safety. A flexible approach to the level of car parking provision will be applied, dependent on the location of the development concerned”*. The

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supporting justification for that policy indicates in para 11.61 that the council will prepare a Supplementary Planning Document (SPD) that sets out local parking standards. This SPD has now been prepared and was adopted at the 17 October 2023 meeting of the Executive Committee following a consultation exercise earlier that year including with Parish and Town Councils and the local highway authority.

The SPD sets a target figure of 1 space for every 10 spectators at a sports stadium. This figure ensures that a stadium with a larger capacity would need to provide a proportionally larger parking figure, with this parking intended to cover all the parking arrangements for the stadium not just for spectators. This means that the parking for players, playing support staff, stewards, hospitality staff, etc would all be included within this global parking figure.

As the North Stand that is the subject of this application is completed and available for use this gives the current capacity of Mill Farm as 6,000, although there are some operational factors which actually limit this to 5,357 as set out in the Stadium Safety Certificate as issued by LCC as the relevant authority for such matters. Nevertheless, the parking standards would indicate that a figure of 600 spaces is appropriate to meet the needs of the Mill Farm Stadium to ensure compliance with the obligations of Fylde Council's SPD and the requirements of Policy T5 with which it is associated.

In their recent final comments on this application the highway authority highlight a series of concerns with the parking levels that are provided under the applicant's latest approach. Some of these concerns relate to the management of the spaces and the highway network around the site, but with regards parking numbers, they highlight how the current proposal deviates from the masterplan approach that was presented at the time of the determination of the original application, and state their belief that there is no *'substantive evidence'* to explain the lack of any need to provide the overflow car park. This is based on their view that the *'calculation of the number of spaces required on site is not undertaken by a robust analysis of the actual operation of the Stadium or its potential capacity, or by the number and nature of trips to the site. As a consequence, the level of spaces provided on site under-estimates the number required.'*

Notwithstanding their concerns that the basis for calculating the parking standard figure is not based on robust evidence, it is factually the case that the figure in Fylde Council's Parking Standards SPD has been the subject of assessment in its preparation, consultation through the production of that document (including with the highway authority), and then careful consideration by Fylde Council's Executive Committee when it was adopted last autumn. This means it is the legally sound test to apply to the consideration of parking levels associated with development in the borough.

B - On-site Parking Availability

Using the SPD calculation set out above and assuming that the stadium capacity is 6,000 then there would be a need for 600 spaces to be available on site. This is a reduction on the circa 700 that were considered to be necessary at the time the original planning permission was granted in 2015, but an increase over the figure currently available under this proposal.

The actual provision of parking on site is now indicated as 436, with this based a parking plan that has recently been provided with this application and indicates the following parking arrangements are available:

Car Park	Spaces	Description
3G Pitches	81	Surfaced and marked area to north of stadium that is shared with 3G pitches. To accommodate this dual use 75 of the 158 spaces are set aside for hockey use with the remained included here

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North Stand	106	Surfaced and marked area to north of north stand that is provided as part of this application. It provides 126 spaces with 20 of these set aside for the existing hotel use in the main stand
East Stand	40	Currently unsurfaced and unmarked area to rear of east stand that is used for staff parking on match days
Trilenco	105	Surfaced and marked car park used by Trilenco during trading hours but available for football parking on match days under agreement
Coronation Way	9	Roadside parking available in layby areas of that road to ensure two-way carriageway is not impacted by parking
South Stand	95	Currently unsurfaced and unmarked area

Accordingly, the current arrangement is that the parking available on site is inadequate to meet the obligations of the SPD based on the existing capacity of the Stadium being 6000.

This is one of the concerns highlighted by LCC, and others, and is said by LCC in their recent final comments to lead to *'an unacceptable degree of parking on the surrounding streets leading to undue impact on residential amenity through congestion and inconsiderate parking.'*

C - Legal Agreement

The applicant's agent has also recently provided a draft planning obligation in the form of a Unilateral Undertaking. This is presented in an unsigned form but has been subject to assessment by the council's legal team and amendments have been made to its content in response to their comments. It has also been shared with the local highway authority for their comments.

The purpose of the planning obligation is to establish a mechanism which restricts the available capacity at the Mill Farm Stadium to that which would meet the available parking requirements as calculated at the adopted SPD ratio of 1 space for every 10 spectators. It is supported by the site parking plan which is described in the preceding section of this report, and requires revisions to that plan to be provided should the parking arrangements on site change.

Based on the parking levels available in the current version of that plan, the effect of the legal agreement would be to restrict the capacity of the Stadium to 4,360. Should some of the parking spaces that are currently shown on that plan become unavailable, then the legal agreement would require that the capacity of the stadium is consequentially reduced. This would accommodate the situation as explained by Greenhalgh Parish Council in their recent comments that if the hotel site was developed for an alternative purpose or Trilenco refused access to their spaces then the capacity of the stadium would need to be reduced accordingly, with this legally enforceable by the council through this agreement.

Equally, should additional parking become available then the capacity of the stadium could increase. This is a factor that AFC Fylde are keen to retain as they have a stated ambition of achieving Football League status. One of the requirements of access to the Football League is a stadium with a capacity of at least 5,000 and so if they were to achieve that status through success on the pitch, they would also need to make arrangements to increase parking capacity by some mechanism to avoid conflict with this legal agreement and so allow that promotion to be realised.

A clause to the legal agreement requires that the spaces shown on the Parking Plan are always available for use at AFC Fylde first team games. This would address some concerns expressed by the highway authority, as it removes the need to rely on parking on Coronation Way to meet the parking requirement. As Coronation Way falls outside the application site, it would not be possible to prevent parking along this road, however, the proposal does not rely on that parking to meet the parking

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standard. This issue would need to be addressed as part of the Car Parking Management Strategy under the existing application to discharge the condition to secure that, with a revised version of the Strategy expected should the application be approved so that its content can be incorporated.

Implementation of Parking Level restrictions

Whilst the Stadium has a theoretical capacity of 6,000 this is well in excess of the attendances that have been achieved. A review of the information via www.footballwebpages.co.uk indicates that the attendances have been:

Season	Highest	Lowest	Average
2023/24	2,580 (Oldham Athletic)	902 (Borehamwood)	1,400
2022/23	1,937 (Chorley)	328 (Kidderminster Harriers)	1,000
2021/22	2,608 (Chorley)	841 (Telford United)	1,150
2020/21	No matches due to covid		
2019/20	2,764 (Stockport County)	997 (Barnet)	1,450
2018/19	2,941 (Salford City)	491 (Stratford Town)	1,550
2017/18	3,065 (Tranmere)	1408 (Maidstone)	1,800
2016/17	3,858 (Chorley)	1362 (Curzon Ashton)	1,950
2015/16	Limited data available		
2014/15	1,279 (Barrow)	338 (Brackley Town)	600
2013/14	709 (FC United of Manchester)	189 (Trafford)	350

Should the current level of attendance continue then the legal agreement would have no impact on the capacity of the stadium unless any of the parking areas that are shown on the submitted Parking Plan become unavailable to the extent that the 1:10 ratio is not achieved.

If that were the case then the legal agreement would require that the capacity is reduced, with this legally enforceable by the council with any breaches clearly evidenced through the attendance figures that are widely available for all football matches.

This legal agreement is considered to provide a helpful and suitably robust long-term mechanism for restricting the capacity at the stadium to that which is available on site with the intention of minimising the congestion and amenity impacts that have occurred, particularly when there have been larger attendances at the Stadium and some of the parking arrangements have not been in place or managed effectively.

The management of the parking arrangements at AFC Fylde has been a long-running issue that has taken a considerable amount of officer and member time in seeking to find a suitable way forward. These discussions have sought to find a mechanism that that allows the Club to fulfil their ambitions for success with the associated prestige it brings to the town and borough, and the community enrichment that a successful football team brings, whilst not creating unacceptable highway safety and residential amenity issues.

This application now presents an opportunity to provide suitable clarity to one element of that parking conundrum, specifically regarding the quantum of parking. Having assessed this approach as set out above officers believe that the current proposal provides a suitable arrangement to address the quantum of parking aspect of the overall parking arrangements at Mill Farm.

This means that the overspill parking area that was envisaged as being necessary in the 2015 application would no longer be required. This in itself has benefits as it allows that part of the Mill Farm allocation to potentially be used for a more productive purpose given its allocation within that

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allocation and removes the potential need for large areas of parking to be provided which are ecologically of limited value and are often visually harmful as the parking is met in a series of smaller locations around the site rather than in one large and not very well located car park.

Whilst this may address the quantum of parking aspect, the management of parking remains outstanding.

Parking Management

Condition 33 on the original 2015 planning application remains outstanding and is the appropriate mechanism to secure the management arrangements for the car parking and the operation of the stadium in general.

Prior to the first occupation of any phase of the development hereby approved, a fully detailed Car Parking Management Strategy shall be submitted to and approved in writing by the Local Planning Authority. The management of the car parking at the site shall be fully implemented in accordance with the approved strategy, unless otherwise agreed in writing by the Local Planning Authority.

Reason: To ensure that a satisfactory car parking management strategy is implemented for the development.

As set out above there have been various submissions made, with the latest scheme a progression over the earlier submissions.

The management aspects that are covered in the submission relate to issues such as:

- The release of parking spaces on match days
- The allocation of parking spaces for spectators, players, staff, visitors coaches, etc
- The stewarding arrangements for directing spectators to parking areas
- The coning of areas on site and off site to discourage parking
- Whether there are to be charges applied for any parking areas
- Additional measures to take when larger attendances are anticipated
- The review timescale and process

As this CPMS has evolved over time the content has improved, but the latest iteration does not provide all information and clarification needed to allow that to be accepted by the council. The approval of the quantum of parking and its position on site as is proposed under this application is helpful in removing that aspect from the discussions over the content of the Car Parking Management Strategy, and it is expected that it will allow discussion to be more tightly focussed and so bring this matter to a conclusion in the near future.

The current application for the discharge of this planning condition is the appropriate mechanism for this and the approval of this North Stand application will not overrule the need for agreement of this matter and then the subsequent compliance with the agreed Car Parking Management Strategy which would be enforced under the planning condition in the normal manner.

Design of Parking in Application

The application site contains two linked areas of parking: one to the east of the east stand, and one to the north of the north stand. Both are accessed from Coronation way with the former being accessed through the latter.

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The East Stand parking area has been in place for some time and is an area of unsurfaced land that has been used for steward and other staff parking. This is a logical arrangement as this is the furthest from the access point and so it is appropriate that this is used by those who are likely to be at the site at the earliest time on a match day. The unsurfaced and so unlined nature of this area enables it to be parked in an ad hoc way with the potential for parked vehicles to be blocked in. Notwithstanding that point, this area would benefit from the provision of an appropriate surface as that would allow for an appropriate surface water drainage arrangement to be provided with a kerb fitted to prevent surface water spilling onto Fleetwood Road and the parking area to be drained through the drainage system that serves the remainder of the site.

The North Stand Parking area is tarmac surfaced and laid out in 4 banks of parking to provide a total of 126 spaces. This is an increase over the 50 or so spaces that were in place prior to the development for the North Stand and have been provided by the formation of the parking over an area of grass that previously separated the Mill Farm stadium from the old Mill Farm site to the north.

As with any large parking area, the visual impact of this would be improved by the incorporation of landscape beds at the end of the aisles and the breaking up of the parking areas with landscaping. That is not evident at this site and so the appearance is of a reduced quality as a result. The incorporation of these features would be possible, but this would be at the loss of a number of parking spaces. Given the clear benefits of providing as much parking on the site as possible and the location here being immediately adjacent to the Stadium and so of most value to spectator, it is accepted that the usual landscaping requirements from parking areas can be omitted in this case. It is also the case that this parking area in question is not particularly prominent as a result of its location, and the lack of landscaping is less of a concern given the position adjacent the North Stand.

Local Plan land use Implications

As set out above the parking area falls into a series of local plan designations, with that to the east of the East Stand and that immediately to the north of the North Stand in the MUS3 mixed use allocation. The northern part of the parking to the north of the North Stand is split between the Policy EC1 employment application and the Policy GD4 Countryside allocation.

With its location wrapping around the football stadium it is clear that the purpose of the parking is to support the operation of the stadium, and as such its use is considered to be ancillary to that use. This brings forward a compliance with the mixed use allocation as that promotes the leisure uses of the site as part of the original planning permission. Policy GD4 makes provision for development which is designed to support the continuation of activities that are currently being undertaken on those sites, and so the parking is in compliance with that policy also. It is arguable that the use of land that is designated for employment purposes but only used for parking is not making a particularly productive use of that land, but in the circumstances here where the parking is associated with a large scale development at Mill Farm Stadium that has substantial local employment, economic and social benefits it is considered that this technical policy conflict should carry very limited weight.

Summary to Parking

Having reviewed this aspect carefully it is considered that the approach now set out by the applicant to separate out the question of the amount of car parking on the site, and provide a legal undertaking that the capacity of the stadium will be limited to ensure compliance with the council's Parking Standards SPD, is an appropriate one.

The legal agreement that has been provided has been reviewed by the council's legal officers who are satisfied that it provides an appropriately robust mechanism that will allow the council to enforce this situation. In turn this should lead to the highway safety and neighbour amenity implications of the

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levels of off-site parking that have occasionally been experienced when there have been larger attendances at the Stadium to be controlled. The provision of suitably located parking on site, with this effectively managed and available without any charge will also assist in ensuring it is more attracted for supporters to use.

The parking areas that are provided are considered to be appropriately designed for the context, subject to a condition that requires the east stand car park to be surfaced, and do not create an undue conflict with the various local plan designations that apply over the application site.

Accordingly, it is considered that the traffic and parking implications of this development are acceptable, and are in fact a benefit to the wider operation of the Stadium given the level of community concerns that have been raised over the parking arrangements since the Stadium became operational in 2015.

Other Matters

Neighbour Impacts

The nearest property is situated to the opposite side of Fleetwood Road and is broadly located opposite the northern extent of the north stand car park. The stand itself is around 75m from this dwelling and so is at a separation where the structure will not create any massing or other physical impacts. As the stand has the same capacity as the previously approved structure then the noise and other disturbances associated with its use will be no greater than under that previously approved arrangement.

The parking area is located close to this property and is almost directly opposite it, but with the nature of the use being very intermittent and the intervening Fleetwood Road providing a regular traffic impact on this dwelling then the level of amenity harm that is created from the car park in this location is negligible.

The operation of the football club is said to create amenity harms to the community around it through the use of surrounding streets for parking by spectators on match days, particularly those with a high attendance. This application assists with that by providing an increased level of parking in the north stand car park over that which existed previously and that which was approved with the 2015 planning permission. The agreement to provide a restriction on the capacity of the stadium that is linked to the available on-site parking should also provide benefits to that surrounding community by providing some restriction over the overall capacity at the stadium compared to the existing situation.

The proposal is therefore considered to satisfy the requirements of Policy GD7 with regards to the impact on the amenity of neighbouring residents and those in the wider area.

Drainage

The Mill Farm site has a surface water drainage system that features various forms of on-site storage for the individual parcels and then a connection to a balancing pond that is located to the north of the site. The applicant has advised that the outfalls from the Stadium are controlled to an agreed rate into this pond as part of the Mill Farm site wide drainage arrangement. In turn this pond discharges to the brook to the north of the site, with that discharge at a controlled rate as set out in the original planning permission as agreed by the Environment Agency. The storage capacity in the pond and the flow rates from the outfalls into it are appropriate for the site drainage arrangements and have been adjusted to reflect the scale of the development to ensure they remain well within capacity.

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Planning permission has recently been granted to relocate the existing pond to the south of its current location, although those works have yet to be implemented. The new pond has also been designed to accommodate the site drainage requirements of the scheme here.

The foul water drainage from the stand drains through gravity into the site wide foul sewer which falls to the north where it is pumped to the public sewer. This is a suitable arrangement and the new stand has no adverse impact on it.

Accordingly there are no issues with the drainage proposals which satisfy the requirements of Policy GD7, CL1 and CL2 of the Fylde Local Plan to 2032 (Incorporating Partial Review).

Conclusions

The application relates to a retrospective application for the erection of a North Stand at the AFC Fylde Stadium at Mill Farm which has a different design to that approved when the stadium was initially granted planning permission in 2015. This Stand is of an appropriate design and scale for the stadium and the car parking that forms part of the scheme to the rear of the stand will assist in managing stadium operations.

A further beneficial feature of this application is that the submission of a Unilateral Undertaking which proposes that the capacity of the stadium be fixed to reflect the available on-site parking on the Mill farm site so that the ratio of parking required by the Fylde Council Parking Standards SPD is always satisfied. This provides a legally enforceable certainty that the minimum quantum of parking on site will always be available to support the operation of the Stadium.

Mill Farm is an important sporting, economic and recreational facility for the borough and so brings many benefits. It is critical that those benefits are not at the cost to highway safety or unduly impact on residential amenity. The Unilateral Undertaking supplied with this application assists with the control of both of these aspects, and is a further material consideration in favour of the development which, when all aspects of the development are taken into consideration, is considered to adequately address the concerns of the highway authority in the overall planning balance.

The stand and associated parking areas comply with the requirement of the local plan policies that are applicable in that area and so it is recommended that the application be supported by Committee.

Recommendation

That the decision to GRANT Planning Permission be delegated to the Head of Planning subject to the receipt of a completed planning obligation relating to the future capacity of the Mill Farm Stadium, and a series of planning conditions which are to be those listed below (subject to any amendments, deletions or additions that the Head of Planning considers necessary):

1. This permission relates to the following plans:
 - Location Plan – FWP Drawing 6513_ NorthStand_L001 Rev S1
 - Site Plan – FWP Drawing no. 6513_ NorthStand_L003 Rev P4
 - Proposed Car Parking Plan - FWP Drawing 6513_Jan 2022 Car Parking Rev S9
 - North Stand Ground Floor Plan FWP drawing 5948/03 Rev P8
 - North Stand Roof Plan - FWP drawing 5948/04 Rev P3
 - GA Sections - FWP drawing 5948/05 Rev C1

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- North Stand Elevations – FWP drawing 5948/06 Rev P7
- Stadium Control, Groundsmans Store and Turnstile Area - FWP drawing 5948/12 Rev P3

Except as provided for by other conditions to this permission, the development shall be carried out in complete accordance with the approved drawings.

