

# Agenda



## DEVELOPMENT MANAGEMENT COMMITTEE

Date:	Wednesday, 9 December 2015 at 10:00am
Venue:	Town Hall, St Annes, FY8 1LW
Committee members:	Councillor Trevor Fiddler (Chairman) Councillor Richard Redcliffe (Vice-Chairman) Councillors Christine Akeroyd, Peter Collins, Michael Cornah, Tony Ford JP, Neil Harvey, Kiran Mulholland, Barbara Nash, Linda Nulty, Liz Oades, Albert Pounder.

### Public Speaking at the Development Management Committee

Members of the public may register to speak on individual planning applications, listed on the schedule at item 4 at [Public Speaking at Council Meetings](#).

	PROCEDURAL ITEMS:	PAGE
1	<b>Declarations of Interest:</b> Declarations of interest, and the responsibility for declaring the same, are matters for elected members. Members are able to obtain advice, in writing, in advance of meetings. This should only be sought via the Council's Monitoring Officer. However, it should be noted that no advice on interests sought less than one working day prior to any meeting will be provided.	1
2	<b>Confirmation of Minutes:</b> To confirm the minutes, as previously circulated, of the meeting held on 18 November 2015 as a correct record.	1
3	<b>Substitute Members:</b> Details of any substitute members notified in accordance with council procedure rule 25.	1
	DECISION ITEMS:	
4	<b>Development Management Matters</b>	3 - 195
	INFORMATION ITEMS:	
5	<b>List of Appeals Decided</b>	196 - 200

Contact: Katharine McDonnell - Telephone: (01253) 658423 – Email: [democracy@fylde.gov.uk](mailto:democracy@fylde.gov.uk)

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<http://fylde.cmis.uk.com/fylde/DocumentsandInformation/PublicDocumentsandInformation.aspx>

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## Development Management Committee Index

### 09 December 2015

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6	15/0501	NEWFOLD FARM, BROWNS LANE, RIBBY WITH WREA, PRESTON, PR4 3PQ DEVELOPMENT OF A SOLAR FARM AND ANCILLARY INFRASTRUCTURE	Delegated to Approve	130

7	15/0679	OAKFIELD FARM, STATION ROAD, NEWTON WITH CLIFTON, PRESTON, PR4 0YH PV SOLAR FARM EXTENSION WITH ASSOCIATED INFRASTRUCTURE, 1NO INVERTOR STATION FENCING, POLE MOUNTED SECURITY CAMERAS AND ACCESS OFF DEEPPDALE LANE	Grant	155
8	15/0685	21 LYTHAM ROAD, FRECKLETON, PRESTON, PR4 1AA PROPOSED CONVERSION OF EXISTING DETACHED SINGLE STOREY OUTBUILDING TO REAR INTO A DWELLING, INCLUDING ELEVATION CHANGES, RAISING OF ROOF HEIGHT AND EXTENSION TO REAR	Grant	181
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## Background Papers

In accordance with Section 100D of the Local Government Act 1972, 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 Act.

- Fylde Borough Local Plan (As Altered) October 2005 (Saved Policies)
- Joint Lancashire Minerals and Waste Local Plan
- Emerging Fylde Local Plan to 2032 Revised Preferred Option October 2015
- National Planning Policy Framework
- National Planning Practice Guidance
- The Community Infrastructure Levy Regulations 2010 (as amended)
- Conservation of Habitats and Species Regulations 2010 (as amended)
- Strategic Housing Market Assessment (SHMA) 2014 and Addendum I and II November 2014 and May 2015
- Five Year Housing Land Supply Statement at 31 March 2015
- Strategic Housing Land Availability Schedule (SHLAA)
- 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 either at [www.fylde.gov.uk/resident/planning](http://www.fylde.gov.uk/resident/planning) or for inspection by request, at the One Stop Shop Offices, Clifton Drive South, St Annes.

# Development Management Committee Schedule

## 09 December 2015

**Item Number:** 1

**Committee Date:** 09 December 2015

<b>Application Reference:</b>	14/0405	<b>Type of Application:</b>	Change of Use
<b>Applicant:</b>	Mrs Tovey	<b>Agent :</b>	Alan Jones Chartered Surveyors
<b>Location:</b>	POOLSIDE BOAT CENTRE, NAZE LANE EAST, FRECKLETON, PRESTON, PR4 1UN		
<b>Proposal:</b>	PROPOSED DEVELOPMENT OF HOLIDAY MOBILE HOME SITE WITH 24 PITCHES FOLLOWING DEMOLITION OF EXISTING BOATYARD BUILDINGS, REPROFILING AND EXTENSION OF EXISTING ACCESS ROAD, ERECTION OF TWO STOREY BUILDING AS SHOP/OFFICE, AND USE OF DWELLING AT POOLSIDE LODGE TO PROVIDE MANAGERS ACCOMMODATION		
<b>Parish:</b>	FRECKLETON EAST	<b>Area Team:</b>	Area Team 1
<b>Weeks on Hand:</b>	60	<b>Case Officer:</b>	Ruth Thow
<b>Reason for Delay:</b>	Negotiations to resolve difficulties		

**Summary of Recommended Decision:** Delegated to Approve

### **Summary of Officer Recommendation**

This application relates to an area of land that is located off Naze Lane East, Freckleton and is adjacent to the Ribble & Alt Estuaries and near to the BAe Warton runway. The proposal is for the change of use and development of land from the existing boat manufacture operation to a site for 24 timber lodges to operate as a holiday/leisure site. The existing dwelling will provide manager's accommodation associated with the business and a building constructed to provide a small shop/office. The site is to be cleared of the existing buildings and the existing access road re-profiled to allow improved access.

The site is located within the defined countryside in the Fylde Borough Local Plan and is in close proximity to several designations for the protection of special and rare interest birds and its flora. It is also reasonably well located to the services in Freckleton village and the new use will assist in supporting the rural economy, bringing new visitors to the area and sustaining jobs in the borough. The application has been accompanied by information to support the scheme and overcome initial objections/concerns raised with the development in regards to its location, flood risk and ecology. Accordingly, it is now considered acceptable and in accordance with the local plan, the NPPF and the aims of the Council's coastal master plan and is therefore members are recommended to support the proposal.

The nature of the development and proximity to ecological designations requires that the council undertakes a Habitats Regulation Assessment prior to the issuing of any planning permission and so the recommendation is to delegate the decision to officers to allow this to be undertaken.

### **Reason for Reporting to Committee**

This application has been brought before the Development Management Committee as the officer recommendation for approval is in conflict with the objection from the Parish Council.

### **Site Description and Location**

The application site is Poolside Boat Centre, Naze Lane East, Freckleton. The site has permission for the design and construction of boats which is a B2 industrial use and in recent years has seemingly diversified into other forms of fibreglass moulding as the boat market has reduced. The site contains several workshop buildings and the applicant's dwelling within the red edge, with that property covered by a tie linking its occupation to the business.

The site is within an area designated as countryside as designated in the Fylde Borough Local Plan, is partially within Flood Zone 3, and is within the buffer zone of the SSSI on the Ribble Estuary.

### **Details of Proposal**

This application seeks permission for the redevelopment of the site for use for the siting of 24 no. holiday lodges, together with a new build reception/shop/office building, use of the existing dwelling for manager's accommodation in association with the holiday lodges, together with re profiling of the existing access road leading from Naze Lane East.

The reception building is two storey and measures 8.5 metres by 8.5 metres with an eaves height of 6.5 metres and an overall ridge height of 8.8 metres.