Reason: For the avoidance of doubt and to ensure that the development is carried out in accordance with the approved plans in the interests of proper planning in accordance with the policies contained within the Fylde Local Plan to 2032 (incorporating Partial Review) and National Planning Policy Framework.

2. The north stand and associated concourse and parking areas hereby approved shall only be used as part of the operation of Mill Farm Stadium and shall not be physically or operationally separated from that Stadium.

Reason: To ensure that the use of the stand and associated accommodation remains available for the football stadium use only and so is compatible with its surrounding land uses and the designation of the site in accordance with the requirements of policies GD7, SL4 and GD5 of the Fylde Local Plan to 2032 (incorporating Partial Review), and the National Planning Policy Framework.

3. Within three months from the grant of this planning permission a scheme for the layout, drainage, surface treatment, and any lighting of the vehicle parking areas referenced as 'south stand' and 'east stand' on the match day parking plan listed in condition 1 of this permission shall have been submitted to and approved in writing by the Local Planning Authority. These areas shall be laid out and made available for parking in accordance with the duly approved scheme no later than 1 August 2024 and shall be retained as such thereafter.

Reason: To ensure that adequate provision is made for vehicle parking and that these parking areas achieve an appropriate surface treatment and an adequate standard of engineering work in the interests of highway safety and visual amenity in accordance with the requirements of Fylde Local Plan to 2032 (incorporating Partial Review) policies GD7 and T5, and the National Planning Policy Framework.

Informative(s)

1. Statement under Article 35(2) of the Town and Country Planning (Development Management Procedure) (England) Order 2015:

The Local Planning Authority worked positively and proactively with the applicant to identify solutions during the application process in order to ensure that the proposal comprises sustainable development and improves the economic, social and environmental conditions of the area in accordance with the development plan. These amendments have been incorporated into the scheme and/or secured by planning condition. The Local Planning Authority has therefore implemented the requirement in Paragraph 38 of the National Planning Policy Framework.

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Item 2

Application No:	23/0651	Case Officer:	Rob Buffham Area Team 2
Applicant:	FYLDE BOROUGH COUNCIL	Agent:	MRS LAURA FOSTER
Location:	ICE CREAM KIOSK - STANNAH BANK FAIRHAVEN LAKE AND GARDENS INNER PROMENADE LYTHAM ST ANNES		
Proposal:	1) DEMOLITION OF EXISTING ICE CREAM KIOSK BUILDING, 2) ERECTION OF ICE CREAM KIOSK BUILDING FOR THE PRODUCTION AND SALE OF ICE CREAM, AND SALE OF FOOD AND DRINK, WITH COVERED SEATING AREA, HARD LANDSCAPING AND GROUND RE-PROFILING WORKS, AND 2 PARKING SPACES.		
Ward:	Ansdell & Fairhaven	Parish:	
Date Received:	6 October 2023	Earliest Decision:	3 November 2023
Reason for any delay:	Need to determine at Committee due to nature of application	Online application file here	
Officer Recommendation:	Grant		
Location Plan	<p>The location plan is a site plan showing the proposed development area. A red outline indicates the site location, which is situated between Fairhaven Lake to the west and Granny's Bay to the east. The site is bounded by Inner Promenade to the north and south. Other features shown include Stanah Bank Car Park, Marine Drive, and a general car park area. The map shows building footprints, roads, and the lake's edge.</p>		

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Summary of Officer Assessment

The application site is located to the south of Lytham St Annes adjacent to the eastern pinch point of Fairhaven Lake and the road junction of Inner Promenade/ Marine Drive. It encompasses 3 elements which relate to: an existing single storey ice-cream kiosk building, a triangular grassed parcel of land to the other side of the access road serving Stanner Bank car park, and two parking bays within the car park.

The application site collectively straddles the Settlement Boundary of Lytham St Annes, as per the Policies Map of the Fylde Local Plan to 2032 (incorporating Partial Review), with the existing building located within that settlement, and the grassed land parcel positioned outside of the settlement and designated as an Amenity Green space and a Semi – Natural Greenspace.

The surrounding area is characterised by the River Ribble estuary to the south, amenity grassland to the east and Fairhaven Lake to the west, as well as the settlement edge to the north that follows the line of Inner Promenade. Existing built form within the urban area is residential in nature, with 4 storey apartment blocks focussed to the junction of Marine Drive/ Inner Promenade that face seaward.

Planning permission is sought for demolition of the existing building and construction of a larger facility that will be located on the triangular grassed land parcel located to the south of Stanner Back car park. The existing footway will be widened over the demolished footprint of the existing building.

The new building has a triangular footprint measuring 24m x 20.5m x 12.2m and has a footprint circa 109sqm (159sqm including roof overhang), and is of single storey flat roof design to an overall height of 3.4m from footpath level. Construction materials include a mix of pre-cast board marked concrete walls and floor to ceiling sliding glazed doors which allow internal or external use of the building dependent upon weather conditions. Perforated Corten steel shutters will be used to secure the glazed elements of the building when not in use. The shutters will be stacked against the concrete walls of the structure when open, and also have a sliding mechanism for ease of use. The roof will have a green sedum system and all rainwater and downpipes will be concealed internally.

The submission indicates that the premises will be used primarily for the making and selling of ice cream, and includes the sale of hot and cold drinks, confectionary, cold food and a small selection of hot food including paninis and toasties. The Agent has confirmed that there is no provision for a hob or oven and that hot food is intended to be made via a sandwich maker or similar equipment. Alcohol is also intended to be served, subject to receipt of an alcohol license.

It is considered that the settlement boundary as depicted by the FLPPR Policies Map is out of date and has not been revised to reflect the recently constructed sea defence scheme. Any subsequent revision of the Plan would logically revise this allocation to follow the route of the new promenade, as per the existing settlement boundary to Fairhaven Lake, Church Scar and Lytham which positions the dune network and Lytham Green within the settlement. This revision would consequently result in the application site and open space designation located within the settlement, in accordance with the locational strategy for new development advocated by Policy S1, DLF1 and GD1 of the FLPPR.

The site is located to the western edge of an existing open space designation, being designated for the site's value as an amenity greenspace and semi-natural greenspace. Policy ENV3 recognises the importance of this green infrastructure and states that 'in-appropriate development' will be

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resisted, inferring 'appropriate' development is acceptable. In this respect, coupled with Fairhaven Lake and the sea defence promenade, the open space designation is an important tourism and recreational asset to the Borough. Similarly, the existing kiosk provides tourism benefit, and the proposal is considered to enhance this benefit to visitors and residents alike. Whilst the existing informal use of the application site for recreational purposes will be lost through the construction of the new building, the intended use will enhance the tourism and recreational value of the remaining designation, as well as Fairhaven Lake and the promenade, whilst promoting Granny's Bay as a tourist destination in its own right. The proposals will therefore make a significant contribution toward coastal tourism in accordance with Policy EC6 and the objective of the Coastal Strategy which seeks to improve picnic and recreation facilities at Granny's Bay. Moreover, this linkage to tourism allows support for the application as an 'appropriate' form of development for the existing open space designation as per Policy ENV3. In this circumstance, policy test a) of ENV3 that requires consideration of paragraph 103 (formerly paragraph 99) of the NPPF23, or those other tests of ENV3, are not relevant to the assessment.

The proposed development constitutes a main town centre use in an edge of centre location. The applicants Planning and Retail Statement (PRS) has demonstrated a locational need for the development based upon replacement of the existing kiosk, and that there are no sequentially preferable alternative sites within the Ansdell District Centre to accommodate the development. The proposal therefore passes the retail sequential test and would not undermine the vitality or viability of Ansdell District Centre, in accordance with Policy EC5 and the NPPF23.

In addition, the proposal will encourage job creation during the construction phase and once operational will increase the tourist attraction of the area and likelihood of additional spend in other local businesses within the locality, in accordance with Policy EC6 and strategic objective 4 of the FLPPR that seeks to grow the local economy.

The proposed building will alter the presently undeveloped character of the application site, though due to its peripheral location, the contribution that it makes to the character of the wider open space is considered to be low. Bearing in mind the design and appearance of the built form and benefit of demolition that the proposal will bring, it is considered that the proposal relates well to the context of the locality, making a positive contribution to the character and distinctiveness of the area and thereby avoids demonstrable harm to visual amenity, in accordance with Policies GD7 and ENV1 of the FLPPR, and NPPF23.

The development would not compromise the safe, efficient or convenient movement of all highway users, and provides for highway safety improvements through the removal of pedestrian and vehicle conflict associated to queuing at the existing ice-cream kiosk, in accordance with Policies GD7 and T5 of the FLPPR and NPPF23.

There are no heritage, flood risk, drainage or ecological issues of note and the development provides for a satisfactory relationship to neighbours, in accordance with Policies GD7, CL1, CL2, ENV2 and ENV5 of the FLPPR and NPPF23.

Paragraph 1.8 of the FLPPR requires a balanced judgement to be made when determining planning applications. It is reported that the proposal will result in the loss of a small portion of protected open space and that this loss will impinge upon the character of the area to some degree. Notwithstanding, the harm arising would be minimal and is not considered sufficient to warrant refusal of the planning application, though this harm is considered to be outweighed by improvements to street scene appearance resultant from demolition of the existing kiosk, and the associated benefits to highway safety, tourism and recreation.

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The proposal therefore accords with the development plan and consequently can be considered sustainable development for the purposes of paragraph 11 c) of NPPF23. In accordance with paragraph 11 c) development must be approved without delay and the proposal is therefore recommended for approval to Members of the Planning Committee, subject to adoption by the Council of the Shadow Habitat Regulation Assessment, and a schedule of appropriate conditions (including any amendment to the wording of these conditions or additional conditions that the Head of Planning considers necessary to make otherwise unacceptable development acceptable).

Reason for Decision Level

The application is submitted by Fylde Borough Council and so it is necessary to present the application to the Planning Committee for determination.

Site Description and Location

The application site is located to the south of Lytham St Annes adjacent to the eastern pinch point of Fairhaven Lake and road junction of Inner Promenade and Marine Drive. It encompasses 3 elements which relate to an existing single storey building and a grassed parcel of land, that are positioned either side of the access road serving Stanner Bank car park, as well as 2 parking bays within the car park.

The existing building is positioned on the Fairhaven Lake side of the Stanner Bank car park access road, adjacent to the access ramp which serves as the single point of pedestrian entry to Fairhaven Lake from the east. The building is approximately 30sqm in footprint and is commercially occupied, selling ice cream, hot and cold drinks, sweets and snacks. It is single storey in scale, having a hipped roof and constructed of render and red tile.

The grassed land parcel is positioned to the south of this existing building, to the opposing side of the access road and car parking area. It is triangular in shape and is 264sqm in size (excluding existing footpath shown within the red edge), with its boundaries formed by a pedestrian promenade to the south that is part of the new sea defence, footpath to the north which connects to the existing footpath network on Inner promenade, and grassed amenity space that extends in an easterly fashion around Granny's Bay.

The application site straddles the Settlement Boundary of Lytham St Annes, as per the Policies Map of the Fylde Local Plan to 2032 (incorporating Partial Review), with the existing building located within that settlement, and the grassed land parcel positioned outside of the settlement and designated as an Amenity Green space and a Semi – Natural Greenspace.

The surrounding area is characterised by the River Ribble estuary to the south, amenity grassland to the east and Fairhaven Lake to the west, as well as the settlement edge to the north that follows the line of Inner Promenade. Existing built form within the urban area is residential in nature, with 4 storey apartment blocks focussed to the junction of Marine Drive/ Inner Promenade that face seaward and are set back from the road behind landscaped front garden spaces, with a gradual reduction of scale to a more traditional 2 storey height beyond. Construction materials are predominantly red brick, punctured by large expanses of glazing that take advantage of coastal views, and grey slate or tile of pitched, hipped and flat roof forms.

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Details of Proposal

Planning permission is sought for demolition of the existing commercial building and construction of a larger building that will be located on the triangular grassed land parcel located to the south of Stanner Back car park.

The existing footway will be widened over the demolished footprint of the existing building.

The new building occupies a triangular footprint of circa 109sqm (159sqm including roof overhang), and measures circa 24m x 20.5m x 12.2m. It is of single storey flat roof design to an overall height of 3.4m, being constructed of pre-cast board marked concrete walls and floor to ceiling sliding glazed doors which allow internal or external use of the building dependent upon weather conditions. Perforated Corten steel shutters will be used to secure the glazed elements of the building when not in use. The shutters will be stacked against the concrete walls of the structure when open, and also have a sliding mechanism for ease of use. The roof will have a green sedum system and all rainwater and downpipes will be concealed internally.

The submitted floor plan drawing (22-11 PL04 rev B) makes provision for a servery and prep area, covered seating area (25 covers), as well as a store room, cleaning cupboard, staff and customer toilets and internal bin store. The submission advises that the building will be used primarily for the making and selling of ice cream, and includes the sale of hot and cold drinks, confectionary, cold food and a small selection of hot food including paninis and toasties. The Agent has confirmed that there is no provision for a hob or oven, as confirmed by the submitted floor plan drawing (22-11 PL04 rev B), and that hot food is intended to be made via a sandwich maker or similar equipment. Alcohol is also intended to be served, subject to receipt of an alcohol license.

Two dedicated staff parking spaces are indicated within the Stanner Bank car park.

The Agent has provided servicing details for the proposal, stating that *'the number and size of deliveries is expected to remain similar to the current kiosk. There will be an increased storage capacity in the new kiosk, and therefore the ability to store more products on site. This will mean a similar number of deliveries will be required to those that the current kiosk receives, despite the increase to the building's size. Delivery sizes and frequency are seasonal; however during the busiest periods the current kiosk has an average of 3 deliveries per week via a small commercial type vehicle. These vehicles currently park on the hatched area adjacent to the car park barriers and in close proximity to both the existing and proposed kiosk locations. It is proposed that this arrangement remains the same, so that access to the car park is not disrupted. Small deliveries are also currently made via the operator's own car.'*

With regards to waste, the Agent confirms *'Any waste generated on site, either in the preparation area or the covered seating area would be disposed of in the enclosed bin store identified on the plans. The majority of this refuse will be recyclable materials. The exact arrangements and frequency of refuse collection is yet to be finalised, however the site has good access to generous footpaths connecting the kiosk to the adjacent car park and South Promenade. Therefore commercial bins can easily be moved to an agreed collection point at a pre-arranged time of collection, and then moved back into the enclosed and covered bin store.'*

Opening hours will remain as per existing, 09:00 – 22:00 seven days a week, though would be subject to seasonal and weather influences which could induce later opening or earlier closure.

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Relevant Planning/Appeal History

There are two elements of planning history of note.

The current application is the second for a facility of this nature in this general area. The other application was submitted under reference 22/0491 in July 2022 but was withdrawn later that year without any decision being made on it.

The other application is 16/1015 which is the planning permission under which the current sea defence system was considered, and approved. The implementation of this planning permission establishes the existing context for the application site with the promenade, sea wall, and grass area where the building is now proposed.

Parish/Town Council Observations

The application site is not in a parished area and so there are no comments to report.

Statutory Consultees and Observations of Other Interested Parties

Consultee	Comments
Lancashire County Council Highway Authority	<p><i>LCC Highways does not have any objections regarding the proposed development, and are of the opinion that the proposed development will not have a significant impact on highway safety, capacity or amenity in the immediate vicinity of the site.</i></p> <p><i>The applicant has submitted a Traffic Management Plan which is acceptable and requested to be conditioned.</i></p>
Natural England	<p><u>Summary</u> <i>No objection, subject to appropriate mitigation being secured. Without appropriate mitigation the application would:</i></p> <ul style="list-style-type: none"> • <i>have an adverse effect on the integrity of Ribble and Alt Estuary Special Protection Area (SPA) and Ribble and Alt Estuary Ramsar site.</i> • <i>damage or destroy the interest features for which Ribble Estuary Site of Special Scientific Interest (SSSI) has been notified.</i> <p><i>In order to mitigate these adverse effects and make the development acceptable, the following mitigation measures should be secured:</i></p> <ul style="list-style-type: none"> • <i>Production and implementation of a Construction Environmental Management Plan (CEMP).</i> <p><i>We advise that an appropriate planning condition or obligation is attached to any planning permission to secure these measures.</i></p> <p><i>Natural England's further advice on designated sites is set out below.</i></p> <p><u>Nationally and Internationally Designated Sites</u></p>

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	<p><i>The proposal is within 290m of Ribble and Alt Estuary SPA, Ribble and Alt Estuary Ramsar site and Ribble Estuary SSSI.</i></p> <p><u><i>Habitats Regulations Assessment (HRA)</i></u> <i>Natural England notes that the Habitats Regulations Assessment (HRA) has not been produced by your authority, but by the applicant. As competent authority, it is your responsibility to produce the HRA and be accountable for its conclusions. We provide the advice enclosed on the assumption that your authority intends to adopt this HRA to fulfil your duty as competent authority.</i></p> <p><i>Natural England notes that your authority, as competent authority, has undertaken an appropriate assessment of the proposal in accordance with regulation 63 of the Conservation of Species and Habitats Regulations 2017 (as amended). Natural England is a statutory consultee on the appropriate assessment stage of the Habitats Regulations Assessment process, and a competent authority should have regard to Natural England’s advice.</i></p> <p><i>Your appropriate assessment concludes that your authority is able to ascertain that the proposal will not result in adverse effects on the integrity of any of the sites in question. Having considered the assessment, and the measures proposed to mitigate for all identified adverse effects that could potentially occur as a result of the proposal, Natural England advises that we concur with the assessment conclusions, providing that all mitigation measures are appropriately secured in any planning permission given.</i></p> <ul style="list-style-type: none"> • <i>The production and implementation of a CEMP. The CEMP should include appropriate mitigation to ensure there is no visual disturbance or dust pollution affecting the qualifying species of the above designated site and functionally-linked land during the construction phase. This should be secured by a suitably worded planning condition.</i> <p><u><i>Ribble Estuary SSSI</i></u> <i>Our concerns regarding the potential impacts upon Ribble Estuary SSSI coincide with our concerns regarding the potential impacts upon the international designated sites, therefore we are content that providing the application is undertaken in strict accordance with the details submitted and providing the above conditions are secured, the development is not likely to damage the interest features for which the site have been notified.</i></p>
GMEU (Ecology consultants)	<p>No objection, subject to condition.</p> <p><i>It appears that the BHS has unfortunately already been lost at this location and therefore the current proposals should not have an impact on it, as long as the measures outlined in the Construction Management Plan are followed. The bat survey found the building to</i></p>

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	<p><i>be demolished to have negligible potential to support bats. Consequently there should be no issues relating to this species.</i></p>
<p>Environment Agency</p>	<p>No objection, subject to conditions requiring the development to be constructed in accordance with the submitted flood risk assessment (Sparc Architects, 22-11 PL08 REV A, dated October 2023).</p> <p><u>Flood risk</u></p> <p><i>The application site lies within Flood Zone 3 (high probability of flooding) on the Environment Agency Flood Map for Planning (rivers and sea), and the proposal is for 'less vulnerable' development, as defined in Annex 3: Flood risk vulnerability classification of the National Planning Policy Framework.</i></p> <p><i>The planning application is accompanied by a Flood Risk Assessment (FRA) prepared by Creative SPARC Architects (REF: 22-11 PL08 REV A, dated October 2023). We have reviewed the FRA, insofar as it relates to our remit, and we are satisfied that the development would be safe without exacerbating flood risk elsewhere if the proposed flood risk mitigation measures are implemented. The proposed development must proceed in strict accordance with this FRA and the mitigation measures identified as it will form part of any subsequent planning approval. Any proposed changes to the approved FRA and / or the mitigation measures identified will require the submission of a revised FRA.</i></p> <p><u>Sea Defences</u></p> <p><i>In accordance with the Environmental Permitting (England and Wales) Regulations 2016, an environmental permit may be required for flood risk activities within 16 metres of a sea defence structure. However, in this particular case, as the Environment Agency do not own and/or maintain these defences (i.e. the Fairhaven to Church Scar Coast Protection Scheme), a permit would not be required. We therefore have not reviewed the application in relation to the impact of any works on the sea defences.</i></p> <p><i>The LPA should satisfy themselves that any new development does not affect the integrity of the sea defence, and the applicant should be aware that the consent of the owner/maintainer may be required and they should consult them as appropriate.</i></p> <p><u>Sequential Test</u></p> <p><i>We have not objected to this application on flood risk grounds, but this does not remove the need for you to apply the sequential test and to consider whether it has been satisfied. Where a flood risk assessment shows the development can be made safe throughout its lifetime without increasing risk elsewhere, there will always be some remaining risk that the development will be affected either directly or</i></p>

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	<i>indirectly by flooding. A failure to satisfy the sequential test can be grounds alone to refuse planning permission.</i>
Lead Local Flood Authority	<i>No comment to make on the application and standing advice is applicable.</i>
Marine Management Organisation	<p>Advisory notes to the applicant confirming that the proposed works may need a License from the MMO for any works within the Marine area.</p> <p><u>Marine Licensing</u> <i>Works activities taking place below the mean high water mark may require a marine licence in accordance with the Marine and Coastal Access Act (MCAA) 2009. Such activities include the construction, alteration or improvement of any works, dredging, or a deposit or removal of a substance or object below the mean high water springs mark or in any tidal river to the extent of the tidal influence.</i></p>
BAE Systems	<p>No objection.</p> <p><i>Please note that the use of cranes as part of the construction phase must be notified to the CAA prior to any crane being erected.</i></p>
National Air Traffic Services	<i>The proposed development has been examined from a technical safeguarding aspect and does not conflict with our safeguarding criteria. Accordingly, NATS (En Route) Public Limited Company ("NERL") has no safeguarding objection to the proposal.</i>
Ministry of Defence	<i>The proposed development falls outside of MOD safeguarded areas and does not affect other defence interests. The MOD, therefore, has no objection to the development proposed.</i>
Retail Consultant	<p>No objection to the location of the development proposed. The summary and concluding paragraphs of the Retail Consultant report is outlined below.</p> <p><i>The application site is a "main town centre use" outside a town centre. National Policy requires proposals for the development to satisfy the sequential approach to site selection and in some circumstances, to address the impact of the development on investment and the vitality and viability of any existing town centre. Local Plan Policy EC5 sets a local impact threshold of 750 square metres gross. The application is below this threshold. The impact test does not apply. Consequently, the main issue raised by the Development Plan and the NPPF, as far as relevant to the scope of my instruction, is whether the proposal satisfies the sequential approach to site selection. The onus falls on the applicant to demonstrate that the sequential test is satisfied.</i></p> <p><i>The Development Plan, comprising the Fylde Local Plan, In the Development Plan, comprising the Fylde Local Plan, the application is</i></p>

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	<p><i>located outside a designated centre. Local Plan Policy EC5 and National Policy require the applicant to demonstrate compliance with a sequential approach to site selection. The nearest centre identified in the local Plan is Ansdell District Centre about 250 metres to the north-east.</i></p> <p><i>Local Plan Policy EC6: Leisure Culture and Tourism supports development that would underpin the role of Lytham St Annes as a tourist destination. The role of recreation and leisure facilities along the seafront is acknowledged in this context. The policy gives protection to existing facilities. It also gives encouragement to facilities, such as hotels, restaurants, cinemas, theatres, museums, swimming pools and leisure centres to locate within existing designated centres.</i></p> <p><i>NPPF paragraph 88 states that flexibility on issues such as format and scale should be addressed so that opportunities to utilise town or edge of centre sites are fully explored. The PPG indicates that the onus is on the applicant to demonstrate compliance with the test. It also indicates that the sequential assessment should be proportionate and appropriate to the proposal. The PPG recognises that in some cases certain uses have particular market and locational requirements which mean that they may only be accommodated in specific locations. It states that the sequential test should recognise such circumstances although it adds that robust justification is required to justify a requirement for a specific location.</i></p> <p><i>The De Pol has undertaken a sequential assessment. However, their Report asserts that the application has specific locational requirements and it “dovetails” with Local Plan Policy EC6 to support recreation, leisure and tourism. It is asserted that the locational requirement is because the application is to replacement the existing ice cream kiosk. I agree. The requirement of the application is to replace the existing facility and as such the application must be located where it can achieve this purpose. Ansdell, which is the nearest designated centre, is in my view, too far away.</i></p> <p><i>PPG advice is that whilst the onus falls on the applicant to demonstrate that the sequential test is satisfied, it also advocates an appropriate and proportionate approach to an assessment. The application is small in scale; it has a locational requirement to be close to the facility it is to replace; and there is broad support within the Development Plan for development which contributes to the recreational, leisure and tourism role of the area generally and seafront locations in particular.</i></p> <p><i>Notwithstanding the reasons why it should not be necessary to undertake a search and analysis of sites and premises in Ansdell, the exercise has been done. In my view, having regard to the PPG advice about appropriateness and proportionality, the site search is reasonable. The seven sites identified are considered against the</i></p>
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	<p><i>requirement of scale and whether there was evidence the site was available. The flexibility in the size of unit is in my view too narrow. However, all sites bar one can be regarded as being unsuitable because they are either too large or too small.</i></p> <p><i>The lower limit in the range adopted as the parameter for suitability is 35 square metres gross floorspace. No.38a Woodlands Road is 34.5 square metres gross floorspace. Given my view that parameters are too narrow, it is not reasonable to discard this unit as being unsuitable as it is only 0.5 square metres below the lower threshold.</i></p> <p><i>No.38a Woodlands Road was being marketed by Kays Commercial Agents. The details of this property no longer appear on Kays website. It is reasonable to assume that it is no longer being marketed and is not available. Consequently, irrespective of the issue arising from the omission of the unit because of its size, the evidence suggests that it is no longer available and can be discounted in any event.</i></p> <p><i>Having regard to the location requirements of the application, the scale of the proposed development and the advice that a sequential assessment should be appropriate and proportionate, my judgement is that the applicant has satisfied the sequential test.</i></p>
<p>Landscape Consultant</p>	<p><i>This part of the coastline is known locally as Granny’s Bay and long views are enjoyed by visitors along the coastal footpath around the bay and by residents along the Inner Promenade out across the Ribble and Alt estuaries. The site is also of significant nature conservation value.</i></p> <p><u><i>Building design within the landscape</i></u></p> <p><i>The design of the new building has been considered to sit within the small triangular area of public open space where the existing pathway joins the new sea wall and coastal footpath with some limited ground re-profiling. It achieves this successfully within the proposed footprint. The materials proposed to construct the new kiosk include glass, Corten steel panels, concrete and aluminium. The building would have a Sedum roof. Materials are chosen to reflect the colour palette of the surrounding landscape and this is achieved very successfully. Care should be taken to ensure the choice of internal and external paving materials ties in with the existing materials used along the coastal footpath and sea wall in both colour and texture, and that the detailing of hard landscape materials is well considered and robust.</i></p> <p><i>Reason: to ensure the uniformity of landscape materials and allow the new building to fully blend into the existing landscape; to ensure an elegant and well functioning design solution which achieves high accessibility standards and excellent aesthetics.</i></p>

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	<p><i>The proposed seating area has been designed to maximise views across Granny's Bay and the orientation of it and position of the covered seating area achieve this successfully.</i></p> <p><i>It is proposed that the new building will be lit during the hours of darkness. Lighting should be low level and subtle and accommodated within the structure or at ground level, with no tall lighting columns.</i></p> <p><i>Reason: there is no lighting on the coastal footpath at the moment and whilst it is accepted that lighting the kiosk will be necessary at certain times, it should be sympathetic to and respectful of the natural environment which surrounds it.</i></p> <p><u>Views</u></p> <p><i>The proposed kiosk building will be located on a site where there is currently no other development. Long views are enjoyed from the adjacent footpaths and roadways across the coast path and out across the estuary in the location of the proposed building. The existing ice cream kiosk is a prominent feature within some of these views, despite it not being very large or tall and its location close to the Inner Promenade road makes it particularly visible from the south, east and north, although existing vegetation filters views from the west. From the south and east, the existing kiosk is viewed against a backdrop of trees and existing buildings located further west at Fairhaven Lake and along the Inner Promenade as it curves westwards. Parked cars at Stanner Bank and along the Inner Promenade, signage and street furniture are also intrusive elements within some available views, particularly from the Inner Promenade.</i></p> <p><i>The existing kiosk will be removed as part of the proposals. The proposed new kiosk will be located slightly to the south of the existing building. The new building will be slightly smaller in height than the existing kiosk (around 3.5m). In many views, it will appear longer and leaner, due to its triangular shape, compared to the blocky building which currently exists. The proposed material palette will provide significant visual benefits in the way the building is absorbed into the landscape and views, in comparison to the existing kiosk which is painted yellow, has a substantial roof arrangement and is covered with a number of advertising panels.</i></p> <p><i>To the south, from the Stanner Bank car park and the coastal path which runs alongside it, views of the new kiosk would be very limited and the proposed building would be viewed against the existing residential development which is located along the Inner Promenade. In addition, the visual impact of parked vehicles at the car park and street lighting would detract from the effects of the proposed building within views from this direction.</i></p> <p><i>From the new coastal path and the section of the Inner Promenade as it approaches Granny's Bay to the east of the proposed location, the visual effects of the proposed kiosk would be slightly more evident</i></p>
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	<p><i>than from the south. Although it is my opinion that the attention of most receptors would not be particularly drawn to this element within their view. The extent of the open estuary to the south and the line of development along the Inner Promenade are much more significant assets within views from this direction, and it is determined that the new kiosk would have only a slight effect on views, and that this effect would be neither positive nor negative.</i></p> <p><i>The proposed kiosk would have a slight negative impact on views in the vicinity of the junction between Marine Drive and the Inner Promenade, due to the introduction of built form into an otherwise open aspect. This would be especially prominent when the kiosk is lit at night. There are direct views across the Inner Promenade towards the proposed building location from properties at Lake Point and High Legh. The new kiosk would be a noticeable and long term element in views from some of these properties in views out across the estuary. However, the proposed building's massing, design and construction would be beneficial in minimising its effect on views. In addition, the cumulative effects of other elements within these views, in particular parked cars on the Inner Promenade, at Stanner Bank car park, associated signage, street lighting and street furniture, would also detract from any negative impact of the new building. The existing kiosk would be demolished and removed from the scene, allowing new, limited views to be gained from the south which are currently impeded.</i></p> <p><i>It is not considered advantageous to consider any other landscape amelioration work, ie: planting to screen or offset the visual effects of the kiosk. The landscape character of this area of coastline is naturally open and there would be no significant benefit to any additional tree planting or other soft landscaping around this development.</i></p> <p><i>It is recommended that no advertising panels are fixed to the exterior cladding on any elevation of the new kiosk and that all flags and boards are contained inside when the kiosk is not in operation.</i></p> <p><i>Reason: to minimise the visual impact of the proposed building in views and maximise the potential of the construction materials to blend it into the existing landscape.</i></p>
<p>Environmental Protection</p>	<p>No objections to the above proposals. The below comments have also been made:</p> <p><i>The proposed location of the new ice cream kiosk is further away from sensitive receptors/dwellings than the existing kiosk. The separation of the proposal to nearest dwellings being circa 80m at its closest point, and that separation would minimise any potential disturbance to neighbours resultant from the development.</i></p>

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	<p><i>The proposal has a different use when compared to that existing, in that it will include the making of ice cream, sale of hot and cold drinks and hot and cold food, as well as an internal seating area. Hours of use will be until 10pm.</i></p> <p><i>The serving of alcohol is unlikely to cause a detrimental impact on the local residents. There is a public house in closer proximity to the domiciles than the kiosk. Anti-social behaviour and noise complaints are extremely rare from the existing public house.</i></p>
<p>Fylde Borough Council (Tourism)</p>	<p><i>This development would seek to create an iconic development adjacent to the recently reconstructed Promenade and would be in keeping with the materials and presentation of that, using concrete, wood, plus a sedum covered roof. The specific location would benefit from visitors to the area, being adjacent to a large car park and with two other car parks, plus roadside parking nearby, plus walkers / dog walkers, cyclists and other users that use the promenade daily. The views from the proposed café across the estuary to Southport, Formby Point and North Wales are superb and given existing catering offers in the wider area, very few are able to offer this at present.</i></p> <p><i>Within the area there are already a number of catering options, although I note this development would seek to remove the existing kiosk at the entrance to the car park. The closest option in the area are the Fairhaven Pub (100 yards away), but for more of a café / coffee shop option which this would seek to offer, the main other offer in the area would be the Fairhaven Lake Café. While not easily accessible from the Promenade this particular outlet has proved its popularity since the redevelopment of many aspects of Fairhaven Lake. I would see the proposed development adding to the offers in the area and bringing in additional spends given its location rather than taking away business from other establishments. There are in addition a small number of take away coffee type options in the area – Hole 19 at Fairhaven Lake, the concession at St Paul’s car park and the seasonal Pavilion at Fairhaven Lake & Gardens.</i></p> <p><i>I see this proposed development as an opportunity to further promote the area in a positive way and one which I would expect to become popular once established should permission be granted given the walk by trade and other options in the area.</i></p>
<p>Fylde Borough Council Chief Engineer</p>	<p>Has no objection to the proposal with regards to the integrity of the sea defences. The below conditions are suggested:</p> <p><i>1. Shortly before site mobilisation, a ‘Pre-start condition survey’ of all sea walls, promenades, revetments, railings, car parks, signs, lifebuoys, highways, property and land (including landscaping shrubs and trees, boundaries, street furniture and any other features which may be affected by the works) within the boundaries of the Site and adjacent to the Site and Working Areas. The survey should be adequate enough to identify existing structural faults and act as a</i></p>

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	<p><i>baseline to consider any change against during and after the Completion of the works. It is also to include a cctv survey of the surface water drain downstream of the petrol interceptor in Stanner Bank Car Park.</i></p> <p><i>The condition reports are to take the form of digital photographs in Microsoft Word format, and digital photographs and video of the drainage survey. One electronic copy of the condition report including photographs and video shall be issued to the Council. The Contractor shall not start works on Site until the Council has accepted the condition report.</i></p> <p><i>A similar 'Post-completion condition survey' when the works are complete are to be undertaken and to include a post CCTV survey of the surface water drain downstream of the petrol interceptor in Stanner Bank Car Park, and to be submitted to and approved by the LPA in writing.</i></p> <p><i>The Contractor shall be responsible for any repairs or reinstatement works necessary resulting from damage to any land or property or drains or defective reinstatement of car parks, footways, highways, promenade slabs or landscaping, arising out of or in consequence of carrying out the works and/or the occupation of the site; and to the reasonable satisfaction of the relevant local authority. This responsibility shall also include repairs of attributable damage to the adopted highways in the vicinity of the works. The extent of adopted highways is taken to be the last 200m of the access to the Site and any residential roads that may be used to convey HGV traffic.</i></p> <p><i>2. Prior to construction commencing, the extent of the existing service ducts behind the set back wall shall be exposed and if shown to be connected to the ducts in Stanner Bank Car Park, then shall be rerouted around the proposed building and re-connected.</i></p> <p><i>3. The foul and surface water drainage connections to the existing sewers and drains shall be inspected and approved by Fylde Council prior to backfill.</i></p> <p><i>4. A Traffic Management, Logistics, and Construction Plan should be submitted to the LPA and approved prior to construction, and Fylde Council's Estates Manager and Car Parks Manager should be fully engaged and consulted in the process in terms of access and egress, deliveries, turning areas, sight lines, site compounds, car parking, health and safety, access for all, protection of existing structures, and the impact on local businesses and residents, and vehicle loads on the existing promenade slabs should be limited to 26 tonnes.</i></p>
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Neighbour Observations

Neighbours notified:	11 October 2023
Site Notice Date:	13 October 2023
Number of Responses	Total number of comments 155
	Total Number Objecting 55

In addition, Grannys Bay Action Group has also provided the results of a consultation exercise undertaken by them between February 2022 and 05/05/2022 (prior to submission of this current application and that previously withdrawn). 1115 members of the public were questioned, of which:

323 responded 'Do nothing, keep existing facility (ice cream kiosk)',

775 responded 'Spend the funding on other community needs', and,

17 responded 'Spend £360,000 on the new build'.