The lodges are proposed to be 3.6 metres wide by 10 metres in length with a further roof over-hang of 1.5 metres to an overall height of 4 metres, constructed from timber logs. Fifteen of the cabins are to be located either side of a newly formed access road through the centre of the site with a further 9 located to the south side of the site adjacent to Freckleton Pool.

The existing workshop and storage buildings on the site are to be demolished and the site cleared of boat and chandlery paraphernalia.

### **Relevant Planning History**

<b>Application No.</b>	<b>Development</b>	<b>Decision</b>	<b>Date</b>
04/0233	FLOATING PONTOONS FOR MOORINGS	Withdrawn by Applicant	07/05/2004
92/0305	PROPOSED NEW SECURITY FENCE AROUND BOAT AND EQUIPMENT COMPOUND, GAS STORAGE TANK, DRIVE AND TURNAROUND AREA.	Granted	27/01/1993
91/0776	FIRST FLOOR EXTENSION TO EXISTING WORKSHOP	Granted	26/02/1992
80/0568	OUTLINE - ERECTION OF CAFE AND ICE CREAM SALES.	Refused	17/09/1980
82/0561	CHANGE OF USE FROM STORAGE TO PRODUCTION BUILDING.	Granted	02/02/1983

82/0617	BOAT REPAIR WORKSHOP.	Granted	02/02/1983
83/0045	RE-BUILDING AND EXTENSION OF WORKSHOP AND STORE.	Granted	02/02/1983
85/0466	WORKSHOP BUILDING.	Refused	03/01/1986
86/0221	WORKSHOP BUILDING TO REPLACE DERELICT BUILDING.	Granted	15/07/1987

### **Relevant Planning Appeals History**

None

### **Parish/Town Council Observations**

**Freckleton Parish Council** notified on 16 October 2014 and comment:

*"The Parish Council objects strongly to this application and stands by the comments made following review of the previously un-validated proposal.*

*The proposal represents an inappropriate change of use for an area that, from the current Fylde Borough Plan, is still designated countryside. Further, the proposed development is situated largely within the flood plain of the River Dow, a main feed to the Ribble Estuary conservation area and associated SSSI.*

*The applicant, who was present and spoke at the Planning meeting, confirmed that "hundreds of tons" of brick and rubble had been tipped on to the flood plain in an attempt to raise the land level. Indeed the applicant admitted the proposed site had flooded earlier in this year, strengthening the assertion of the Environment Agency in their letter to you.*

*There are public rights of way across the site, invalidating the claim that the development cannot be seen from outside. One of these rights of way forms a section of the Fylde Coastal Way.*

*Although applying for full planning permission, there is no identification of parking, surface water disposal or foul waste disposal from the site. Failure to identify these aspects leaves the application open to interpretation, with all the issues of subsequent enforcement that will arise. This has been a major source of problem for those developments that have been permitted in the past.*

*The applicant has failed to demonstrate a business need or develop an adequate business plan."*

### **Statutory Consultees and Observations of Other Interested Parties**

#### **BAe Systems**

No comments received.

#### **Ministry of Defence - Safeguarding**

No safeguarding objections.

#### **Lancashire County Highways**

##### Initial Comments

They have provided initial comments which focus on the presence of Public Rights of Way across the site which are summarised as follows:

There are two Public Rights of Way in the site and these must not be obstructed during the proposed developments. It is the responsibility of the landowner to ensure that the necessary procedures are followed for the legal diversion of the Public Right of Way if this should be necessary. The granting of planning permission does not constitute the diversion of a Definitive Right of Way. If it is necessary for Public Rights of Way to be temporarily diverted or temporarily closed, this is the responsibility of the landowner to ensure that this is done following the appropriate legal procedures. A temporary closure will only be granted where it is the intention to re-open the right of way upon expiration of the closure on the route recorded on the Definitive Map of Public Rights of Way.

The Town and Country Planning Act 1990 has provision for diverting Definitive Public Rights of Way if a diversion is necessary to allow the development to take place. The Highways Act 1980 also has provision for the diversion of Definitive Rights of Way, though with regards to new developments, the Town and Country Planning Act 1990 is the appropriate legislation to use. It should be noted by the applicant that objections may be raised using either of the above Acts. Lancashire County Council will not process a diversion application in relation to these paths in connection with a development proposal. Should the paths be obstructed during the development or be obstructed after the development has taken place, Lancashire County Council will consider commencing criminal proceedings.

The development must not commence until the necessary procedures are in place, either allowing the development to take place without affecting the right of way as recorded on the Definitive Map of Public Rights of Way and subsequent diversion orders and side roads orders, or if it is necessary to divert the above listed Public Rights of Way, then the necessary Orders must be confirmed prior to construction to avoid enforcement action should the above Public Footpath become affected. There is no provision under the Town and Country Planning Act 1990 to allow a retrospective diversion of paths that are already affected by either partially completed or completed development.

The issue of the above Public Rights of Way will require resolving before any highway approval can be totally supported.

#### Further Comments

These have been sought in an attempt to clarify any highway implications of the development. No comments have been provided.

#### **Environment Agency**

They initially objected to the application on the basis of the type of development that was proposed and its position in Flood Zone 3.

Following revisions to the scheme this objection has been withdrawn, although they highlight that amendments are required to the proposed foul drainage outfall for it to be acceptable to them.

#### **Lancashire CC Flood Risk Management Team**

They took over the responsibility for commenting on draining implications of major planning applications from the Environment Agency during the consideration of this application and so were asked to provide comments on it.



They made an initial objection to the application due to the development being inappropriate in the Flood Zone.

Further comments have been received which confirm that they withdraw their objection subject to the imposition of conditions to require the work to be undertaken in accordance with the details of the Flood Risk Assessment and that an appropriate surface water attenuation scheme be submitted, agreed, implemented and maintained.

#### **Tourism Officer**

No objection

#### **Specialist Ecology Advisors**

When it was first received the council sought views from Lancashire County Council's Ecology Service. They made criticism of the scope of the Great Crested Newt information, and suggested that a shadow Habitat Regulation Assessment be submitted to assist the council in assessing the proposal for its potential to impact on matters of ecological importance along with advice from Natural England.

Following the receipt of further ecological information the council sought additional guidance from the Greater Manchester Ecology Unit who are now providing such advice to the council. They state that:

*"The application site is within 250m of the Ribble and Alt Estuaries Special Protection Area (SPA / SSSI). Natural England have advised that it is therefore necessary to assess the potential effects of the development proposal on the special nature conservation interest of the SPA / SSSI. My summary of this Assessment is attached. I have concluded that the proposed development will not have any impacts on the special nature conservation interest of the SPA / SSSI.*

*However in the light of the above Assessment I would **recommend** that details of the location of the Package Sewage Treatment Plant and reassurances that maintenance access for the Plant will be maintained should be sought from the applicant before determining the application.*

*The application site is adjacent to Freckleton Naze Biological Heritage Site (BHS). I would **recommend** that robust fencing be erected in the southern part of the site proposed for new mobile homes between the application site and the BHS to ensure that there is no encroachment into the BHS.*

*The development has some potential to cause the spread of the invasive plant Japanese knotweed which has been recorded on the site. I would **recommend** that a Method Statement be prepared giving details of measures to be taken to prevent the spread of Japanese knotweed during the course of any approved development. Once agreed the Method Statement must be implemented in full.*

*Although I would assess the buildings and structures as having only low potential to support bats I would **advise** the applicant that bats can, and do, turn up in unlikely places. If bats are found at any time during site clearance works or demolitions works must cease immediately and advice sought from a suitably qualified person about how best to proceed."*

## Natural England

They have been consulted on the initial and revised proposal and comment:

*"I can confirm that the additional ecology information addresses our previous request for further survey information.*

*However, at section 5.10.2 of the submitted Ecological appraisal it states that the application has the potential to affect the adjacent BHS. It should be noted that the BHS feeds into the Ribble Estuary and as a result there is also the potential for demolition and constructions related run off to pollute the designated site. There we still recommend that the applicant submits a surface water drainage plan. This should include details of what suitable measures are to be put in place to prevent pollution of the adjacent watercourse, in order to safeguard the designated site. This should also include measures to prevent silt and other pollution from entering the watercourse during demolition and construction.*

*No additional information has been supplied for the light placement on site during the construction phase. Lights should not be able to affect the adjacent fields or designated site. It is recommended that directional lighting is used where lights point down and inwards."*

## Lancashire County Council Rights of Way

No comments have been received, but this aspect is covered in the general highway response.