Further details of the consultation exercise are provided in the summary of comments section below.

Total Number supporting 100

In addition, correspondence from Granny's Bay Development Group has been received, confirming:

'Our membership, now well over 1300, is in full support of this application, and that has been made clear every step of the way in our mission, postings, and direct challenges to the persistent misinformation perpetrated by opposers.

The location is ideal, fitting seamlessly with the new sea defences that have taken place; linking up the new promenades between Fairhaven and Lytham and replacing an outdated existing kiosk

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that now needs to expand and relocate.

As for the latest design it is a lovely building; sleek, modern and made from quality materials. It's shape now fits snugly into that triangle of land perfectly. Simple and aesthetically pleasing, with its sedum roof, it will provide enhanced services, sheltered seating, and a beautiful view for all to enjoy.

Our membership is made up of people who live in, work in, and visit the Fylde and who will welcome this new social amenity and the economic stimulus it will undoubtedly generate.'

Summary of Comments

The comments received in opposition to the application are summarised below:

- Investment should be better spent on important current projects such as St Annes Square that is currently under funded, or greater provision and better public toilets that are free to residents and visitors.
- Inappropriate for the Council to fund this type of speculative development. A viable financial case has not been produced. Independent banking and investment experts have provided evidence to the Council that rental income would result in a derisory return and even a loss to taxpayers. Proper financial provision has not been made for repairs or maintenance.
- Council funds should not support the development of one family business in this way, to the detriment of other businesses nearby.
- The terms offered to the tenant are over generous, allowing a rent free period and are designed to avoid tendering the opportunity on the open market. This will prevent the Council achieving the best return on the investment.
- Criticism of the Council for being the applicant since it is the tenant whom will benefit from this proposal. This delivers one of the Boroughs small businesses a substantial advantage. This proposal, of itself, does not breach the Council's Code of Conduct but actions by Members who support the implementation of this program would, by virtue of their actions, place themselves in breach of that Code.
- Legal constraints have not been taken into account or considered. According to Legal advice we understand that the Council is prohibited, by the terms of the original gift of the land made to them, from building on 'Open Public Spaces' and the 'Coastline'.
- Various criticisms of how questions of the planning application form have been answered including contamination, flood risk,

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drainage, waste, floor areas, pre-application advice, and ownership certification.

- Application description – scale of proposal is more akin to a café/restaurant than an ice cream kiosk.
- Criticism of the submitted Design and Access statement, querying need for the proposal based upon the current kiosk being under sized, visitor numbers likely to fall than increase, and contending that need is driven by the tenants need for substantial business growth.
- The proposal conflicts with the Fylde Coastal Strategy 2015-2031 which is “to create a unique, high quality visitor destination for residents and visitors, which is based on the conservation an enhancement of the natural landscape and heritage assets of the coastal area of The Borough of Fylde”
- Granny’s Bay is not a development site or an area requiring regeneration, it is an area of outstanding natural beauty and Site of Special Scientific Interest (SSSI) and should not be built on.
- This will create a precedent for all future applications to build on Granny’s Bay.
- This is being built purely to enhance the business of the current owner and is not in the interests of visitors or nearby residents and this money should be used for the benefit of all traders and not one favoured business.
- The Council imposed restrictions on use of the existing kiosk for sale ‘only of ice cream, drinks and related products and confectionary’. That still applies, yet the Council intend to ignore their own restrictions.
- The proposal is a Town Centre use. No assessment of impact to Lytham or St Annes Town Centres has been made, and assessment of available properties in Ansdell District Centre is inadequate. This proposal is so large that there are risks that it would draw footfall away from other commercial uses in appropriate town centre locations.
- The applicant has failed to assess the implications of the loss of open space at the site itself. Its value to the public and the wider open space network has not been considered or addressed. Although a small area, the site makes an important, collective, contribution to Amenity Green Space. The incremental loss of this space in the manner proposed would erode the fabric of this designation over time, directly contravening local and national policy. Overall, no assessment has been submitted by the applicant to demonstrate that this Amenity Green Space is surplus to requirements. Moreover, no evidence has been provided by the applicant showing that the loss resulting from the proposed development would be replaced by equivalent or better provision in terms of quantity and quality in a suitable location. An assessment cannot be performed against paragraph 99 of the Framework and Policy ENV 3, nor has this been specifically addressed in the applicant’s Planning Statement. This alone should form a reason for refusal.

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- Visual impact of proposed building. Detrimental to the visual impact Stanner Bank and affect initial and immediate views from the Inner Promenade, Marine Drive as well as along the Promenade and leaving the Lake. It will be the only thing visible.
- Land is essential to the setting, character, recreational benefits and visual amenity of the Stanner Bank amenity green space.
- Negative landscape impact. Any development should be subservient to the natural location and view, not dominate or interrupt the view.
- Design – ugly design and totally out of keeping with the current location. It will dominate the area and is not sympathetic to it.
- The new structure is neither preserving or enhancing the coastline environment and urbanization of the beach frontage should be resisted unless absolutely necessary and only under very special circumstances.
- The proposed design is also out of keeping with the style of properties along Granny's Bay and historic listed buildings along the Lake side.
- Construction materials are not suitable for this exposed location. The roof will need to deal with high wind loads and lift created by high wind speeds. Frameless look glazed doors will not be durable and weathertight enough in this exposed location. Sedum roofs are generally avoided in harsher coastal, high salinity locations and can lift in high winds. Corten steel is generally not a suitable material to use in corrosive locations, it will rapidly degrade and will stain adjacent surfaces.
- On going maintenance and repair.
- Heritage impact – impact to setting of conservation area and listed buildings that are close by. On the information provided, the Council cannot understand the significance of these designated heritage assets, their character and appearance or their settings. This is specifically contrary to paragraph 194 of the Framework.
- Existing kiosk is adequate, or could be extended to accommodate storage and/ or ice cream making facilities.
- Blockage of views to the estuary, the Irish Sea and Welsh mountain. All views of the estuary from granny's bay would be affected by this new structure
- Needs of visitors are adequately met by existing places to eat and drink. Apart from a couple of dozen warm and sunny days throughout the year the existing facilities are sufficient.
- Impact to local businesses.
- Lack of shelter from weather when compared to the existing building.
- The floor plan does not create much more working space than the existing kiosk.
- Amenity - It is also significantly larger than the current kiosk and indicates that it is more likely to be used as a restaurant/bar, which could lead to a lot of antisocial behaviour. Increased noise levels, which presently continues into the summer evenings

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(radios play, car doors slam and motorcycles accelerate away).
Light pollution. Increased litter. Increased vermin.

- Impact on the view of residential buildings, associated problem of selling housing.
- It could become the focal point for anti social behaviour. A Home for disadvantaged children is within 200 yards of the proposed site. The building will not be beneficial to their reintegration into society.
- Alcohol sales.
- Groups of disabled individuals frequent the area because of the tranquillity and it is beneficial to their mental wellbeing. They will lose this.
- Contravenes Policy ENV3 of the Fylde Local Plan and the NPPF.
- Wildlife – Canadian Geese use this area for sleeping. There is no ecological impact assessment accompanying the planning application.
- Highways - increased traffic on an already busy road which sees several near misses a day already. The proposal could significantly increase traffic safety problems due to increased deliveries, queuing, manoeuvring and refuse collection.

Grannys Bay Action Group (GBAG) have provided a report which covers the findings of a separate public consultation exercise undertaken by the GBAG. The public consultation was undertaken due to concerns that public opinion had not been fully represented or sought in relation to the development. The report confirms that the public consultation exercise was undertaken between end of February 2022 and 5th May 2022.

The consultation involved a team of GBAG volunteers handing out information leaflets, with passers by and visitors asked to choose between 3 options:

Option A: 323 Do nothing, keep existing facility (ice cream kiosk)

Option B: 775 Spend the funding on other community needs.

Option C: 17 Spend £360,000 on the new build.

Participants were also asked to provide reasoning for their decision.

The report confirms that 1115 members of the public responded as follows:

Area of Residence:

FY8 (592)

FY other (86)

Visitors (437)

Option Chosen:

A (323)

B (775)

C (17)

The above findings show that only 17 (1.5%) out of 1115 consulted were in favour of Option C. All those favouring Option A (323 or 29%) and Option B (775 or 69.5%) were united in their opposition to Option C and their concern to protect the taxpayer from speculative

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investments. There was an overlap on that 57 voted for both options A and B. The main difference is that those only supporting Option A wished to proceed more cautiously and contain spending due to the threat of financial crisis. Those supporting Option B were more concerned that the £360,000 will be 'lost' to Fylde Council if it is not spent only on projects that benefit the Fylde community rather than on one individual basis.

The main reasons given by the 1098 (98.5%) for opposing the proposal were as follows:

- A new larger kiosk is not necessary. Demand for alcohol, hot food, ice cream etc is catered for by existing suppliers operating in the immediate vicinity. Any shortfall should be met by using mobile suppliers, avoiding unnecessary expenditure and provides flexibility.
- The 'Open Green' and unspoilt coastline is what attracts visitors to the area. Many visitors said they frequently visit Lytham St Anness for 'tranquillity' and openness and would not do so if buildings were constructed.
- The proposed sale of alcohol and hot food until 9pm would increase the problem of noise and anti social behaviour both on the 'green' and neighbouring residential areas.
- It is obscene to be spending £360,000 on an ice cream kiosk at the time of a cost of living/ financial crisis.
- The proposal is inconsistent with the Fylde Coastal Strategy 2015-2031 and Local Plan which aims to conserve and protect the open coastline, green infrastructure and landscape.
- £360,000 is a significant amount of public money that would be better spent improving toilet facilities, completing the development programmes of Fairhaven Lake, repairing roads, draining playing fields, repairing Ansdell Institute and other works that would benefit the community.
- The Council should consider tendering the rental opportunity to ensure the best return on the investment.
- The proposal would reduce the already limited space available for picnic and recreation.
- The majority Conservative Council is favouring one individual business with historical links to the Conservative Party to the exclusion and detriment of all others (taxpayers, residents, other businesses etc). Surely this is a breach of Council rules?
- This is a speculative investment A viable financial case has not been produced that shows a satisfactory return (at least 10% net per annum) for Fylde Borough Council and the tax payer.
- The terms offered to the tenant are overgenerous and this could result in a loss to the taxpayer. The rent proposed is derisory for a business / building in this prime location. The rent should be based not only the cost of construction but also on the notional value of the land/ prime site and cover repair and maintenance

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costs. Financial regulations require the Council to seek the best possible return for the Taxpayer on any investment of public money.

- Legal constraints have not been considered. The Council are understood to be prohibited from building on open public spaces/ the coastline by the terms of the original gift of the land made to them.

The comments received in support of the application are summarised below:

- The current arrangement for the Ice Cream kiosk is out of date and is a blight on the natural vista of Fairhaven Lake and Stannah Bank.
- Promotion of Granny's Bay as a tourist destination in its own right.
- A good design, modern, sharp and is sympathetic to the area, makes good use of the space without imposing too far across the bay.
- It will add to and compliment the recent improvements in the area. A great asset and investment for the future.
- It will enhance the amenity space.
- Beneficial to Fylde residents and visitors to the area.
- It will give visitors and locals options for respite from the weather and access to the view in all conditions.
- A replacement building for the rather unappealing old kiosk is long overdue.
- With all the money being spent improving the facilities at the lake, for both residents and visitors, it is vital that the infrastructure in place can cope with increased visitor numbers. It can only be an asset to the area.
- It will be a much needed, long awaited & much used investment & facility.
- It will bring trade to the area.
- At popular times the queue at the kiosk spills out onto the exit to the car park, which must be dangerous and an obstacle to motorists. Its situation will be safer for people queuing for ice-creams, drinks etc.
- It will not give rise to significant environmental impact by virtue of its size or scale of operation.
- Younger visitors have higher expectations for facilities than previous generations did and I do believe this new "kiosk", when completed, will benefit locals and visitors alike.
- Change has to be embraced if the town is to continue to move forward as a leisure destination. It does seem as though any change locally is met with resistance and I would urge the planning department to beware of those individuals and groups who are utterly resistant to change as this area will wither on the vine without good planning and investment.

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- Provide revenue for the car park which is currently significantly underused.

Relevant Planning Policy & Government Guidance

Paragraph 38 (6) of the Planning and Compulsory Purchase Act 2004 requires that development proposals are determined in accordance with the development plan unless material considerations indicate otherwise. This requirement is reinforced in paragraph 2 of the National Planning Policy Framework.

The Fylde Local Plan to 2032 (incorporating Partial Review) – referred to hereafter as the ‘FLPPR’ – was adopted by Fylde Council at its meeting on Monday 6 December 2021 as the statutory development plan for the Borough in accordance with s23 of the Planning and Compulsory Purchase Act 2004.

Fylde Local Plan to 2032 (incorporating Partial Review):

S1 - The Proposed Settlement Hierarchy
DLF1 - Development Locations for Fylde
GD1 - Settlement Boundaries
GD7 - Achieving Good Design in Development
EC5 - Vibrant Town, District & Local Centres
EC6 - Leisure, Cultural and Tourism Development
T5 - Parking Standards
CL1 - Flood Alleviation, Water Quality and Water Efficiency
CL2 - Surface Water Run-Off and Sustainable Drainage
ENV1 - Landscape and Coastal Change Management Areas
ENV2 - Biodiversity
ENV3 - Protecting Existing Open Space

NPPF – National Planning Policy Framework

NPPG – Planning Practice Guidance:

Environmental Impact Assessment

This development does not fall within Schedule 1 or 2 of the Town and Country Planning (Environmental Impact Assessment) Regulations 2017.

Comment and Analysis

The main issues pertinent in the assessment of this proposal are considered to be:

- The principle of development,
- Character and appearance of the area,
- Heritage,
- Amenity,
- Highway safety
- Ecology.
- Flood risk and drainage,
- Other matters - integrity of sea defences.

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Taking each matter in turn.

Principle of Development

The application site is located partly within the settlement boundary of Lytham St Annes, with that located outside the settlement boundary forming part of a larger green space that is designated as both Amenity Greenspace and Semi-Natural Greenspace as per the FLPPR Policies Map.

There are, therefore, a number of facets to the principle of development assessment, namely, the location of the application site in relation to the settlement boundary of Lytham St Annes, the designation of a portion of the site as Amenity Greenspace and Semi-Natural Greenspace, and acceptability of a Town Centre land use in this location.

Site Location - Policy Context

FLPPR Policy S1 (The Proposed Settlement Hierarchy) identifies Lytham (including Ansdell) as 1 of 3 Key Service Centres within the Fylde, stating that the role of these Towns as Key Service centres will be maintained over the life time of the Local Plan and that existing services and facilities will be enhanced, a range of housing and employment opportunities promoted and delivered, as well as retail and other community services, to serve the wider catchment area.

FLPPR Policy DLF1 (Development Locations for Fylde) encourages the majority of future growth to the most sustainable locations, specifically 4 strategic locations for development, which includes Lytham and St Annes.

Policy GD1 (Settlement Boundaries) is permissive of development on sites within settlement boundaries providing that these comply with all other relevant Local Plan policies.

Site Location – Assessment

The planning application is accompanied by a site location plan that identifies the location of development in relation to surrounding roads and buildings. It is clear from this location plan that the demolition and car parking elements of the scheme relate to an existing building and parking area located immediately east of Fairhaven Lake and positioned within the Settlement Boundary of Lytham St Annes, as per the FLPPR Policies Map.

The location plan illustrates that the new build element of the proposal is located adjacent to, but beyond the defined settlement boundary, thus is contrary to the locational strategy for new development advocated by Policy S1, DLF1 and GD1 of the FLPPR. The settlement boundary in this locality excludes the grassed area of Granny's Bay and is drawn along the carriageway of Inner Promenade, before being redirected to follow the route of the sea defence promenade south of Fairhaven Lake and Church Scar. The path of the settlement boundary follows the promenade in an easterly direction along Church Scar and the frontage of Lytham, incorporating the dunes of Church Scar and Lytham Green within the settlement boundary. The settlement boundary is identified on the policies map, which was prepared before the works to improve the sea defences along this part of the coast were approved. Prior to these works taking place, the grassed area at Granny's Bay sloped down to a low sea wall and the promenade ran to the landward side of the area. The introduction of the promenade sea defence wall to Granny's Bay included the relocation of the promenade footway/cycleway so that it now runs along the new, higher, sea wall. This has created a strong demarcation of the urban area and has effectively created a new settlement edge, which is reflective of the character of the settlement boundary to Fairhaven Lake, Church Scar and the frontage of

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Lytham. To ensure consistency, it is likely that any subsequent revision of the policies map would relocate the settlement boundary at Granny's Bay to the sea wall promenade. This revision would consequently result in the application site and open space designation located within the settlement, in accordance with the locational strategy for new development advocated by Policy S1, DLF1 and GD1 of the FLPPR.

Designation of a portion of the site as Amenity Greenspace and Semi-Natural Greenspace – Policy Context.