## Neighbour Observations

**Neighbours notified:** 16 October 2014  
**Site Notice Date:** 24 October 2014  
**No. Of Responses Received:** 4 letters received  
**Nature of comments made:**

- Environmental impact assessment should be considered to accompany applications for sensitive area
- lack of neighbour consultations
- currently industrial style mess
- designated footpaths cross the site
- application makes no comment for parking
- no indications of foul waste disposal
- within flood plain
- concerns over impact on SSSI and Ribble wetlands
- In the vicinity there are colonies of bats roosting
- Site specialises in use of GRP materials and area littered with GRP materials - causes pulmonary diseases and is carcinogen
- debris deposited on site
- application false - there are rights of way, site has flooded, has trees and hedges, land contaminated
- worried about how site regulated in future
- plans reflect inadequate and uncaring attitude to local environment

- previous developments not complied with conditions
- further consideration required in regards to flood risk
- Natural England comments highlights habitat surveys inadequate
- application form erroneous
- land owner not given any consideration to local residents and right of way
- owner has built a rest home on the site - calls it dwelling
- never generated any meaningful employment
- destroyed green fields and looks like junk yard
- has contaminated land
- owner doesn't comply with planning law

### **Relevant Planning Policy**

#### **Fylde Borough Local Plan:**

SP02	Development in countryside areas
EP16	Development in or near SSSI's
EP17	Devt in or near Biological & Geological Heritage Sites
EP19	Protected species
EP20	Protection of coastlines, estuaries and sand dunes
EP23	Pollution of surface water
EP24	Pollution of ground water
EPA	Development and waste water
TREC03	Tourist Accommodation Outside Lytham St Annes
TREC06	Static Caravans and Chalets
TREC10	Countryside Recreation

#### **Other Relevant Policy:**

NPPF:	National Planning Policy Framework
NPPG:	National Planning Practice Guidance

#### **Site Constraints**

Within countryside area

### **Environmental Impact Assessment**

This development does not fall within Schedule 1 or 2 of the Town and Country Planning (Environmental Impact Assessment) (England and Wales) Regulations 2011 as amended.

### **Comment and Analysis**

This application seeks permission for the re-development of land at Poolside Lodge and the associated boatyard for the siting of 24 holiday lodges together with alterations to the access road, ancillary buildings for use as shop and office and the use of the dwelling (Poolside Lodge) to provide Manager's accommodation in association with this use.

### **Background**

Poolside is located adjacent to the Ribble Estuary and is accessed from Naze Lane East, and historically has been used for the manufacture and sale of a range of boats at the smaller end of market. The business has suffered a general decline in part to the economic climate which has

resulted in less demand for smaller leisure craft as built at Poolside. As a result the submission advises that the present business is no longer viable and would require significant investment to bring the business up to what would be expected of a modern boat building operation to meet today's requirements.

The dwelling on the site, Poolside Lodge, was granted permission under application no. 86/0220 with a legal agreement tying the occupation of the dwelling to a person solely or mainly employed in the operation of the Poolside Boat Centre and is being occupied in accordance with that tie.

### Policies

Policies SP2, EP16, EP17, EP19, EP20, EP22, EP23, EP24, EPA, TREC3, TREC6, TREC10 of the Fylde Borough Local Plan, as altered (October 2005) are relevant to the determination of this application together with the aims of The National Planning Policy Framework and National Planning Practice Guidance.

### Principle of development

Planning law requires that applications for planning permission be determined in accordance with the development plan unless material considerations indicate otherwise. The National Planning Policy Framework (NPPF) is a material consideration in determining applications and is supportive of 'sustainable development'. Paragraphs 7 and 8 advise that there are three dimensions to 'sustainable development' these are economic, social and environmental which are mutually dependant so that gains in each should be sought jointly and simultaneously through the planning system.

Paragraph 19 states that significant weight should be placed on the need to support economic growth through the planning system. Paragraph 28 relates specifically to the rural economy and encourages the support of sustainable tourism and leisure development that benefit business in rural areas, communities and visitors, and which respect the character of the countryside.

The application site is situated within the countryside, where policy SP2 seeks to restrict development, unless it is for a use appropriate to a rural area. Some forms of tourism development can be appropriate within the rural area and this includes caravan sites subject to compliance with other policies of the local plan. (Whilst this application proposes the siting of 'lodges' the scale of the lodges falls within the definition of a caravan). Policy TREC3 refers.

Policy TREC6 refers to the development of static holiday caravans and holiday chalet sites, these will not be permitted unless all of the criteria of this policy are satisfied, these are addressed below.

### Character and visual amenity

The proposed change of use to a leisure use would result in the demolition and removal of the existing workshop buildings on the site. The majority of these buildings are in a poor state of repair and the site is littered with the external storage of machinery, boats and assorted paraphernalia. Many items have not moved for some years, are rusted and/or overgrown, and as a consequence the site is generally untidy in appearance.

The clearing of the site and the stationing of the timber lodges would involve an increase in the footprint of development on the site, and would extend it over a wider area as their location runs along the Creek edge to the south beyond the area currently used for boat manufacture. However,

given the current long-standing untidy appearance of the site and the limited prospects that the business will operate in a more productive way to allow this to be improved, the replacement of the business with the lodges will bring a visual improvement on the current situation at this site.

Policy TREC6 gives guidance on the development of static caravan and holiday chalet sites and so is an important policy test for this application. It supports their development subject to a series of criterion, with criteria 2 requiring that the development does not have a significantly prejudicial effect on the visual amenity of the area. Given these comments regarding the existing and proposed appearance the site it is considered that the development will comply with this criteria.

#### Landscape impact

Criteria 3 of Policy TREC6 requires that development does not have an adverse impact on the distinctive characteristics of an identified landscape character tract.

This site is accessed from Naze Lane East and at that point is level with that road. There is then a drop in the levels to the location where the lodges and building are proposed which are at a lower level as a consequence of being on the edge of the Estuary. This ensures that the development of these lodges will be well screened by topography from the road, but will be more visible across the flat landscape of the Estuary. However, with their low level construction and the use of appropriate materials in their construction it is not considered that the development will have an adverse impact on this landscape. Again, any impact will be less than the existing industrial appearance of the site and it is considered that the development complies with this criteria.

Policy EP20 places restrictions on development within the open coastline with this presumably intended to protect their character. The land around the Estuary is designated as 'Open Coastline' but this designation extends only as far as a point 130m from the southern tip of the application site. With this separation and the nature of the development proposed it is not considered that there is any conflict with this Policy.

#### Layout

The development proposes the siting of 24 holiday lodges in total, with 15 lodges arranged around the central access road to the north of the existing dwelling and a further 9 positioned to the south of the dwelling in a single line layout where the site narrows. The office building is at the most northern part of the site.

It is considered that this layout is appropriate for the size and scale of the site and will not involve an overly cramped development. Accordingly it will comply with the requirements of criteria 5 of Policy TREC6. This criteria also requires that the site is landscaped, and this is a matter that will be covered by a planning condition which needs to be considered alongside the ecological protection elements that are discussed elsewhere in this report.

#### Neighbour amenity

Several letters have been received from neighbours which in the main refer to the existing use of the site, the owners operation of it, and the special designations of the general area. There are no immediate residential neighbours with the dwelling on the site being occupied by the applicant and is part of the re-development.

The scale, design and location of the chalets and the new building will not result in a detriment to

the amenity of any residential neighbours by way of loss of light or privacy. Any noise emanating from the site by way of general disturbance is likely to be less than the current authorised industrial use of the site associated with the boat building business. Accordingly there is no conflict with criteria 6 of Policy TREC 6.

### Flooding

The NPPF classifies development types according to their vulnerability to flood risk and gives guidance on which developments are appropriate in each flood zone. Parts of this application site fall within Flood Zone 3, which is land with the highest probability of flooding. As such any development will need to pass the 'Sequential Test' and the 'Exception Test' as specified in para 100-103 of the NPPF.

The applicant has submitted a Flood Risk Assessment to accompany the application (FRA) PR13-0312. This highlights the position in relation to Flood Zones and indicates that the cabins and office building will be constructed with floor levels set above the highest tide level so that the risk of flooding is minimised. In response to this the Environment Agency and Lead Local Flood Authority have both withdrawn their objections.

The Sequential Test requires an assessment of whether there are areas for locating development that are at a lesser risk of flooding. As part of this test it is necessary to understand the nature of the development and specifically its 'vulnerability' to flooding. The NPPG establishes various levels of this with "*Caravans, mobile homes and park homes intended for permanent residential use*" being within the 'Highly Vulnerable' classification where such uses should not be permitted, and "*Sites used for holiday or short-let caravans and camping, subject to a specific warning and evacuation plan*" falling within the less-critical 'More Vulnerable' classification.

This application site includes land within Flood Zone 3, and in such areas the NPPG is clear that 'Highly Vulnerable' land uses should not be permitted. However, a caravan (or in this case mobile home/chalet) can be sited in this Flood Zone if its occupation is only for short term let and the site has a suitable management and evacuation plan. This application proposes that the chalets be available for short term let and so are acceptable in Flood Zone 3 subject to planning conditions to control their occupation to this and to require the submission of this Plan.

It is then necessary for the 'Exception Test' to be undertaken. This is explained in para 102 of the NPPF which states:

*"For the Exception Test to be passed:*

- it must be demonstrated that the development provides wider sustainability benefits to the community that outweigh flood risk, informed by a Strategic Flood Risk Assessment where one has been prepared; and*
- a site-specific flood risk assessment must demonstrate that the development will be safe for its lifetime taking account of the vulnerability of its users, without increasing flood risk elsewhere, and, where possible, will reduce flood risk overall.*

*Both elements of the test will have to be passed for development to be allocated or permitted."*

The council has a Strategic Flood Risk Assessment which confirms the Flood Zone status of the application site as being in a mixture of Flood Zones 2 and 3. It has been concluded in this report that enhancing the tourism offer of the borough is a community benefit and so part 1 of the test is passed. The application is supported with a site-specific FRA that has been deemed to be acceptable by the relevant drainage authorities and with the removal of the existing buildings and

hard-standing areas will comply with the second part of this Test.

Accordingly it is concluded that there is no justifiable flood risk grounds to resist the development.

#### Drainage

The watercourse adjoining the site is designated a 'main river' and subject to land drainage byelaws. As part of the comments received from the consultation process with the Environment Agency the applicant has submitted an additional plan to indicate how surface water run off will be dealt with and the location of a sewage treatment plant. This has been revised to meet the EA's requirements and so they now have no objections to this aspect of the development subject the necessary application for land drainage consent being secured. A condition is appropriate to require the implementation of this with that satisfying criteria 7 of Policy TREC6.

#### Loss of agricultural land

Whilst the area of the site is designated as countryside, the authorised use of the site is for boat building, an industrial use. Given the topography and size of the site it has no realistic capability to support an agricultural use and so there is no conflict with criteria 8 of Policy TREC6.

#### Site of Special Scientific Interest (SSSI), Biological Heritage Site (BHS) & SPA Ecology

The application site is in close proximity to Ribble & Alt Estuaries Special Protection Area (SPA) a European site. The site is also listed as the 'Ribble & Alt Estuaries Ramsar site and is notified at a nation level as Ribble Estuary Site of Special Scientific Interest (SSI) and the provisions of the Wildlife and Countryside Act 1981 also apply to this site. Special Protection Areas are classified for the support they provide rare and vulnerable birds and for regularly occurring migratory species.

The Ribble Estuary SSSI notified under Section 28 of the Wildlife and Countryside Act 1981 and includes the Ribble Marshes. It has inter tidal sand-silt flats with one of the largest areas of grazed greenmarsh in Britain and includes small areas of reclaimed saltmarsh. The estuary is of international importance for the passage and wintering waterfowl it supports and is situated on the Lancashire coast west of Preston between Southport and Lytham St. Annes extending inland to Longton.

The BHS site is immediately adjacent to the site this is designated for its flowering plants, ferns, grassland and coastal habitats.

Fylde Borough Council has a statutory duty to engage with the Habitats Regulations to assess whether or not there is a likely significant impact on the European site. The Greater Manchester Ecology Unit has assisted FBC in assessing the proposal with regards to the Habitats Regulations on the special nature conservation interests of the above designated sites. Potentially harmful operations were seen as:

- Direct land take
- Dredging
- Disturbance
- Water pollution
- Air pollution

In regards to the potential impact of the development on the above concerns the proposal was not

considered to result in any increased disturbance, in regards to land take, dredging, and disturbance for birds given the active use of land as a boat yard and the proximity of the site to BAe.

In regards to water pollution there is the potential for water pollution arising from both the demolition of the existing buildings, site clearance and during the operation of the new use of the site. Mitigation is available to address these concerns with the use of a properly maintained package sewage treatment plant to prevent any foul water entering the estuary and with the use of 'silt trap' interceptor drains to prevent any contaminated water entering the river.

An Ecological Appraisal by qualified Ecologist has been submitted with the application. This appraisal assessed the site and the surrounding areas for suitability and presence of Great Crested Newts. There is one pond within 250m of the centre of the development site and a further three ponds outside of this area which have no significant barriers to prevent dispersal to the development site. Of the four ponds within the vicinity of the site one had restricted access and assessment of this was not possible. The development site is heavily disturbed and dominated by hard standing with the proximity of the tidal creek increasing the salinity, the wider landscape is heavily disturbed and of low value pasture land. Of the ponds assessed these scored 0.5 or below which makes them poor for Great Crested Newt habitat and as a result the likelihood of their use of these ponds is very low. From photographs and a description of pond 3 an assessment has been approximated and results in a score of 0.61 which is 'average suitability'. The report concludes that any of the ponds within 500m are suitable for use by GCN and with this particular development the quality of residual habitat will be improved once developed.