Policy ENV3 (Protecting Open Space) confirms that designated open space (parks and garden's semi natural greenspaces, amenity greenspace, children's play area, local areas and local equipped areas for play, youth provision, allotments, cemeteries and churchyards, football/ rugby/ cricket pitches) is identified on FLPPR Policies Map. The Policy states that existing open space provides a critically important part of the Green Infrastructure network within Fylde, and that it will be protected from inappropriate development, having particular regard to the multi-functional benefits of open spaces, as follows:

a) Existing Open Space, including sports and playing pitches (subject to policy HW3: Protection and Provision of Indoor and Outdoor Sports Facilities), will be protected unless the requirements of paragraph 99 of the Framework are met and the findings of any published and adopted needs assessment are met.

b) Existing Open Space, including sports and playing pitches (subject to policy HW3: Protection and Provision of Indoor and Outdoor Sports Facilities), will be protected unless it can be demonstrated that any proposal will not have adverse effects contrary to the landscape, biodiversity and water management requirements of the Local Plan and the requirements set out in the other criteria in this policy are met.

c) Development will not be permitted on Existing Open Space which is considered essential to the setting, character, recreational benefits for residents, or visual amenities of Key Service Centres, Local Service Centres and rural settlements.

d) Development will not be permitted on Existing Open Space that makes a positive contribution to the historic environment including the character, appearance and setting of conservation areas and listed buildings, unless the proposal meets the requirements of Policy ENV5.

e) Relates to development affecting allotments.

f) Fylde's Public Rights of Way network, comprising footpaths, byways, cycleways and bridleways will be protected and opportunities to extend the network will be safeguarded from development and supported where this improves access to key Green Infrastructure assets, including areas of Green Belt, the two Areas of Separation, the Coastal Change Management Areas and the Lancaster Canal towpath.

Policy EC6 (Leisure, Culture, and Tourism Development) seeks to promote development that would support the role of Lytham St Annes as a tourist destination. Importantly criteria d) refers to reconstruction and enhancement of the manmade coastal defence at the ... Fairhaven Lake and Church Scar in order to encourage coastal tourism and recreation...', and criteria h) provides general support for the promotion of 'beach leisure activities, coastal tourism, and recreational events.'

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Paragraph 103 (formerly paragraph 99) of the NPPF23 confirms that existing open space, sports and recreational buildings and land, including playing fields, should not be built on unless:

- a) an assessment has been undertaken which has clearly shown the open space, buildings or land to be surplus to requirements; or*
- b) the loss resulting from the proposed development would be replaced by equivalent or better provision in terms of quantity and quality in a suitable location; or*
- c) the development is for alternative sports and recreational provision, the benefits of which clearly outweigh the loss of the current or former use.

Assessment

The new build element of the proposal is located to the western edge of a much larger grassed land parcel that extends in an easterly direction around Granny's Bay. This grassed land parcel is designated as Amenity Greenspace and Semi-Natural Greenspace as per the FLPPR Policies Map. The Fylde Borough Council Open Space Study (2016) was used as an evidence base to inform the designation of sites within the FLPPR. Importantly this document recognised the high quality and high value of the larger grassed area as an amenity and semi-natural greenspace.

It must however be noted that the Open Space Study was undertaken prior to construction of the sea defence scheme, and whilst the reasoning for designation of the grassed land parcel within the Study is still of relevance, the designation of the land on the FLPPR Policies Map is not reflective of that which is now evident at Granny's Bay. Importantly the grassed area that is visible is now smaller than that depicted on the Policies Map, due to the presence of the promenade and stepped revetment that has encroached this space. In addition, classification as a Semi-Natural Greenspace was based upon criteria of the Study, 'wildlife conservation, biodiversity and environmental education and awareness', which has now been lost to a more recreational use associated to the Amenity Greenspace designation.

The importance of Fairhaven Lake, its gardens and Granny's Bay is further acknowledged in the Fylde Council Coastal Strategy (2015 – 2032) which confirms that the character of this Zone (Zone 4) is amenity parkland, and that Fairhaven Lake and Granny's Bay form a 'pivotal point for the appreciation of the internationally important wildlife habitat of the Ribble Estuary.' The strategy confirms a number of objectives for Zone 4, which include 'manage and maintain the formal gardens semi natural habitats and distinctive and contrasting landscapes as originally envisaged' and 'improve picnic and recreation facilities at Granny's Bay.' A Key Action of the Strategy is to 'protect and enhance green infrastructure assets'.

Policy ENV3 confirms that the Existing Open Space designations, along with others as detailed by Policy ENV3, constitute 'Existing Open Space', that such spaces 'provide a critically important part of the Green Infrastructure network within the Borough', and are therefore protected from 'inappropriate development'. Bearing this in mind, it must be acknowledged that the proposal will result in the loss of a portion of the Existing Open Space designation and that this loss would be contrary to the protection and enhancement actions of the Coastal Strategy. Notwithstanding, Policy ENV3 does not however safeguard existing open space from all forms of development, and conversely, by resisting 'inappropriate development' the wording of Policy ENV3 infers a presumption in favour of 'appropriate' development.

In this respect, the designation offers a pleasant green space that is actively used by both residents and visitors to the area, for picnicking, rest and relaxation, recreational activities, or to simply sit and enjoy views over the coastline. The grassed space forms part of the wider sea defence scheme which

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is a well-used pedestrian route and popular tourism attraction for the Borough also. The existing open space at Granny's Bay, as well as the sea defence promenade and Fairhaven Lake, therefore make an important contribution toward the quality of coastal tourism within the Borough.

The existing ice cream facility is small in scale, providing a limited product range that includes ice cream, confectionary, as well as hot and cold drinks. Whilst small in size, it nonetheless contributes toward the facilities available to those that make use of the open space designation, as well as those walking along the promenade and visitors to Fairhaven Lake, and thereby also contributes toward the standard of tourism in this locality.

Use of the application site for recreational purposes will be lost. Notwithstanding, the development will provide for a larger facility, primarily for the manufacture and sale of ice cream, as well as sale of cold and hot food, confectionary and beverages, with an internal/ external seating area for users. In comparison, the proposal will greatly enhance the facilities provided by the existing kiosk, enabling a greater variety of produce to be sold and better experience for the user to be had through provision of seating areas. This enhancement will promote Granny's Bay as a tourism destination in its own right, whilst adding to the current value that Fairhaven Lake and the sea defence promenade have to visitors of the Borough. The proposals will therefore make a significant contribution toward coastal tourism, in accordance with Policy EC6 and the objective of the Coastal Strategy which seeks to improve picnic and recreation facilities at Granny's Bay.

Moreover, this linkage to tourism, between the proposal and use of the open space, allows supports for the application as an 'appropriate' form of development for the existing open space designation as per Policy ENV3. In this circumstance, policy test a) of ENV3 that requires consideration of paragraph 103 (formerly paragraph 99) of the NPPF23, or those other tests of ENV3, are not relevant to the assessment.

Acceptability of a Town Centre land use outside of a designated Town, District or Local Centre – Policy Context.

Annex A of the NPPF defines a main town centre use to include 'retail development', as well as 'restaurants'. The land use proposed includes elements of those town centre uses and so the retail policies of the FLPPR and guidance contained within the NPPF23 and PPG are therefore of relevance to this assessment.

FLPPR Policy EC5 introduces a hierarchy of Centres, namely Town Centres, District Centres and Local Centres within the Borough that Main Town Centre uses should be directed towards. The intention of this policy is to protect the health and vibrancy of our existing Centres from development elsewhere that could act to undermine those Centres, including the take up of vacant units within a Centre or trade diversion away from a Centre. It is clear that the application site is not located within any Town, District or Local Centres; the nearest being Ansdell District Centre located some 280m walking distance to the north on Woodlands Road. However, at this proximity the site is considered to be located on the edge of the District Centre, as per definition within Annex 2 of the NPPF23.

The proposed land use is considered to be a Main Town Centre use, and due to the application site's edge of centre location, in these circumstances Policy EC5 requires proposals for retail to be considered in line with NPPF23.

In that regard, paragraph 91 of the NPPF23 requires planning authorities to apply a sequential test to planning applications for main town centre uses which are not in an existing centre or in accordance with an up-to-date plan. In the first instance, main town centre uses should be located in town centres,

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then in edge of centre locations; and only if suitable sites are not available should out of centre sites be considered. Paragraph 92 states that preference should be given to accessible sites that are well connected to the town centre when considering edge of centre or out of centre proposals. Paragraph 95 confirms that *'Where an application fails to satisfy the sequential test or is likely to have significant adverse impact on one or more of the considerations in paragraph 90 (impact on public or private investment, town centre vitality/ viability), it should be refused.'*

It is noted that FLPPR policy EC5 requires retail impact assessment for town centre uses in out of centre locations above a locally set threshold of 750sqm. The current proposal seeks consent for 109sqm of floor space, which is below the threshold required for impact assessment to be undertaken. On this basis, matters of principle in relation to retail relate to sequential testing required by Policy EC5 and NPPF23. This matter is considered in more detail below.

Sequential Test

The planning application is accompanied by a Planning and Retail Statement (PRS) that includes a section on Town Centre Uses and the consideration of sequentially preferable alternative sites. The PRS confirms that the proposal represents an upgrade of the existing ice-cream kiosk and would not result in an additional ice cream vendor, and importantly, that there is a 'clear locational requirement associated with the proposed use as replacement for an existing facility.' The PRS has considered the availability of alternative premises within the Ansdell District Centre, based upon a search of sites or premises that would be suitable for the development proposed. The search identified 7 vacant properties within the District Centre, though these were all discounted due to reasons of availability (unit subject to ongoing works, or not being marketed for sale/ rent), or the floor area being too big or too small.

The professional views of a Retail Planning Consultant have been sought to inform the local planning authority's consideration of the applicant's PRS. The key findings are summarised below:

- *The application site is a main town centre use outside of a town centre. The main issue raised by the Development Plan and NPPF is whether the proposal satisfies the sequential approach to site selection.*
- *The impact test on investment and vitality and viability of any existing town centre does not apply, bearing in mind the local impact threshold of 750sqm of Policy EC5.*
- *Policy EC6 supports development that would underpin the role of Lytham St Annes as a tourist destination. The role of recreation and leisure facilities along the seafront is acknowledged in this context.*
- *NPPF paragraph 88 states that flexibility on issues such as format and scale should be addressed so that opportunities to utilise town or edge of centre sites are fully explored. The Planning Practice Guidance indicates that the onus is on the applicant to demonstrate compliance with the test. It also indicates that the sequential assessment should be proportionate and appropriate to the proposal. The PPG recognises that in some cases certain uses have particular market and locational requirements which mean that they may only be accommodated in specific locations.*
- *The nearest centre identified in the local plan is Ansdell District Centre about 250m to the north east.*
- *The retail consultant agrees with the RST with regards to locational requirement 'the requirement of the application is to replace the existing facility and as such the application must be located where it can achieve this purpose.' The consultant also states that 'Ansdell, which is the nearest designated Centre, is in my view, too far away.'*
- *The PPG advocates an appropriate and proportionate approach to assessment. The application is small in scale, has a location requirement to be close to the facility it is to replace, and there is broad*

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support within the Development Plan for development which contributes to the recreational, leisure, and tourism role of the area generally and seafront locations in particular.

- *The site search undertaken in the RST is reasonable. The flexibility in the size of unit is in my view too narrow. However, all sites bar one can be regarded as being unsuitable because they are either too large or too small.*
- *One of the units discounted (38a Woodland Road) is 34.5sqm floor space. Given my view that flexibility parameters are too narrow, it is not reasonable to discard this unit as being unsuitable. However, evidence suggest that this is no longer available and can be discounted.*
- *Having regard to the location requirements of the application, the scale of the proposed development and the advice that a sequential assessment should be appropriate and proportionate, my judgement is that the applicant has satisfied the sequential test.*

In addition, when considering the appropriateness of edge of centre locations, paragraph 92 of NPPF23 requires preference to be given to accessible sites that are well connected to town, district or local centres. In this respect, it has been demonstrated that the application site is positioned within an edge of centre location. Moreover, this location has safe and direct pedestrian connectivity to Ansdell District Centre thus is also considered to be well connected to that Centre. The location of development therefore accords with the requirements of NPPF23 in respect of connectivity to the District Centre.

On this basis it is considered that the submitted sequential test is appropriate for the development proposed, that the proposal has unique locational requirements relative to the existing ice cream kiosk, that there are no suitable sites available in more sequentially preferable locations and that the application site is well connected to the adjacent District Centre. On this basis the proposal is considered to have passed the sequential test and would not therefore undermine the vitality or viability of Ansdell District Centre, in accordance with Policy EC5 and the NPPF23.

Conclusion on Principle

The application site straddles the settlement boundary of Lytham St Annes with the existing kiosk building that is proposed for demolition and parking bays positioned within that boundary, whilst the proposed building is sited adjacent to but beyond the settlement and designated as an existing open space area in the FLPPR.

It is considered that the settlement boundary as depicted by the FLPPR Policies Map is out of date and has not been revised to reflect the recently constructed sea defence scheme. Any subsequent revision of such would follow the route of the new promenade, as per the existing settlement boundary to Fairhaven Lake, Church Scar and Lytham which also positions the dune network and Green within the settlement. This revision would consequently result in the application site and open space designation located within the settlement, in accordance with the locational strategy for new development advocated by Policy S1, DLF1 and GD1 of the FLPPR.

The site is located to the western edge of an existing open space designation, being designated for the site's value as an amenity greenspace and semi-natural greenspace. Policy ENV3 relates to that designation and recognises the importance of this green infrastructure within the Borough and states that 'in-appropriate development' will be resisted. The policy does not resist all development, thus inferring that appropriate development may be acceptable. In this respect, coupled with Fairhaven Lake and the sea defence promenade, the designation is an important tourism and recreational asset to the Borough. Similarly, the existing kiosk provides tourism benefit, and the proposal is considered to enhance this benefit to visitors and residents alike. Impact to use of the application site for recreational purposes will be lost, although the intended use will enhance the tourism and

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recreational value of the remaining designation, Fairhaven Lake and promenade, and is therefore considered to be an 'appropriate' form of development for the purposes of Policy ENV3.

The development will encourage job creation during the construction phase and once operational, increase the tourist attraction of the area and likelihood of additional spend in other local businesses within the locality, in accordance with Policy EC6 and strategic objective 4 of the FLPPR that seeks to grow the local economy.

The land use proposed constitutes a main town centre use in an edge of centre location. The applicants PRS has demonstrated a locational need for the development based upon replacement of the existing kiosk, and that there are no sequentially preferable alternative sites within the Ansdell District Centre to accommodate the development. The proposal therefore passes the retail sequential and would not therefore undermine the vitality or viability of Ansdell District Centre, in accordance with Policy EC5 and the NPPF23.

On balance, the principle of development is therefore supported in this location.

Character and Appearance

Policy Context

FLPPR Policy GD7 requires development to be of a high standard of design, providing a number of criteria for planning applications to be determined against. The following criteria of GD7 are considered relevant to the development:

- a) Amongst other criteria, development will be expected to deliver strong street frontages,
- d) Ensuring the siting, layout, massing, scale, design, materials, architectural character, proportion, building to plot ratio and landscaping of the proposed development, relate well to the surrounding context.
- f) conserving and enhancing the built and historic environment.
- g) applying secured by design principles.
- h) Being sympathetic to surrounding land uses and occupiers, and avoiding demonstrable harm to the visual amenities of the local area.
- i) taking opportunity to make a positive contribution to the character and local distinctiveness of the area through high quality new design that responds to its context and using sustainable natural resources where appropriate.
- m) Protecting existing landscape features and natural assets as an integral part of the development; requiring multi-functional green infrastructure to be integrated into urban areas, providing enhancements to open spaces to encourage people to use them; protecting and enhancing habitats; providing open spaces and linkages to the wider ecological networks as part of the Green Infrastructure network; and enhancing the public realm.

Policy ENV1 requires development to have regard to its visual impact within its landscape context and type it is situated, and will be assessed to consider whether it is appropriate to the landscape character, amenity and tranquillity within which it is set.

Chapter 12 of the NPPF23 presents a similar attitude to the design of development, with Paragraph 131 recognising that good design is a key aspect of sustainable development, and paragraph 139 requires development that is not well designed to be refused.

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Paragraph 180 of the NPPF23 requires planning decisions to protect and enhance valued landscapes in a manner commensurate to their statutory status or identified quality in the development plan, whilst recognising the intrinsic character and beauty of the countryside. Paragraph 176 states that great weight should be given to conserving and enhancing landscape and scenic beauty in National Parks, the Broads and Areas of Outstanding Natural Beauty (AONB) which have the highest status of protection.

Assessment

The application site is located immediately east of Fairhaven Lake and to the south of the road junction of Marine Drive and Inner Promenade, bound by the sea defence promenade to the south, footway to the north, and grassed area to the east.

The development encompasses 2 main elements. The first relating to the existing building that is proposed for demolition. This building has a footprint of approximately 30sqm (6.5m x 4.4m) and is positioned to the eastern boundary of Fairhaven Lake, adjacent to the Stanner Bank car park entrance. The structure is single storey in scale and constructed of yellow painted render with a red tile hipped roof. The frontage of the building faces east and will appear within short and distant views from the Promenade and open space area of Granny's Bay. The rear of the building is visible within westerly views from Inner Promenade, presenting a poor appearance to that street scene, and the position and height of the structure also acts to obscure some views over Fairhaven Lake from the east.

The second element of the application site relates to an existing grassed land parcel where the new facility will be constructed. This land parcel is positioned to the opposing side of the car park, circa 20m from the existing building and forms part of a larger open space area that extends in an easterly direction around Granny's Bay. The site is triangular in shape, formed by a pinch point between the sea defence promenade to the south and a footpath that links to Inner Promenade. The sea defence promenade continues its path in an easterly direction toward Lytham Green, and to the western edge of Fairhaven Lake, and is a popular tourist attraction that has a high footfall as a consequence, heightening the visibility and prominence of this part of the application site from various vantage points along this route as well as neighbouring dwellings.

The surrounding area is defined by built form positioned to the north of Inner Promenade, which has a front facing southerly aspect toward the coastline. 4 storey apartment blocks flank Inner Promenade, focussed about the junction with Marine Drive. The scale of development reduces away from this point to a more traditional 2 storey appearance. Construction materials consist primarily of red brick interspersed by render and large expanses of glazing, and either red or grey roof tile, with a mix of mansard, flat roof and pitched roof forms. In contrast, land to the south of Inner Promenade is largely development free and open, save for the existing kiosk building, buildings positioned centrally within Fairhaven Lake and a shelter to the eastern edge of Granny's Bay.