In regards to the potential for impact on Bats the foraging habitat at the site is very poor, being open and exposed. No trees occur within the application site boundary which provide potential for bats to roost. All the buildings were surveyed and provide negligible potential for bats.

The trees and shrubs on the site could potentially provide foraging for bats and the potential for use by nesting birds and these should be retained or compensation for their loss provided in an appropriate landscaping scheme.

The Phase 1 Habitat Survey identifies Japanese Knotweed, species listed in Schedule 9 of the Wildlife and Countryside Act, 1981 (as amended), occurring near the site entrance. The later Ecological Appraisal (submitted by Envirotech) advises that this was removed however, as part of the recommendation for this application a condition is included which requires details of further surveys and if necessary, appropriate working methods to prevent the spread of any and all Schedule 9 species that maybe present.

The level of survey undertaken with respect of Great Crested Newts is such that the council will need to undertake a Habitat Regulations Assessment prior to the issuing of any decision on this application so that it can be satisfied that the development will not conflict with these regulations. In such circumstances it is appropriate for the decision to be to delegate powers to the Head of Planning & Regeneration to undertake this. Providing this is satisfactory the proposal will be considered acceptable with regard to the special designations of the site and protected species and is in accordance with Policy EP19 of the local plan and the aims of the NPPF.

### Tourism

The council has produced a 'Fylde Coastal Master Plan' - March 2014, which aim is to develop a 10 year vision for coastal protection and to give a detailed overview of the many factors that should be taken into account to inform a plan of implementation aimed the protection, restoration,



conservation, development and management of the natural and built environment appropriate to each particular area of the coastline within the borough.

The plan aims: *"To create a unique, high quality destination for residents and visitors, of national repute which is based on the conservation and enhancement of the natural landscape and built heritage of the coastal area of the Borough of Fylde".*

The leisure, culture and tourism sector support 10% of all jobs in the borough and the Plan places emphasis on broadening the range of attractions and improving the quality of the existing visitor accommodation. Planning policies must support this, with para 28 of the NPPF encouraging *"support for sustainable rural tourism and leisure development that benefit business in rural areas"*.

The current use of the site provides little employment or economic benefit to the borough, whereas the proposal will involve a greater level of employment and will attract visitors to the borough and so increase local spend. This is a factor that weighs in support of the proposal.

#### Access & public rights of way

The application proposes to access the site via the existing entrance from Naze Lane East. This is a wide access that offers good visibility in both directions, and whilst no comments on the adequacy of this have been received from LCC it is considered suitable. It also provides a continuous footpath link to the services available in the village and so to the wider area on the public transport connections in the village. Access to Freckleton is also available along the public footpaths that run through the site and lead to The Ship Inn and along Bunker Street. In addition the development includes the provision of a shop to assist visitors. This is small scale and will not affect the vitality of the village centre as it is only realistic that visitors on the site and the occasional user of the right of way would use it.

From the access point the internal roadway is to be re-profiled to reduce the current steepness and tight manoeuvring space so that it can be more easily accessed. This will involve some engineering works, but these are not extensive although a condition is appropriate to agree the technical details of this to maintain the stability of this slope.

The change to the use of the site has the potential for increased vehicular movements, although these are likely to be largely private cars rather than any heavy goods vehicles that could be associated with the current use as a boat yard. The size of the site is such that it will not generate a high number of such movements and will not cause any adverse impact on network capacity.

The scheme will require the diversion of the two Public Rights of Way which run in a north south direction through the site, one on the top of the slope that simply crosses the access track, and one on the bottom that runs through the centre of the site. These will need to be diverted to facilitate the development due to the intended re-profiling of the access and the positioning of the lodges. The legislative procedure for this will need to be undertaken separate to the determination of this application. However, the impact on the users of these rights of way does need to be considered here, and with the visual improvement of the site that will be involved in the removal of the industrial and other development from the site, the proposal will enhance them is not considered to accord with the principles in Policy TR1 of the Fylde Borough Local Plan and the guidance in para 75 of the NPPF relating to enhancements of public rights of way.

#### Other matters

The dwelling situated on the site has a condition tying its occupation to the management of the boat yard. The dwelling has been included in this proposal and its occupation is to be for the manager(s) of the holiday site. This will assist with the proper management and security of the lodges and the nearby special designations.

The starting point for Policy TREC 6 is that static caravans and chalet sites are only permitted where they are an extension of an existing facility. That is not the case here as it is an entirely new facility. However, the guidance in the Policy is considered to be out of date as the more recent NPPF guidance in para 28 is clearly supportive of new tourism and leisure developments that are considered to be sustainable due to the benefits that they will bring to the rural economy. This para also refers to the development being in appropriate locations where such needs are not met by other facilities. This site has a unique location as previously developed land with good vehicular and pedestrian access arrangements yet is on the very edge of the Estuary. As such it provides a type of visitor accommodation that would be different to anything offered elsewhere in the borough and so would broaden the range of such accommodation and is a factor that is weighed in support of the development.

### **Conclusions**

This application relates to an area of land that is located off Naze Lane East, Freckleton and is adjacent to the Ribble & Alt Estuaries and near to the BAe Warton runway. The proposal is for the change of use and development of land from the existing boat manufacture operation to a site 24 timber lodges to operate as a holiday/leisure site. The existing dwelling will provide manager's accommodation associated with the business and a building constructed to provide a small shop/office. The site is to be cleared of the existing buildings and the existing access road re-profiled to allow improved access.

The site is located within the defined countryside in the Fylde Borough Local Plan and is in close proximity to several designations for the protection of special and rare interest birds and its flora. It is also reasonably well located to the services in Freckleton village and the new use will assist in supporting the rural economy, bringing new visitors to the area and sustaining jobs in the borough. The application has been accompanied by information to support the scheme and overcome initial objections/concerns raised with the development in regards to its location, flood risk and ecology. Accordingly, it is now considered acceptable and in accordance with the local plan, the NPPF and the aims of the Council's coastal master plan and is therefore members are recommended to support the proposal.

The nature of the development and proximity to ecological designations requires that the council undertakes a Habitats Regulation Assessment prior to the issuing of any planning permission and so the recommendation is to delegate the decision to officers to allow this to be undertaken.

### **Recommendation**

That authority to grant planning permission be delegated to the Head of Planning and Regeneration to GRANT planning permission to allow a Habitat Regulation Assessment to be undertaken, and then also be subject to the following conditions (or any amendment to the wording of these conditions or additional conditions that the Head of Planning and Regeneration believes is necessary to make otherwise unacceptable development acceptable):

1. The development must be begun not later than the expiration of three years beginning with 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.

2. This consent relates to the following plans and / or reports:

- Location Plan/site plan - drawing no. PR-130312 dated May 2014
- Proposed site layout & 'street view' - drawing no. PR13-0312.01
- Timber lodge & office building elevations and floor plan - drawing no. PR13-0312.02
- Sections - drawing no. drawing no. PR13-031.02
- Surface water drainage & sewage treatment plan - drawing no. PR13-0312.04 REV B
- Planning, Design & access statement - dated June 2014
- Flood risk assessment - Alan Jones job ref no. PR13-0312 dated September 2014
- Phase 1 habitat survey 'extended' ADK Environmental Management dated March 2014
- Ecological Appraisal - Envirotech Ecological consultants dated February 2015
- The knotweed code of practice

Reason: For the avoidance of doubt and as agreed with the applicant / agent.

3. Prior to the commencement of development and notwithstanding any denotation on the approved plans the materials of construction to be used on the external elevations and roof of the shop/office building hereby approved shall be submitted to and approved in writing by the Local Planning Authority. Samples shall include details of colour and texture (where appropriate) thereafter only those approved materials shall be used in the development unless otherwise agreed in writing with the Authority.

To ensure this aspect of the development is undertaken in a manner that is appropriate for the character of the countryside within which it is sited.

4. The extent of retail floor space provided within the shop element of this planning permission shall be limited to that shown on Alan Jones drawing PR13-0312.02 as listed in condition 2 of this planning permission (or any replacement to that drawing that is subsequently formally approved by the local planning authority), and that this retail area shall only be open at a time when the lodges hereby approved are available for let.

To ensure that this element of the development is ancillary to the holiday lodge use of the site in the interests of the proper planning of the area as it would otherwise be inappropriate to establish a retail use in this rural location remote from any settlement

5. The lodges/chalets/caravans hereby approved shall be of a timber construction and painted or stained in a colour which shall first be agreed in writing by the Local Planning Authority; thereafter the agreed materials and colour shall be used and retained in the development unless otherwise agreed in writing with the Local Planning Authority.

To ensure this aspect of the development is undertaken in a manner that is appropriate for the character of the countryside within which it is sited.

6. The development permitted by this planning permission shall only be carried out in accordance with the approved Flood Risk Assessment (FRA) PR13-0312, dated September 2014, and the following mitigation measures detailed within the FRA:

1. Limiting the surface water run-off generated by the 1 in 100 year critical storm so that it will not exceed the run-off from the undeveloped site and not increase the risk of flooding

- off-site;
- 2. Finished floor levels of the lodges and the hub are set no lower than 7.00m above Ordnance Datum (AOD);
- 3. Implement the flood proofing measures discussed in the FRA;
- 4. Flood proofing measures should be incorporated into the managers accommodation; and
- 5. Implement the Flood Plan

The mitigation measures shall be fully implemented prior to first use of the holiday lodges and subsequently 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; and to reduce the risk of flooding to the proposed development and future occupants.

7. Prior to the commencement of development details of how the mobile log cabins will be anchored to the ground shall be submitted to and approved in writing by the local planning authority. This approved scheme shall be implemented in the siting of the original and any replacement cabins, and shall be retained as a mechanism to secure these structures.

In order to securely anchor the structures in the event of extreme flood event and to ensure the occupants of the site are not at an unacceptable risk of flooding.

8. That the mobile log cabins hereby approved shall be occupied for holiday purposes only and not as a persons permanent, sole or main place of residence. The period of any single occupation shall be limited to no more than 14 consecutive days, with a break of at least 7 days between an individual's occupancy of any cabin on the site.

The development is provided for holiday use only as occupation on a permanent basis would be contrary to the provisions of Policy SP2 of the Fylde Borough Local Plan, and would conflict with the principles of flood risk management as specified in para 100-103 of the NPPF.

9. The owners/operators of the site shall maintain an up-to-date register of the names and main address of all owners/occupiers of the individual cabins/holiday lodges hereby approved. This information shall be made available at all reasonable times to the Local Planning Authority.

The development is provided for holiday use only as occupation on a permanent basis would be contrary to the provisions of Policy SP2 of the Fylde Borough Local Plan, and would conflict with the principles of flood risk management as specified in para 100-103 of the NPPF

10. No development shall commence until details of the design and implementation details of an appropriate surface water sustainable drainage scheme have been submitted to and approved in writing by the local planning authority. These details shall be based on sustainable drainage principles and the details and ground levels indicated on Surface Water Drainage Plan drawing no. PR13-0312.04 REV B as listed in condition 2 of this permission, or any subsequently approved replacement to this drawing.

Those details shall include, as a minimum:

- a) Information about the design storm period and intensity (1 in 30 & 1 in 100 year +30% allowance for climate change), discharge rates and volumes (both pre and post development), temporary storage facilities, the methods employed to delay and control surface water discharged from the site, and the measures taken to prevent flooding and pollution of the

receiving groundwater and/or surface waters, including watercourses, and details of floor levels in AOD;

- b) The drainage strategy should demonstrate that the surface water run-off must not exceed the pre-development greenfield runoff rate. The scheme shall subsequently be implemented in accordance with the approved details before the development is completed.
- c) Any works required off-site to ensure adequate discharge of surface water without causing flooding or pollution (which should include refurbishment of existing culverts and headwalls or removal of unused culverts where relevant);
- d) Flood water exceedance routes, both on and off site;
- e) A timetable for implementation, including phasing as applicable;
- f) Evidence of an assessment of the site conditions to include site investigation and test results to confirm infiltrations rates;
- g) details of water quality controls, where applicable.

The scheme shall be implemented in accordance with the approved details prior to first occupation of any of the chalets/lodges/caravans etc, or completion of the development, whichever is the sooner. Thereafter the drainage system shall be retained, managed and maintained in accordance with the approved details.

Reasons: To ensure that the proposed development can be adequately drained, that there is no flood risk on or off the site resulting from the proposed development, and that water quality is not detrimentally impacted by the development proposal

11. No development shall commence until details of an appropriate management and maintenance plan for the sustainable drainage system for the lifetime of the development which, as a minimum, shall include:

- a) the arrangements for adoption by an appropriate public body or statutory undertaker, management and maintenance by a Residents' Management Company
- b) arrangements concerning appropriate funding mechanisms for its on-going maintenance of all elements of the sustainable drainage system (including mechanical components) and will include elements such as:
  - i. on-going inspections relating to performance and asset condition assessments
  - ii. operation costs for regular maintenance, remedial works and irregular maintenance caused by less sustainable limited life assets or any other arrangements to secure the operation of the surface water drainage scheme throughout its lifetime;
- c) means of access for maintenance and easements where applicable.

The plan shall be implemented in accordance with the approved details prior to first occupation of any of the approved dwellings, or completion of the development, whichever is the sooner. Thereafter the sustainable drainage system shall be managed and maintained in accordance with the approved details.

Reasons: To ensure that appropriate and sufficient funding and maintenance mechanisms are put in place for the lifetime of the development, to reduce the flood risk to the development as a result of inadequate maintenance, and to identify the responsible organisation/body/company/undertaker for the sustainable drainage system.

12. Prior to the commencement of development details of fencing to be erected between the application site and the Biological Heritage Site adjacent shall be submitted to and approved in writing by the local planning authority.. The approved details shall include the type of fencing, its position, and its fixing details. The approved details shall be installed prior to the first use of the site for holiday accommodation, and shall be retained in the approved form thereafter.

In order to protect the special designation of the site from harm through trespass.

13. The occupancy of the dwelling within the site edged red known as 'Poolside Lodge' in the application shall be limited to a person or persons managing or employed full time at the site in association with the holiday use hereby, together with the family of such a person(s) residing with the manager/employee.

Due to the circumstances of this business use in this countryside location, residential accommodation should only exist for persons involved in that use.

14. Prior to the commencement of development details of the finished levels, the method of working, the design and materials for any retaining structures and the materials for the surface of the re-profiled access road from Naze Lane to the level of the lodges shall be submitted to and approved in writing by the Local Planning Authority. The development shall be undertaken in accordance with this approved detail with these works completed prior to the first use of the site hereby approved for holiday purposes.

In order to achieve a satisfactory and safe access that will have an appropriate appearance and will protect the stability of the embankment.

15. Prior to the commencement of any development details of the method and intentions for the disposal of excavated subsoil arising from the reprofiling of the access road shall be submitted to and agreed in writing by the Local Planning Authority. This material shall be deposited in accordance with this approved detail.