Planning consent is sought to demolish the existing kiosk building, with that resultant space being hard landscaped to provide a widened footpath. The existing level of the grassed area will be reduced to a similar level as adjacent footpaths, with the new building having a triangular footprint that reflects the shape of the application site.

The building measures approximately 24m x 20.5m x 12.2m, having a flat roof form to an overall height of 3.4m which will overhang the footprint of the building by circa 0.5m. Construction materials include a mix of pre-cast board marked concrete walls and floor to ceiling sliding glazed doors which allow internal or external use of the building dependent upon weather conditions. Perforated Corten steel shutters will be used to secure the glazed elements of the building when not in use. These shutters

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will be stacked against the concrete walls of the structure when open, which also have a sliding mechanism for ease of use. The roof will have a green sedum system and all rainwater goods and extraction will be concealed. The submitted floor plan indicates provision of an internal bin store, which will be secured by a Corten screen also.

The building is single storey in scale, reflective of that to be demolished, with the proposed flat roof form ensuring that the structure sits low on the site, acting to reduce the perceived mass of the built form, especially in more distance views. All of the building's elevations will be visible from external vantage points, thus the structure has been designed to present active frontages and visual interest to all aspects. Large amounts of glazing, especially to those elevations (south and east facing) which oppose the promenade, estuary and existing open space, allowing views into the premises but also maximising views over these areas. This design ensures that the development is outward facing and does not turn its back on these important vantage points.

The use of imprinted concrete and Corten steel are not reflective of those that are prevalent to surrounding built form. Notwithstanding, the submission confirms that materials have been chosen to reflect the coastal environment so as to provide an appearance that is reflective of the site's location. This approach to materiality of the building is considered acceptable for these reasons bearing in mind the development's detachment from the settlement. Moreover, this detachment allows support for an alternative design solution, that is in contrast to the materiality of the existing built form. In addition, the aesthetic of the building will not be tainted by the presence of external rainwater goods, unsightly extraction and bin storage areas, which alternatively are hidden from view within the building design and screened appropriately.

It is inevitable that the siting of the proposed building will alter the presently undeveloped character of the application site, as acknowledged by the Landscape consultant. However, the application site is positioned to the western pinch point of the larger open space designation, being dominated by the sea defence, footpath and car parking area. It is a peripheral part of the designation, and for this reason, the contribution that the application site makes to the character of the wider open space is low.

It is also acknowledged that existing views through the application site will alter, indeed views of the coastline may be obstructed from some vantage points on Inner Promenade/ Marine Drive, of Fairhaven Lake from the east, and built form of the settlement when viewed from the promenade to the south. Notwithstanding, the building design and scale will ensure that the building is absorbed into the landscape, sitting comfortably within the context of the sea defence promenade and car parking area, providing an appropriate appearance when viewed externally from all vantage points without appearing jarring to the eye.

Moreover, the limited impact that the proposed building will have to character, must also be balanced against the enhancements gained from the demolition of the existing building. This demolition will remove a building that presents a poor relationship to Inner Promenade, thereby enhancing the street scene appearance whilst acting to open up views into Fairhaven Lake from the east, and views of the existing open space to Granny's Bay from the west, from Inner Promenade.

Bearing in mind the design and appearance of the built form and benefit of demolition that the proposal will bring, it is considered that the proposal relates well to the context of the locality, making a positive contribution to the character and distinctiveness of the area and thereby avoids demonstrable harm to visual amenity. Any resultant harm to the character of the site or open space it forms part of is therefore minimal, and whilst harm may arise, this harm is not sufficient to warrant refusal of the development bearing in mind the benefits resultant from demolition and tourism within

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the Borough. Accordingly the development is consistent with the requirements of Policies GD7 and ENV1 of the FLPPR, and NPPF23.

Heritage Matters

Policy Context

FLPPR policy ENV5 states that development proposals should conserve, protect and, where appropriate, enhance the character, appearance, significance and historic value of Fylde's designated and undesignated heritage assets.

Annex 2 of the NPPF defines the terms "designated heritage asset" and "heritage asset" as follows:

- "A World Heritage Site, Scheduled Monument, Listed Building, Protected Wreck Site, Registered Park and Garden, Registered Battlefield or Conservation Area designated under the relevant legislation."
- "A building, monument, site, place, area or landscape identified as having a degree of significance meriting consideration in planning decisions, because of its heritage interest. It includes designated heritage assets and assets identified by the local planning authority (including local listing)."

Paragraph 199 of the NPPF indicates that "when considering the impact of a proposed development on the significance of a designated heritage asset, great weight should be given to the asset's conservation (and the more important the asset, the greater the weight should be). This is irrespective of whether any potential harm amounts to substantial harm, total loss or less than substantial harm to its significance."

Paragraph 206 of the NPPF indicates that "local planning authorities should look for opportunities for new development within Conservation Areas and World Heritage Sites, and within the setting of heritage assets, to enhance or better reveal their significance. Proposals that preserve those elements of the setting that make a positive contribution to the asset (or which better reveal its significance) should be treated favourably."

The subsection to policy ENV5 relating to Conservation Areas indicates that "proposals within or affecting the setting of any of the ten designated conservation areas in Fylde [listed in the policy] or within any additional conservation areas designated during the lifetime of the Local Plan, should conserve or enhance those elements that make a positive contribution to their special character and appearance and setting. Proposals that better reveal the significance of these areas will also be supported." The subsection goes on to state that "there will be a presumption in favour of the retention of buildings and / or features which make a positive contribution to the special character and appearance of a conservation area" before setting out six criteria (a – f) that proposals within the conservation area should satisfy.

Paragraph 200 of the NPPF states that "any harm to, or loss of, the significance of a designated heritage asset (from its alteration or destruction, or from development within its setting), should require clear and convincing justification."

Paragraph 201 of the NPPF indicates that "where a proposed development will lead to substantial harm to (or total loss of significance of) a designated heritage asset, local planning authorities should refuse consent, unless it can be demonstrated that the substantial harm or total loss is necessary to achieve substantial public benefits that outweigh that harm or loss, or all of the [circumstances in a) – d)] apply."

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NPPF paragraph 202 states that “where a development proposal will lead to less than substantial harm to the significance of a designated heritage asset, this harm should be weighed against the public benefits of the proposal including, where appropriate, securing its optimum viable use.”

In addition, Section 72 (1) of the Planning (Listed Buildings and Conservation Areas) Act 1990 states that:

- “In the exercise, with respect to any buildings or other land in a conservation area, of any powers under any of the provisions mentioned in subsection (2) [which include “the planning Acts”], special attention shall be paid to the desirability of preserving or enhancing the character or appearance of that area.”

Assessment

The application site is not located within a Conservation Area, nor is the existing kiosk building a Listed Building or a Locally Listed Building. The application site and building contained therein are not therefore considered to be heritage assets.

Notwithstanding, it is appropriate to make judgement of the proposal in light of the presence of any heritage assets that may be present within the locality. In particular, the affect that the development may have upon the setting of these assets. In this respect Lytham Avenues Conservation Area is located circa 330m to the east, to the end of Granny’s Bay. The White Church, Clifton Drive, as well as its boundary wall and gated piers are located circa 290m to the north east also, and are designated as Grade II* and Grade II Listed Buildings respectively. This separation to the application site, as well as intervening residential properties with respect to the White Church and lack of intervisibility as a consequence, ensure that the proposal would not undermine the setting of or result in harm to the significance these Heritage Assets as a consequence.

Accordingly, the scheme therefore complies with the requirements of Policies GD7 and ENV 5, as well as the aforementioned paragraphs of the NPPF23.

Objection has been received on grounds that the planning application does not demonstrate the impact to the significance of heritage assets. Notwithstanding, for the reasons stated, it is not considered necessary in this circumstance for the applicant to demonstrate this impact.

Highway and pedestrian safety

Policy Context

FLP policy GD7 supports good design that (p), would not prejudice highway or pedestrian safety, and the efficient and convenient movement of all highway users (q), and, encourages alternative modes of transport including walking and cycling (r).

Policy T5 relates to parking provision and indicates that a flexible approach to the level of car parking provision will be applied dependent on the location of the development. The adopted Car Parking Supplementary Planning Document provides guidance in relation to car parking requirements for specific land uses. The use applied for does not fall readily into any of the land use categories specified, the closest of relevance being a café or restaurant (Class E) which requires 1 space per 12sqm in high accessibility areas, or 1 space per 9sqm in low/ medium accessibility areas. The SPD also requires 1 cycle space for every 5 parking spaces with motorbike parking requires on a case by case basis, as well as general support for the provision of electric vehicle charging within new development.

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Paragraph 32 of the NPPF states that decision makers should take account of whether safe and suitable access to the site can be achieved for all people, and, improvements can be undertaken within the transport network that cost effectively limit the significant impacts of the development. Paragraph 111 of the NPPF states that development should only be prevented or refused on highways grounds if there would be an unacceptable impact on highway safety, or the residual cumulative impacts on the road network would be severe.

Assessment

The submitted layout drawing makes provision for 2 staff car parking spaces adjacent to the new building within the existing Car Park, with the access to those spaces via the controlled gated arrangement positioned to the entrance to the car park.

During assessment of the planning application, the applicant has confirmed that servicing arrangements will continue as per those for the existing ice cream kiosk, which includes use of the tenants car and the hatched area close to the car park barriers for larger vehicles. It is also confirmed that the frequency of existing deliveries is seasonal and should not alter as a consequence of the development, with 3 deliveries made per week by a small commercial type vehicle in addition to those made by car.

The number of staff parking spaces is considered satisfactory due to the dedicated provision and presence of alternative parking arrangements within the vicinity, however it is noted that there is no dedicated car parking for visitors of the establishment. Notwithstanding, it is considered that there is ample public parking available within the adjacent car park and to surrounding streets. Moreover, it is also the case that visitors may choose to park further afield in order to walk to the facility. In this instance, there are other car parks and on street public parking available. As a consequence associated vehicles and trips to the site will not necessarily be focussed on the immediate locality of the application site, instead being diluted within the wider area. The development is not therefore considered to place increased pressure on existing car parking arrangements or local highway network.

The servicing regime for the development is not reported to alter from the existing situation, and whilst refuse collection details have not been confirmed, it is considered that there is appropriate space within the car park or adjacent roads to facilitate without impeding the safe, convenient and free flow of vehicles.

The existing kiosk is sited adjacent to the entrance/ exit point to Stanner Bank car park. The sales hatch opens on to a footpath that is positioned to the front of the kiosk which provides a pedestrian link from Fairhaven Lake to the sea defence promenade. The position of the sales hatch acts to block the footpath by those queuing to purchase, resulting in pedestrians stepping out in the exit road of the car park and encouraging conflict between pedestrians and vehicles. This safety issue is heightened by the popularity of this footpath which is used by families with push chairs and young children, as well as the elderly. In addition, the kiosk can become busy, especially during high season, resulting in extended queues forming along the footpath, encouraging pedestrians to walk along the edge of the queue in the exit lane at a time when the footfall on the footpath and use of the car park will be higher. The position of the existing kiosk therefore forms a highway concern, with the probability of accident increasing during peak times.

The proposal will result in removal of the existing facility, providing for a widened footpath in replacement of the demolished building, thereby removing the highway safety concern and

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encouraging the free flow of pedestrians that use the footpath link between Fairhaven Lake and the sea defence promenade. There is therefore highway safety benefit resultant from the development. Moreover, the proposed building is located within proximity to the existing car park and has the advantage of much safer pedestrian access routes.

The application is also accompanied by a Construction Management Plan (CMP) which confirms an estimated construction period of 16 weeks. The key points of the CMP are summarised below:

- Construction access via the Stanner Bank car park access off Inner Promenade.
- Existing parking spaces adjacent to the access will be used for the site compound, crane storage and contractor parking.
- All construction related vehicles to be parked with the site compound.
- Storage of plant and materials within the compound.
- Deliveries to be made outside of busy periods whenever possible.
- Roads and footpaths to be kept clear of mud and debris.
- Use of a power wash to clean wheels prior to leaving the site.
- Use of a banksman for all deliveries to ensure safe access and egress.
- Security hoarding to minimise risk to pedestrians.

Due to the location of the proposal, construction of the development will result in potential conflict between vehicles and pedestrians. Thus it is imperative that the construction of the development is managed accordingly so as to minimise this conflict and ensure safety. The Highway Authority has been consulted on the CMP and are supportive of its requirements.

The application site is located within a highly accessible location, providing for an acceptable means of vehicular access and appropriate levels of parking, and servicing arrangements. In addition, there is highway safety benefit for users of existing footpaths that weigh in favour of the proposal. On this basis the proposal will not prejudice the safe, efficient or convenient movement of all highway users, and in the absence of any objection from the Highway Authority, the proposal is in compliance with the policy objectives of FLPPR Policies and the NPPF23.

Amenity

Policy Context

FLPPR Policy GD7 requires high design standards, with criteria c) and h) supporting new development that would be sympathetic to surrounding land uses, including existing residents that live adjacent to the development. This amenity impact includes privacy, dominance, loss of light, over shadowing resultant from the proximity of buildings to neighbours, or disturbance, including noise, from operation of the intended use.

In addition, criteria l) of Policy GD7 requires new development to create 'safe and accessible environments where crime and disorder, and the fear of crime, do not undermine quality of life or community cohesion....'.

Criteria f) of Paragraph 135 of the NPPF23 states that planning decisions should ensure that developments 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 users⁵²; and where crime and disorder, and the fear of crime, do not undermine the quality of life or community cohesion and resilience.'

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Assessment

Existing neighbours that could be affected by the proposal are largely limited to occupants that live to the north of the application site on Inner Promenade, particularly those apartment buildings that are focussed about the junction with Marine Drive and have a front facing aspect toward the development. Separation between the closest apartment block and the proposed building is circa 80m, which is significantly greater than the minimum distances (13.5m or 21m) normally required to protect massing and privacy impacts to side and front facing aspects. At this separation a single storey building can have no perceivable amenity by virtue privacy, dominance, loss of light or overshadowing.

The applicant has confirmed an intention to operate daily opening hours between 9am and 10pm, though this will fluctuate due to seasonal influences with opening after 9am and closure prior to 10pm possible. The separation to the nearest dwellings will ensure that any noise associated to the development, including that resultant from operation of the development, servicing or machinery/equipment, would not be a nuisance to neighbours. Controls are however suggested to ensure that any potential noise escape is minimised and to avoid unrestricted late night operation of the business, including hours of use controls, no live or amplified music and the timing of servicing. Whilst the applicant has indicated a 9am opening time, an 8am opening time is also considered a reasonable restriction, which would allow the occupant greater flexibility though would still safeguard the amenity of neighbours.

The submitted Planning Statement refers to the possibility of alcohol sales from the premises and this has been raised as an objection to the development with regards to noise and disturbance, as well as anti social behaviour. The use outlined in the submission does not refer to operation of the business as a public house, indeed the primary function is confirmed to be for the making and selling of ice cream, with sale of food, drinks and confectionary, and an internal seating area. The approval of an alcohol license does not alter the use that has been applied for and additional planning permission will be required for alternative use primarily as a drinking establishment. Notwithstanding, there is no evidence to suggest that the sale of alcohol from the premises will result in the concerns raised by neighbours.

Objection has also been raised in relation to the planning permission for extension of the existing ice cream kiosk (ref: 05/0927) which imposed a planning condition that restricted the goods sold from the premises to ice-cream, ice-cream related products, hot/ cold drinks, mineral waters, sweets and confectionary. The reason for this condition is stated to be 'The use of the premises for any other sales could prove injurious to the character of the area and would require further consideration by the Local Planning Authority.'

The wording of the above condition is noted, however it is not clear from this wording how the sale of other goods from the premises may prove injurious to the character of the area. Notwithstanding, the reason wording indicates that other goods could be sold, but that this would first require further consideration by the Local Planning Authority. In this respect, the new facility would not undermine the amenity of neighbours, and the intended use is not considered to be injurious to the character of the area.

It is inevitable that there will be some disruption for neighbours during the construction period. This disruption however is temporary, for duration of the build and is therefore acceptable. The application is accompanied by a Construction Management Plan which provides measures to minimise disturbance, including:

- hours of construction restriction,

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- locating the site compound to parking bays within Stanner Bank car park,
- siting of all parking, storage and welfare within the compound area,
- use of a wheel wash on site,
- use of dust suppression techniques,
- noise and vibration assessments,
- secure site through provision of a 2.4m timber hoarding,

The above measures will help to reduce the disturbance to residents throughout the construction period and should therefore be required for implementation by an appropriately worded condition.

Objection has been raised with regards to loss of view, and whilst this matter is regrettable, this is not an issue for consideration in the assessment of this planning application.

The planning application is not accompanied by external lighting details. In order to control the possibility of light escape, a condition is suggested for this detail to be provided and its impact assessed prior to provision of such on the site.

The Environmental Protection team have been consulted and have raised no objection to the proposal. On this basis it is considered that the development would not unacceptably impinge on the amenity of existing residents that neighbour the site, in accordance with Policy GD7 and NPPF23.

Ecology

Policy Context

Policy ENV2 states that the Council is committed to the protection and enhancement of the borough's biodiversity and geological assets. The strongest protection will be given to sites of international importance (Ramsar, Special Area of Conservation, Special Protection Areas or candidate sites of such). Development affecting sites of local importance will be permitted only where there is an overriding local public need. Policy ENV2 also safeguards protected species and states that development that has any adverse effect will not be supported, unless the benefits of development outweigh the ecological impact, and subject to appropriate mitigation.

Paragraph 180 d) of the NPPF requires developments to minimise impacts on and provide net gains for biodiversity, including by establishing coherent ecological networks that are more resilient to current and future pressures.