To establish levels around the site and to ensure the protection of special designated areas.

16. No development shall take place, including any works of demolition, until a Construction Method Statement has been submitted to, and approved in writing by, the local planning authority. The approved Statement shall be adhered to throughout the construction period. The Statement shall provide for:

- a. the identification of the site access for construction traffic
- b. times of construction activity at the site
- c. times and routes of deliveries to the site
- d. the parking of vehicles of site operatives and visitors
- e. loading and unloading of plant and materials
- f. storage of plant and materials used in constructing the development
- g. the erection and maintenance of security hoarding including decorative displays and facilities for public viewing, where appropriate
- h. wheel washing facilities
- a. measures to control the emission of dust and dirt during construction
- b. a scheme for recycling/disposing of waste resulting from demolition and construction works

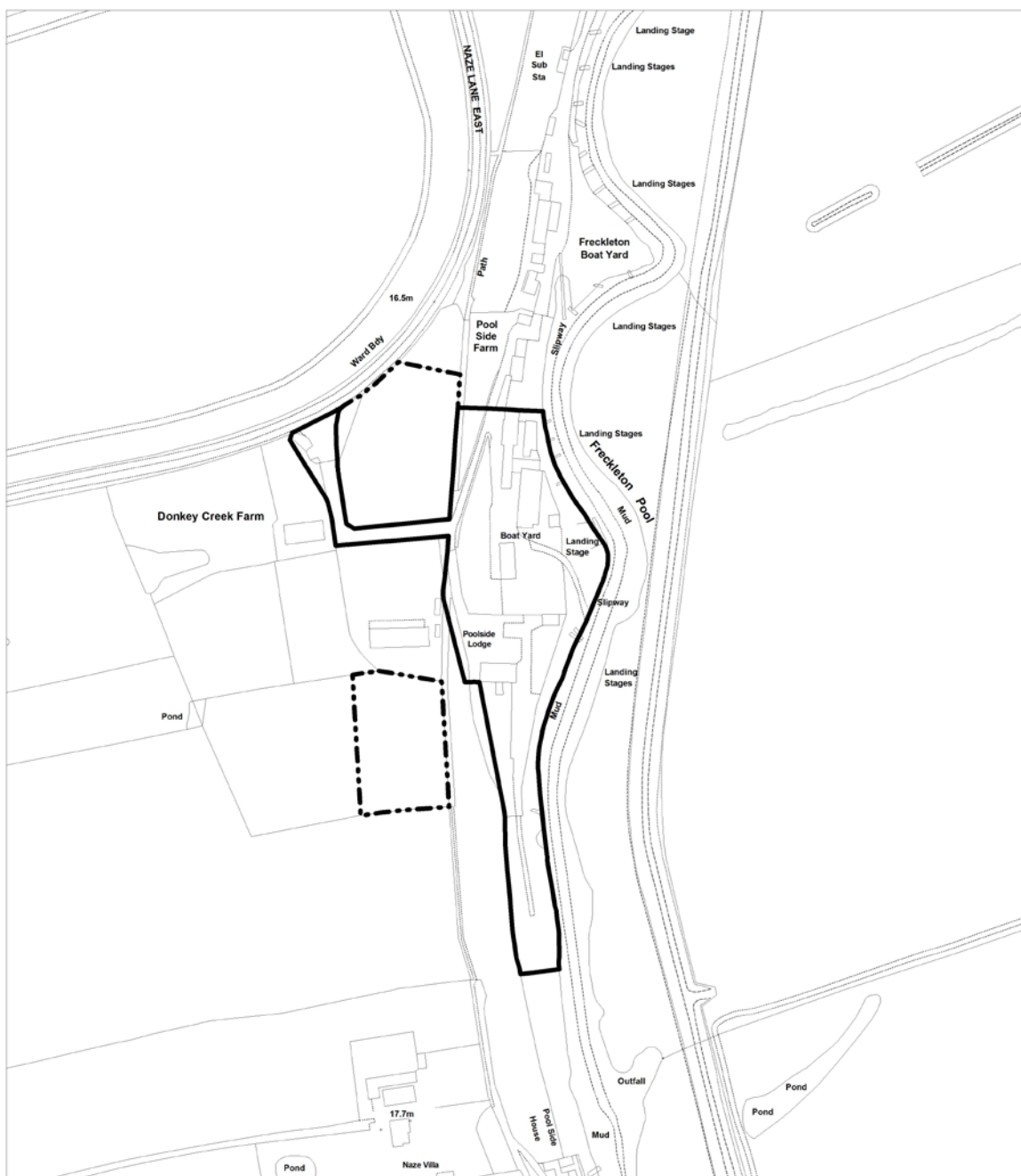
Reason: To maintain the safe operation of the pedestrian and highway network in the area limiting the impact on adjacent uses.

17. The development hereby approved shall be implemented and phased in full accordance with the Mitigation /Recommendations outlined in paragraphs 6 - 7 inclusive of the Ecological Appraisal Ref. no. 2571 dated February 2015 undertaken by Envirotech or any replacement survey that is undertaken and subsequently approved by the Local Planning Authority should the development not be implemented within 12 months of the date of the existing survey.

To safeguard protected species and the special designation of surrounding areas.

18. Prior to the commencement of development further surveys for the presence of any invasive non-native plant species shall be carried out by a competent person and the results submitted to the Local Planning Authority; subject to the findings of that survey a scheme and method for the removal of non-native plant species referred to in the submitted Envirotech Ecological appraisal (in particular Japanese Knotweed) or any other invasive non-native plant shall be submitted to and approved in writing by the local planning authority. The approved method and scheme shall thereafter be implemented prior to any works commencing on site.

Reason: In the interests of protecting wildlife and biodiversity and to comply with the provisions of the Wildlife & Countryside Act 1981 and the National Planning Policy Framework.



Development Services Fylde Council		(c) Crown Copyright and database right (2015). Ordnance Survey (100006084).	
Application No. 5/14/0405	Address Poolside Boat Centre, Naze Lane East, Freckleton	Grid Ref. E.3433 : N.4282	Scale 0 10 20 30 40 m 



**Item Number:** 2

**Committee Date:** 09 December 2015

<b>Application Reference:</b>	14/0580	<b>Type of Application:</b>	Outline Planning Permission
<b>Applicant:</b>	Rushcliffe Properties Ltd (In Liquidation)	<b>Agent :</b>	Emery Planning Partnership Ltd
<b>Location:</b>	VALENTINES KENNELS, WILDINGS LANE, LYTHAM ST ANNES, FY8 3RJ		
<b>Proposal:</b>	OUTLINE APPLICATION FOR ERECTION OF UP TO 53 NO. DWELLINGS (ACCESS APPLIED FOR WITH OTHER MATTERS RESERVED)		
<b>Parish:</b>	HEYHOUSES	<b>Area Team:</b>	Area Team 2
<b>Weeks on Hand:</b>	69	<b>Case Officer:</b>	Kieran Birch
<b>Reason for Delay:</b>	Negotiations to resolve difficulties		

**Summary of Recommended Decision:** Delegated to Approve

#### **Summary of Officer Recommendation**

This application is for outline planning permission for the erection of 53 residential units on a 1.7 hectare site located on the east sides of Wildings Lane, St Annes on land allocated as Countryside in the Fylde Borough Local Plan. The site is directly adjacent to and would be surrounded by development to the north, south and west approved by outline application 08/0058 for which the Reserved Matters application 15/0400 is currently being considered by the Council.