In addition, paragraph 186 of the NPPF states that local planning authorities should apply the following principles when determining applications:

- a) if significant harm to biodiversity resulting from a development cannot be avoided (through locating on an alternative site with less harmful impacts), adequately mitigated, or, as a last resort, compensated for, then planning permission should be refused;
- b) development on land within or outside a Site of Special Scientific Interest, and which is likely to have an adverse effect on it (either individually or in combination with other developments), should not normally be permitted. The only exception is where the benefits of the development in the location proposed clearly outweigh both its likely impact on the features of the site that make it of special scientific interest, and any broader impacts on the national network of Sites of Special Scientific Interest;

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- c) development resulting in the loss or deterioration of irreplaceable habitats (such as ancient woodland and ancient or veteran trees) should be refused, unless there are wholly exceptional reasons and a suitable compensation strategy exists; and
- d) development whose primary objective is to conserve or enhance biodiversity should be supported; while opportunities to improve biodiversity in and around developments should be integrated as part of their design, especially where this can secure measurable net gains for biodiversity or enhance public access to nature where this is appropriate.

Assessment

The planning application is accompanied by a Preliminary Ecology Appraisal and a Preliminary Roost Assessment. The reports have considered the developments potential impact to existing habitats and ecological features, as well as the presence of protected species, on the application site. Key findings are summarised below:

Preliminary Ecology Appraisal (PEA):

- Designated Sites - Taking into consideration the scale of the development works and the above points, consultation with Natural England regarding likely effects on the SSSI may be required.
- Non Statutory Designated Sites (*Lytham Foreshore Dunes and Saltmarsh Biological Heritage Site (BHS)*) – the habitat previously present has been destroyed during the coastal protection scheme, with the site being re-seeded with an amenity grassland rather than restoring the former dune grassland. Therefore it is considered very unlikely that the habitat within the site would meet the qualifying criteria it was designated for. No qualifying species associated with the BHS site were noted during the survey.
- Amenity grassland - Amenity grassland generally does not require any particular conservation measures above and beyond adoption of good working practice to minimise overall impact. However, because there has been a previous loss of dune grassland habitat in this area, the development proposals include a sedum roof spanning 115 sqm to offset the loss of poor quality grassland and enhance site biodiversity.
- Protected and notable species – amphibians (great crested newt and common toad) are excluded from further appraisal due to a lack of GCN record within the area and low value habitat of the Lake, presence and use of the site by badgers, otters and invertebrates is discounted.
- Breeding birds – The site has no value to breeding birds but may be used by foraging birds. The small loss of grassland in relation to breeding birds is negligible and of low significance for foraging birds.
- Wintering birds – Presence of wintering birds within the nearby SPA is confirmed, and the site is close to two fly over areas/ feeding areas for pink footed goose and whooper swan. The main conservation interest of the SPA is migrating and over-wintering birds, including waders, wildfowl and geese. The site therefore is situated in close proximity to the SPA, which could be used by overwintering birds for feeding and foraging. However, the site is subject to much disturbance and is unlikely to be suitable for roosting waders. The grassland is also not considered suitable as foraging habitat for waders. It is therefore considered not to comprise functionally linked land.

Ecological Noise Assessment:

- Findings of a noise assessment for the sea defence scheme have been used to inform the assessment. The report concludes that ‘The estimated effect of even the “worst case” noise from the proposed construction of the Vento Ice Cream Kiosk is much less than the lower of these Natural England figures. Therefore, since most noise would not be at this “worst case” level, it

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would seem to be most unlikely that the proposed construction would cause any undue disturbance to the closest roosting birds.

The planning application is also accompanied by a Construction Management Plan (CMP) which confirms methodology and any necessary controls for the construction process. In relation to ecology the CMP confirms:

- Construction hours of 8am – 6pm Monday to Friday, 9am – 1pm Saturday, no working on Sunday or bank holidays.
- 2.4m solid timber screen, which will reduce noise and visual disturbance to the Ribble & Alt Estuaries Special Protection Area (SPA), Ribble & Alt Ramsar and Ribble Estuary Site of Special Scientific Interest (SSSI).
- Dust suppression techniques such as damping of cutting or grinding operations and periods of dry weather.
- Noise and vibration assessment prior to use of all plant and equipment.

Members should note that the Environment Act is soon to be enacted, and that this will require all new development to deliver a minimum 10% biodiversity net gain (BNG). Until this time, the NPPF is relevant to the decision making process and requires development to secure measurable net gains only. In practical terms, this could be very limited i.e., 0.1%, as opposed to the minimum 10% threshold of the Environment Act. With regards to BNG, the proposal includes provision of a sedum roof (115sqm), with the submitted PEA confirming that this will offset loss of the grassland and deliver enhancement of biodiversity.

The Council's consultant Ecologist raises no concerns with the above report findings and considers that the development's ecological effects can be addressed subject to construction being in accordance with the submitted Construction Management Plan (CMP). BNG will be provided through provision of the sedum roof, thus this should be required to be implemented by condition. Demolition should also take place outside of the bird nesting season. Subject to the provision of the identified mitigation measures, the development would not impinge upon existing habitats and/or the favourable conservation status of protected species on the site in accordance with the requirements of FLPPR policy ENV2 and the NPPF.

The site also falls within the Impact Risk Zone (IRZ) of the Ribble and Alt Estuaries SPA and Ramsar, and Ribble Estuary Site of Scientific Interest (SSSI). The applicant has undertaken a Shadow Habitat Regulation Assessment screening assessment (SHRA) to determine the potential significant effects that the development may have on these designations. An ecological noise assessment has also been undertaken to inform the HRA. Key findings of the SHRA are summarised below:

- The wintering bird desk study has confirmed that nationally significant numbers of 11 species associated with the designated sites, significant numbers of 21 species in the context of the Ribble and Alt Estuaries and 22 species in the context of the Ribble Estuary are regularly present.
- The proposed development does not directly affect a European site.
- No likely significant effects as a result of pollution (run-off), foul water, noise, light or recreational pressure were identified.
- The screening assessment identified the potential for likely significant effects resulting from potential pollution (dust) and visual disturbance on functionally linked land/ wintering birds associated with the Ribble and Alt Estuaries European designated site during construction and demolition.
- With implementation of the proposed mitigation, no appreciable effects as a result of pollution (dust) and visual disturbance during construction and demolition are anticipated and no in-

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combination effects assessment is therefore required. The recommended mitigation measures will be written into the Construction Management Plan, the implementation of which can be secured via a suitably worded planning condition.

- The Assessment of Alternative Solutions seeks alternative options to avoid impacts and prevent likely significant effects. There is no practical alternative location for the proposed development that would pose a lesser effect on the European site. Implementation of the proposed mitigation will mitigate the potential adverse effects of potential pollution (dust) and visual disturbance during construction on the integrity of the European designated site.

Both GMEU and Natural England have been consulted and agree with the findings of the Shadow HRA assessment. Natural England confirm that no objection to the development subject to mitigation (provision of a Construction Environmental Management Plan (CEMP)), stating that without this mitigation the proposal would have an adverse effect on the integrity of Ribble and Alt Estuary Special Protection Area (SPA) and Ribble and Alt Estuary Ramsar site, and would damage or destroy the interest features for which Ribble Estuary Site of Special Scientific Interest (SSSI) has been notified. It is also advised that the SHRA screening is adopted by the Council.

The application site is of limited ecological value, and it has been demonstrated that the development will have no Likely Significant Effect to any statutory sites of nature conservation interest subject to provision of a CEMP. Biodiversity measures can be incorporated into the final scheme through inclusion of a sedum roof, in lieu of any ecological value that will be lost. Subject to the imposition of suggested conditions, the development will protect the boroughs biodiversity assets in accordance with Policy ENV2 and the NPPF.

Flood risk and drainage

Policy Context

Criteria z) of Policy GD7 states that inappropriate development in Flood Risk Zones 2 and 3 will not be permitted.

Policy CL1 requires planning decisions should follow a sequential, risk based approach to the location of development. It requires all new development to minimise flood risk by a number of specific criteria, including ensuring use of sustainable surface water drainage solutions, ensuring new development is directed away from high risk areas of flooding (Flood Zone 2 and 3) and the incorporation of mitigation in lower risk areas. Policy CL2 provides detailed design guidance for surface water drainage strategies, including attenuation requirements.

Paragraph 173 of the NPPF23 requires planning authorities to ensure that flood risk is not increased elsewhere, requiring the submission of flood risk assessments where appropriate. Development should only be allowed in areas at risk from flooding where in light of the assessment (and the sequential and exception tests where necessary) it can be demonstrated:

- a) within the site, the most vulnerable development is located in areas of lowest flood risk, unless there are overriding reasons to prefer a different location;
- b) the development is appropriately flood resistant and resilient such that, in the event of a flood, it could be quickly brought back into use without significant refurbishment;
- c) it incorporates sustainable drainage systems, unless there is clear evidence that this would be inappropriate;
- d) any residual risk can be safely managed; and

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e) safe access and escape routes are included where appropriate, as part of an agreed emergency plan.

Assessment

The application site falls, including the existing kiosk building, fall entirely within Flood Zone 3(a), as defined by the Environment Agency's Flood Map. Albeit with construction of the sea defence scheme, the proposal is clearly within an area that benefits from flood defences.

Due to the FZ3 location, the application is accompanied by a Flood Risk Assessment (ref: 22-11 PL08 rev B, October 2023). The FRA acknowledges that the application site is positioned within FZ3(a) and that the use class, for the purposes of the FRA, is classified as restaurant/ café/ food takeaway, and categorised as 'Less Vulnerable' as per Table 2 of the Environment Agency's Technical Guidance document, acknowledging that this use class is acceptable in FZ3(a). In addition reference is made to the new sea defence which have been designed to provide a 1 in 200 year standard of protection, which act to significantly reduce the flood risk on the proposed site. Key findings of the FRA are summarised below:

- The finished floor level within the building is set at 7.25 AOD which should secure the building from flood due to rising sea levels in 2113.
- This level should secure the building from flooding due to rising sea levels during storm surges until 2080.
- This doesn't take into consideration the setback wall that forms part of the existing coastal defences which is directly in front of the proposed kiosk site, protecting the site from flooding from the estuary. The height of this wall is 7.55 AOD, so this will provide further protection.
- The proposals are suitably protected from the increased risk of flooding due to climate change given the proposed usage and additional protection provided by the coastal defence scheme.
- Flood risk measures are also incorporated into the design of the building including use of robust materials to withstand flood waters, damp proof membrane, internal surface finishes to be water resistant, raise plug sockets, and windows/ doors to be powder coated to protect from water ingress.

The FRA includes details of surface water drainage which has been designed to ensure there is no risk of flooding elsewhere. The surface water drainage will make use of that of the sea defence, with levels set to drain toward landscaped swales adjacent to the car park, with excess water and that falling on the roof connected to existing pipework that will discharge to the sea. The sedum roof will also act to control surface water flows.

Due to the minor nature of development proposed, the LLFA have not been consulted on the application and their standing advice is applicable. The standing advice relates to surface water drainage, as opposed to flood risk, with that of relevance to the development including - implementation of the drainage hierarchy (infiltration, surface water body, surface water sewer and lastly, combined sewer), restricted discharge rates, allowances for climate change, management and maintenance. With regards to the submitted strategy, this makes provision for infiltration and drainage to a surface water body and is consistent with the drainage hierarchy, though is dependent upon the existing drainage infrastructure it will tap into for the remaining requirements.

With regards to flood risk, the Environment Agency have not raised objection to the development stating *'that the development would be safe without exacerbating flood risk elsewhere if the proposed flood risk mitigation measures are implemented.'*, subject to the development progressing in strict accordance with the FRA and implementation of mitigation measures identified therein.

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The EA consultation response also make reference to the LPA's requirement to undertake Flood Risk Sequential Testing which is considered in further detail below.

Flood Risk Sequential Test

Paragraph 23 of the Planning Practice Guidance note for 'Flood Risk and Coastal Change' (PPG) confirms that the sequential approach is designed to ensure that *'areas at little or no risk of flooding are developed in preference to areas at higher risk...'*. This sequential approach *'places the least reliance on measures like flood defences, flood warnings and property level resilience features'*.

The submitted FRA includes a Flood Risk Sequential Test (FST) in order to demonstrate that there are no other reasonably available alternative sites located within a lower flood risk area that are suitable for the development proposed. The PPG provides guidance to applicants and LPAs with regards to scope of FST. Importantly, paragraph 28 confirms the definition of 'Reasonably available sites' to be those in a suitable location for the type of development, with a reasonable prospect that the site is available to be developed at the point in time envisaged for the development. Additionally, paragraph 27 clarifies that the search area will be defined by local circumstances relating to the catchment area for the type of development proposed. In this respect the applicant has sought to identify more suitable sites within areas that would pick up on the same/ similar catchment of the existing kiosk, namely sites positioned adjacent to the existing promenade in the vicinity of Fairhaven Lake and Church Scar. It is considered that the proposal represents the replacement of a similar facility that underpins the tourism offer of the sea defence promenade and therefore has specific requirements that dictate its location. The LPA has no objection to this area of search since it would be reflective of the catchment of the existing kiosk.

The FST has identified several sites, including extension/ alteration of the existing kiosk, St Pauls Avenue public car park located in FZ1, land to the top of the sea defence at Fairhaven Lake within FZ3(a), a land parcel to the east of Granny's Bay within FZ3(a), the dunes at Church Scar located within FZ1. Of the sites considered, only 2 are considered to be sequentially preferable given their location within FZ1. St Pauls Avenue car park has been deemed to be unviable by the applicant due to the disconnect from the coastline and Fairhaven Lake, and development would reduce the amount of available car parking. The Church Scar site is also confirmed to have viability issues since it would be distant from Fairhaven Lake, and development is constrained due to location within the Lytham Avenues Conservation Area and a designated biological heritage site, and increased footfall associated to the development would further compromise biodiversity value.

Furthermore, the findings of the retail sequential test can also be included within the FST assessment, which found availability of units within Ansdell District Centre. That Centre lies entirely within FZ1 and these units would therefore be in a lower flood risk area. Notwithstanding, assessment of these units has evidenced that they are not suitable for the use proposed, thus do not represent a viable alternative to the application site.

The LPA have no reason to object to the FST findings or the methodology used in that assessment. On that basis it is considered that the applicant has demonstrated that there are no available sequentially preferable sites with lower flood risk and the Flood Risk Sequential Test is therefore passed. Paragraph 29 of the PPG confirms *'Ultimately the local planning authority needs to be satisfied in all cases that the proposed development would be safe throughout its lifetime and not lead to increased flood risk elsewhere.'* In this regard, the EA comment *'we are satisfied that the development would be safe without exacerbating flood risk elsewhere if the proposed flood risk mitigation measures are implemented.'*

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Accordingly it is considered that the development poses no unacceptable risk in terms of flooding and that a satisfactory drainage solution is feasible for the development that accords with the drainage hierarchy, in accordance with the development plan and NPPF.

Other matters:

Integrity of sea defences.

The Environment Agency (EA) refer to the close proximity of the development to the sea defence structure within their response, stating that a permit would usually be required from the EA for works within 16m of the structure. The EA also comment that they do not own and are not responsible for the maintenance of the defences, and therefore advise that the local planning authority should satisfy themselves that the proposal does not affect the integrity of the sea defence. Accordingly, the architect has provided a cross section of the proposed foundation which demonstrates relationship of the development to the existing foundation of the sea defence. The Council's Chief Engineer has been consulted on the scheme and has no objection to the development in relation to the integrity of the sea defences.

The Chief Engineer has requested the following conditions:

- before and after surveys of specific features of the sea defence promenade (sea walls, promenades, revetments, railings, car parks, signs, lifebuoys, highways, property and land, including landscaping), and for the contractor to make good any damage during the construction period.
- Location of existing service ducts to be confirmed and rerouted around the proposed building if necessary.
- Inspection of foul and surface water drainage connections prior to backfill.
- Traffic Management Plan to be submitted and approved by the Council's Estates Manager and Car Parks Manager.

It is considered that the first three of these suggested conditions go beyond the scope of a planning decision as ultimately any damage resultant from the construction process must be rectified by the contractor/ applicant (Fylde Council). Instead an internal dialogue involving the Chief Engineer and the Regeneration team regarding the design and delivery of the construction arrangements is a more appropriate mechanism to resolve any concerns of this nature and to ensure that the highlighted issues are acted upon at the appropriate time.

With regards to the final aspect regarding construction traffic management the applicant has provided such within the application submission, and this has been accepted by the Highway Authority. A condition requiring implementation in accordance is suggested to ensure this matter is appropriately controlled.

Expenditure of Public Monies:

Objection has been received from a number of residents concerning the funding mechanism for the development, with specific regard to expenditure of Council monies.

The council's function as local planning authority is separate to its involvement as a landowner and the determination of this application must be based solely on the planning merits of the development proposed. The arrangements for the funding of the submission of the application, and the subsequent

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implementation of it should planning permission be granted are irrelevant for any planning decision, and so must not form a consideration here.

Restrictive Covenant:

Objection has been received with regards to a restrictive covenant that may exist on the grassed open space of Granny's Bay. This covenant is reported to prevent the construction of buildings, with the land to remain open and free from built form. The presence of a restrictive covenant is not a consideration to the grant of planning permission, and assessment of the planning application should not take the covenant into account or analyse the covenant requirements. Notwithstanding, even though planning permission may be granted, it does not override the covenant that may exist.

Conclusions

The application site straddles the settlement boundary of Lytham St Annes with the existing kiosk building that is proposed for demolition and parking bays positioned within that boundary, whilst the proposed building is sited beyond the settlement and designated as Amenity Greenspace and Semi-Natural Greenspace as per the FLPPR Policies Map.

The settlement boundary as depicted by the FLPPR Policies Map is out of date and has not been revised to reflect the recently constructed sea defence scheme. Any subsequent revision of such is likely to follow the route of the new promenade, as per the existing settlement boundary to Fairhaven Lake, Church Scar and Lytham which also positions the dune network and Green within the settlement. This revision would consequently result in the application site and open space designation located within the settlement, in accordance with the locational strategy for new development advocated by Policy S1, DLF1 and GD1 of the FLPPR.

The site is located to the western edge of an existing open space designation, being designated for the sites value as an amenity greenspace and semi-natural greenspace. Policy ENV3 recognises the importance of this green infrastructure and states that 'in-appropriate development' will be resisted, inferring 'appropriate' development is acceptable subject to assessment against all other relevant policies of the FLPPR. In this respect, coupled with Fairhaven Lake and the sea defence promenade, the designation is an important tourism and recreational asset to the Borough. Similarly, the existing kiosk provides tourism benefit, and the proposal is considered to enhance this benefit to visitors and residents alike. Impact to use of the application site for recreational purposes will be lost, although the intended use will enhance the tourism and recreational value of the remaining designation, as well as Fairhaven Lake and the promenade, whilst promoting Granny's Bay as a tourist destination in its own right. The proposals will therefore make a significant contribution toward coastal tourism, in accordance with Policy EC6 and the objective of the Coastal Strategy which seeks to improve picnic and recreation facilities at Granny's Bay. Moreover, this linkage to tourism, between the proposal and use of the open space, allows supports for the application as an 'appropriate' form of development for the existing open space designation as per Policy ENV3. In this circumstance, policy test a) of ENV3 that requires consideration of paragraph 103 (formerly paragraph 99) of the NPPF23, or those other tests of ENV3, are not relevant to the assessment.

The applicants Planning and Retail Statement (PRS) demonstrates a locational need for the development based upon replacement of the existing kiosk, and that there are no sequentially preferable alternative sites within the Ansdell District Centre to accommodate the development. The proposal therefore passes the sequential test for Town centre uses, and would not undermine the vitality or viability of Ansdell District Centre, in accordance with Policy EC5 and the NPPF23.

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In addition, the proposal will encourage job creation, increase the tourist attraction of the area and likelihood of additional spend in other local businesses within the locality, in accordance with Policy EC6 and strategic objective 4 of the FLPPR that seeks to grow the local economy.

The proposed building will alter the presently undeveloped character of the application site, though the contribution that it makes to the character of the wider open space is considered to be low. Bearing in mind the design and appearance of the built form and benefit of demolition that the proposal will bring, it is considered that the proposal relates well to the context of the locality, making a positive contribution to the character and distinctiveness of the area and thereby avoids demonstrable harm to visual amenity, in accordance with Policies GD7 and ENV1 of the FLPPR, and NPPF23.

The development would ensure the safe, efficient or convenient movement of all highway users, and provides for highway safety improvements through the removal of pedestrian and vehicle conflict associated to queuing at the existing ice-cream kiosk, in accordance with Policies GD7 and T5 of the FLPPR and NPPF23.

There are no heritage, flood risk, drainage or ecological issues of note and the development provides for a satisfactory relationship to neighbours, in accordance with Policies GD7, CL1, CL2, ENV2 and ENV5 of the FLPPR and NPPF23.

Paragraph 1.8 of the FLPPR requires a balanced judgement to be made when determining planning applications. It is evident from the above assessment that the proposal will result in the loss of a small portion of protected open space and that this loss will impinge upon the character of the area to some degree. Notwithstanding, the harm arising would be minimal and is not considered sufficient to warrant refusal of the planning application, though is considered to be outweighed by improvements to street scene appearance resultant from demolition of the existing kiosk, and the associated benefits to highway safety, tourism and recreation.

Recommendation

That Planning Permission be GRANTED subject to stipulation 1 being undertaken, and the suggested conditions in stipulation 2 (including any amendment to the wording of these conditions or additional conditions that the Head of Planning considers necessary to make otherwise unacceptable development acceptable), or otherwise to refuse permission:

Stipulation 1

The Shadow Habitat Regulation Assessment produced by the applicant's consultants is formally adopted by the council.

Stipulation 2:

The following conditions:

1. The development must be begun not later than the expiration of three years from the date of this permission.

Reason: To comply with the requirements of section 91 of the Town and Country Planning Act 1990 as amended by Section 51 of the Planning and Compulsory Purchase Act 2004.

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2. This permission relates to the following plans:

- Site Location Plan - Drawing no. 22-11 PL01 rev A
- Proposed Floor Plan - Drawing no. 22-11 PL04 rev B
- Proposed External Works Plan - Drawing no. 22/11 PL07 rev A
- Proposed Elevations Shutters Open Sheet 1 of 2 - Drawing no. 22-11 PL05
- Proposed Elevations Shutters Closed Sheet 2 of 2 - Drawing no. 22-11 PL06

Except as provided for by other conditions to this permission, the development shall be carried out in complete accordance with the approved drawings.

Reason: For the avoidance of doubt and to ensure that the development is carried out in accordance with the approved plans in the interests of proper planning in accordance with the policies contained within the Fylde Local Plan to 2032 (incorporating Partial Review) and National Planning Policy Framework.

3. Unless otherwise agreed in writing by the local planning authority, the development shall be constructed in complete accordance with the levels detail annotated on drawing no. 22-11 PL07 rev A.

Reason: To ensure a satisfactory relationship between the development and surrounding area, in accordance with Policies GD7 and ENV1 of the Fylde Local Plan to 2032 (incorporating Partial Review) and the National Planning Policy Framework.

4. Notwithstanding any description of materials in the application and the requirements of condition 2 of this permission, no above ground works of development shall take place until samples or full details of all materials to be used on the external surfaces of the building(s) and hard surfacing of all external areas have been submitted to and approved in writing by the Local Planning Authority. Such details shall include the type, colour and texture of the materials. The development shall thereafter be implemented in accordance with the duly approved details.

Reason: To ensure use of appropriate materials which are sympathetic to the character of surrounding buildings and the street scene in the interests of visual amenity in accordance with the requirements of Fylde Local Plan to 2032 (incorporating Partial Review) policy GD7 and the National Planning Policy Framework.

5. No development, including demolition, site clearance or ground works, shall take place until a Construction Environmental Management Plan (CEMP) has been submitted to and approved in writing by the Local Planning Authority. The CEMP shall include the following details:

- a) A risk assessment of potentially damaging construction activities.
- b) A method statement setting out practical measures (both physical measures and sensitive working practices) to avoid or reduce impacts during construction, including those relating to visual disturbance and dust pollution.
- c) Responsible persons and lines of communication.
- d) Use of protective fences, exclusion barriers and warning signs.
- e) Pollution prevention measures to avoid contaminated water run-off entering nearby watercourses.

The duly approved CEMP shall be adhered to throughout the construction period in strict accordance with the details contained therein.

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Reason: To ensure that appropriate measures are put in place during the construction period to mitigate the development's potential effects on water quality, linked water-dependent nature conservation sites, habitats and species of biodiversity value in accordance with the requirements of Fylde Local Plan to 2032 (incorporating Partial Review) policy ENV2 and the National Planning Policy Framework.

6. The development hereby approved shall not be brought into use until details of the following biodiversity enhancement measures and a timetable for their continued management and maintenance has been submitted to and approved in writing by the Local Planning Authority:
 - The grass sedum roof

The biodiversity enhancement measures shall thereafter be provided in accordance with the details and timetable in the duly approved scheme, and shall be retained as such thereafter.

Reason: To ensure that the development delivers appropriate biodiversity enhancements in accordance with the objectives of Fylde Local Plan to 2032 (incorporating Partial Review) policy ENV2 and the National Planning Policy Framework.

7. No external lighting shall be installed on the site until a scheme for the installation of any exterior lighting on the buildings and the external areas of the site has been submitted to and approved in writing by the Local Planning Authority. The scheme shall include details of the lighting's:
 - i) position and height on the building and/or site;
 - ii) spillage, luminance and angle of installation, which shall be designed to avoid light spillage towards those areas/features on the site that are particularly sensitive for bats and that are likely to cause disturbance in or around their breeding sites and resting places or along important routes used to access key areas of their territory; and
 - iii) any hoods to be fixed to the lights.

All exterior lighting shall thereafter be installed in accordance with the duly approved scheme.

Reason: To ensure that any exterior lighting to be installed at the site does not cause a nuisance to surrounding occupiers or undermine the general amenity of the area, in accordance with the requirements of Fylde Local Plan to 2032 (incorporating Partial Review) policies GD7 and ENV2, and the National Planning Policy Framework.

8. No demolition of buildings shall take place during the bird nesting season (between 1 March and 31 August inclusive) unless a survey conducted by a suitably qualified ecologist which demonstrates that the vegetation and/or buildings to be cleared do not accommodate any active bird nests has first been submitted to and approved in writing by the Local Planning Authority. Should the survey reveal the presence of any active bird nests then no clearance of any vegetation and/or buildings shall take place during the bird nesting season until a scheme for protecting nest sites during the course of the development has been submitted to and approved in writing by the Local Planning Authority. Nest site protection shall thereafter be provided in accordance with the duly approved scheme.

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Reason: In order to prevent any habitat disturbance to nesting birds in accordance with the requirements of the Fylde Local Plan to 2032 (incorporating Partial Review) policy ENV2, the National Planning Policy Framework and the Wildlife and Countryside Act 1981 (as amended).

9. The development hereby approved shall be constructed in complete accordance with the principles set out within the submitted Flood Risk Assessment (Ref: Sparc, 22-11 PL08 rev B, October 2023). The mitigation measures shall be fully implemented prior to occupation and in accordance with the timing / phasing arrangements embodied within the scheme, or within any other period as may subsequently be agreed, in writing, by the local planning authority.

Reason: To prevent flooding by ensuring the satisfactory storage of/disposal of surface water from the site in accordance with Policies GD7, CL1 and CL2 of the Fylde Local Plan to 2032 (incorporating Partial Review) and the National Planning Policy Framework.

10. Prior to commencement of the development hereby approved (excluding any demolition, site clearance), a final surface water sustainable drainage strategy for the site shall be submitted to and approved in writing by, the Local Planning Authority. The detailed surface water sustainable drainage strategy shall be based upon the site-specific flood risk assessment submitted and sustainable drainage principles and requirements set out in the National Planning Policy Framework, Planning Practice Guidance and Defra Technical Standards for Sustainable Drainage Systems. No surface water shall be allowed to discharge to the public foul sewer(s), directly or indirectly.

The sustainable drainage strategy shall be implemented in accordance with the approved details.

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 policies CL1 and CL2 of the Fylde Local Plan to 2032 (Incorporating Partial Review) and the National Planning Policy Framework.

11. The development hereby approved shall only be open to members of the public between the hours of 08:00 - 22:00 on any day.

Reason: To provide appropriate control over the hours of use of the premises in the interests of safeguarding the amenity of the occupiers of nearby residential properties and the general area, in accordance with Policy GD7 of the Fylde Local Plan to 2032 (incorporating Partial Review) and the National Planning Policy Framework.

12. There shall be no playing of amplified music (including radios, speakers or other, similar devices) or live music within the building or any external areas of the site hereby approved at any time.

Reason: To limit the potential for noise nuisance being caused to neighbouring occupiers in order to safeguard the amenity of surrounding occupiers in accordance with the requirements of Fylde Local Plan to 2032 (incorporating Partial Review) policy GD7 and the National Planning Policy Framework.

13. Unless otherwise agreed in writing by the Local Planning Authority, within 8 weeks of the practical completion of the new facility hereby approved, the existing ice-cream kiosk building

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shall be demolished in its entirety (including the removal of any bases and foundations) and the land surfaced in accordance with the 'Proposed External Works Plan' (drawing no. 22-11 PL07 rev A).

Reason: This permission is issued on the basis that the development proposed is a replacement of the existing ice-cream kiosk building, which would not on that basis undermine the vitality or viability of Ansdell District Centre, would provide visual enhancement through removal of a dated structure and encourage views into Fairhaven Lake as a result of that demolition, whilst providing highway safety benefit, in accordance with Policies GD7, EC5, EC6 and ENV1 of the Fylde Local Plan to 2032 (incorporating Partial Review) policy GD2 and the National Planning Policy Framework.

14. Notwithstanding the provisions of Schedule 2, Part 3 of the Town and Country Planning (General Permitted Development) (England) Order 2015 (or any equivalent Order revoking and re-enacting that Order, with or without modification) the premises shall only be used for the purposes applied for, and for no other purpose (including any other use falling within Class E of the Town and Country Planning (Use Classes) Order 1987 or in any provision equivalent to that class in any statutory instrument amending or replacing that Order).

Reason: To ensure that the future use of the premises is limited to one which can be carried out without detriment to the amenity of the area in order that it remains compatible with and does not have any adverse amenity impacts upon the occupiers of nearby dwellings; and to preserve the vitality and viability of neighbouring centres by preventing the building being changed to a main town centre use without the application of the sequential test in accordance with the requirements of policies GD7 and EC5 of the Fylde Local Plan to 2032 (incorporating Partial Review), and the National Planning Policy Framework.

15. There shall be no loading or unloading of vehicles or deliveries at or dispatched from the development hereby approved (including waste collections) outside the hours of 07.00 to 19:00 Monday to Friday.

Reason: To limit the potential for noise generation and nuisance arising in order to safeguard the amenity of the occupiers of surrounding properties in accordance with policy GD7 of the Fylde Local Plan to 2032 (incorporating Partial Review) and the National Planning Policy Framework.

16. On site works associated to demolition, site clearance and construction, including any heavy vehicular movements and deliveries to/from the site, shall only take place between the hours of:

08:00 - 18:00 Monday to Friday.

09:00 - 13:00 Saturday.

No on site works on Sundays or Bank Holidays.

Reason: To ensure that appropriate measures are put in place to limit the potential for noise, nuisance and disturbance to the occupiers of neighbouring properties during the construction of the development in accordance with the requirements of Fylde Local Plan to 2032 (incorporating Partial Review) policy GD7 and the National Planning Policy Framework.

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17. If, during development, contamination which was not previously identified is found to be present on the site then no further development shall take place on the affected part(s) of the site until a report containing details of an investigation and risk assessment to determine the nature and extent of any contamination on the site (including whether it originates on the site) has been submitted to and approved in writing by the Local Planning Authority. The submitted report shall include:

- a) a survey of the extent, scale and nature of contamination;
- b) an assessment of the potential risks to:
 - i) human health;
 - ii) property (existing or proposed) including buildings, crops, livestock, pets, woodland, and service lines and pipes;
 - iii) adjoining land;
 - iv) groundwaters and surface waters;
 - v) ecological systems;
 - vi) archaeological sites and ancient monuments.
- vii) an appraisal of any remedial options required and a proposal for the preferred option(s) to form a remediation strategy for the site.

The development shall thereafter be carried out in full accordance with the duly approved remediation strategy and a verification report submitted to and approved in writing by the Local Planning Authority before any of the buildings on the affected part(s) of the site are first occupied.

Reason: To prevent pollution of the surrounding environment and to ensure the safe development of the site in the interests of the amenity of future occupiers and other sensitive receptors in accordance with policy GD9 of the Fylde Local Plan to 2032 (incorporating Partial Review) and the National Planning Policy Framework.

18. Unless otherwise agreed in writing by the Local Planning Authority, the development hereby approved shall be constructed in complete in accordance with the submitted Construction Management Plan (ref: Sparc, 22-11, 08/09/2023).

Reason: In order to ensure that appropriate measures are put in place before any development commences to limit the potential for noise, nuisance and disturbance to the occupiers of neighbouring properties, to avoid obstruction of the surrounding highway network and minimise disturbance to features of ecological importance during the construction of the development in accordance with Policies GD7 and ENV2 of the Fylde Local Plan to 2032 (incorporating Partial Review) and the National Planning Policy Framework.

Informative(s)

1. Statement under Article 35(2) of the Town and Country Planning (Development Management Procedure) (England) Order 2015:

The proposal complies with the development plan and would improve the economic, social and environmental conditions of the area. It therefore comprises sustainable development and the Local Planning Authority worked proactively and positively to issue the decision without delay. The Local Planning Authority has therefore implemented the requirement in Paragraph 38 of the National Planning Policy Framework.

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2. Habitat Regulation Assessment Adoption Informative:

In issuing this decision the local planning authority has had regard to the document titled 'Shadow Habitats Regulations Assessment Report' (ecology services, 23138, September 2023) and the comments from Natural England in their letter dated 19th December 2023 confirming that they are in agreement with the report findings that the development, either alone or in combination with other plans or projects, would not have significant adverse impacts on designated sites (Ribble and Alt Estuaries Special Protection Area (SPA) and Ribble and Alt Estuaries Ramsar) or damage or destroy the interest features for which Ribble Estuary Site of Special Scientific Interest (SSSI) has been notified.

In order to fulfil its duty as a Competent Authority in accordance with the requirements of regulations 63 and 64 of The Conservation of Habitats and Species Regulations 2017 (as amended by The Conservation of Habitats and Species (Amendment) (EU Exit) Regulations 2019), the Local Planning Authority has adopted the above mentioned Shadow Habitat Regulations Assessment as part of its decision.

3. Crane Height Informative

The developer is advised that in the event that the construction of the development hereby approved is to be undertaken using a crane that exceeds a height of 10m above ground level to the tip of any jib or other point, then the details of the dates that the crane is to be present at site, its specific location within the site, and the specific timing that it is to be extended above that height are to be provided to the Ministry of Defence no less than 28 days before its arrival at site. This is to ensure that air safety is not compromised by this activity.

4. Food Safety Informative:

The applicant/operator is advised to contact the Council's Food Safety Team (commercialteam@fylde.gov.uk) to ensure compliance with Food Hygiene legislation as there will likely be implications for internal layout, construction and design that could affect a food hygiene rating awarded.

5. Protected Species Informative

Whilst the development has been assessed as low risk for protected species, the applicant is reminded that these species benefit from legal protection under the Habitat Regulations and the Wildlife and Countryside Act 1981 (as amended) and that it is an offence to disturb, harm or kill any protected species that may be encountered while carrying out the development. If any protected species are found during the development all work should cease immediately and a suitably licensed ecologist employed to assess how best to safeguard the protected species in question. Natural England should also be informed as a protected species license may be required.