The residential development of Countryside land in contrary to Policy SP2 of the Fylde Borough Local Plan. However, a key material consideration in the determination of residential planning applications is the need for the council to deliver a supply of housing land equivalent to 5 years of its agreed annual target. The council's latest published information is that it is unable to deliver the necessary housing supply and so, in accordance with the National Planning Policy Framework (NPPF), a proposal that delivers sustainable development must be supported unless it will cause significant and demonstrable harm.

Having assessed the relevant considerations that are raised by this proposal it is officer opinion that the development is of acceptable scale and is in an acceptable location to form sustainable development. The visual impact is also considered to be acceptable and the development would not have a detrimental impact on the amenities of the area to an extent that would justify refusal of planning permission. The status of the site as a Biological Heritage site has been considered and the evidence submitted shows the development would not impact upon the reasons why the site was allocated as such. The highways impact of the development and the closing up of Wildings Lane in the future could be controlled by condition and legal agreement, and the scheme will make a necessary contribution to the M55 Heyhouses Link Road. There are no objections from LCC Highways with regard to traffic generation or safety. As such it is considered that the proposal delivers a sustainable form of development and it is recommended that the application be supported by Committee and so assist in delivering the housing supply requirements of para 17 of NPPF.

### **Reason for Reporting to Committee**

The application constitutes a Major application and therefore under the Councils scheme of delegation it is required to be considered by the Development Management Committee.

### **Site Description and Location**

The application site is a 1.7 hectare site located on the eastern side of Wildings Lane in St Anne's. The site is located in the open countryside in the adopted Local Plan but is located within 160m of the settlement boundary. The land to the north, south and west of the application site has outline planning permission for 1150 dwellings through outline planning permission 08/0058, this is also currently subject to a reserved matters application 15/0400 for the erection of 927 dwellings on the majority of the site covered by the outline planning permission. The application site as existing is a designated Biological Heritage site and has previously been part developed and used as commercial kennels. The application states it is categorised as previously developed land because of the kennels however this would only apply to part of the site. The landscape surrounding the site is typical of the area and comprises low lying, poorly drained, level, grazing land, with ditches and wind sculpted woodland. The site itself is flat and has an average level of 4.5 – 5.0m AOD. Residential properties along Wildings Lane are located to the south and west of the application site.

### **Details of Proposal**

The application as submitted is an outline application for up to 53 dwellings on land to the east of Wildings Lane in St Anne's. The application has been accompanied with an indicative site plan, Environmental Statement (ES) and Transport Assessment all (TA) of which are important documents when considering this application with regard to its location as described in the preceding section. The dwellings on the indicative plan are shown spaced around the site with an area of Public Open Space (POS) shown on the southern edge of the site. The proposal indicates that 30% of the 53 dwellings would be provided as affordable housing units.

Access is a detailed matter for this application. There are two basic access scenarios:

- c) an 'interim' solution which proposes the Site will be accessed via an improved Wildings Lane; and,
- d) a 'future' solution which proposes the Site will be accessed through the adjacent Kensington Developments Ltd (KDL) 'Queensway' development site, once that scheme is fully developed out to the Site frontage in accordance with its approved masterplan. (Application ref: 08/0058; Appeal ref: APP/Q2371/V/11/2157314).

The reason that two access scenarios are submitted is because the approved Queensway masterplan scheme shows the stopping-up of Wildings Lane to vehicular traffic (some 100m south of the application site), and that the current route of Wildings Lane will be redeveloped. Therefore, once Wildings Lane is stopped up and developed over there will be no access available from this application site via Wildings Lane. At that point in time, it is anticipated that traffic from the proposed development would 'switch' to route via the Queensway scheme and the new east-west link road that will be constructed to serve that site. The implications and issues surrounding this approach are discussed in the report below.

The application has been submitted with the following documents;

- Illustrative site layout

- Location plan
- Environmental Statement
- Design and Access statement

### **EIA development**

The Council when considering a previous application (12/0477) which was withdrawn determined that the development was EIA development in light of the potential cumulative impacts that may arise from the development in the context of other development proposals (the Queensway application). Therefore an Environmental Statement (ES) has been submitted with this application, with the scope of the ES being agreed with the LPA through pre-application discussions. The ES reports the findings of the EIA undertaken in respect of the proposed development and includes the following sections;

- Ecology
- Transportation
- Air Quality
- Noise
- Water resources and flood risk
- Ground Conditions
- Heritage
- Landscape and visual impact
- Cumulative impacts.

### **Relevant Planning History**

<b>Application No.</b>	<b>Development</b>	<b>Decision</b>	<b>Date</b>
12/0477	OUTLINE APPLICATION FOR UP TO 66 DWELLINGS (ACCESS APPLIED FOR WITH ALL OTHER MATTERS RESERVED)	Withdrawn by Applicant	10/07/2013
09/0801	NEW PLANNING PERMISSION TO REPLACE AN EXTANT PLANNING PERMISSION IN ORDER TO EXTEND THE TIME LIMIT FOR IMPLEMENTATION ON APPLICATION 06/0809	Granted	27/01/2010
06/0809	PROPOSED DWELLING AND DEMOLITION OF KENNELS	Granted	05/01/2007
06/0142	DEMOLITION OF KENNELS TO CREATE NEW DWELLING	Withdrawn by Applicant	02/05/2006
03/0109	REPLACEMENT DWELLING (REVISED SUBMISSION OF 02/0912)	Granted	10/03/2004
02/0912	PROPOSED REPLACEMENT DWELLING	Refused	29/11/2002
01/0403	PROPOSED ERECTION OF 8 DWELLINGS	Refused	05/09/2001
93/0292	CHANGE OF USE OF LAND FOR THE STORAGE OF TOURING CARAVANS	Granted	16/06/1993
77/0485	TEMPORARY MOBILE HOME.	Granted	29/10/1977

### **Relevant Planning Appeals History**

<b>Application No.</b>	<b>Development</b>	<b>Decision</b>	<b>Date</b>
01/0403	PROPOSED ERECTION OF 8 DWELLINGS	Dismissed	14/02/2002

## **Parish/Town Council Observations**

St Anne's on the Sea Town Council notified on 02 September 2014

### **Summary of Response: Object:**

- Designated biological site which is recognised as an important area for biodiversity
- Ruins a natural habitat; impact on Lytham Moss heritage site & subsequent increased flooding risk.
- Concerned about natural drainage of the mews land because of already neglected ditches & water courses
- About loss of natural habitat for ducks, swans, bats and other wildlife
- Loss of bridleway.
- Limited access arrangements
- Impact on residents' access road to site.
- Increase of traffic in a rural environment.

## **Statutory Consultees and Observations of Other Interested Parties**

### **Lancashire County Ecology Service**

*Whilst the proposed location may seem an obvious 'infill' development (within the larger adjacent Queensway scheme), there are nonetheless a number of potential impacts on biodiversity and it is not yet clear that the proposals would be in accordance with the requirements of relevant biodiversity legislation, planning policy or guidance.*

*The main ecological issues arising from the proposal include potential impacts on:*

- *European sites;*
- *Sites identified as compensatory measures for adverse impacts on European sites;*
- *Local Sites (Biological Heritage Sites);*
- *Species of Principal Importance (section 41 NERC Act 2006) and their habitat;*
- *European protected species;*
- *Protected species.*

They state that Fylde Borough needs to establish the likelihood of significant effect on the European sites and comment on the HRA work that has been undertaken stating that at the stage of screening for likely significant effect only mitigation measures embedded in the design of the project should be taken into account and that as Fylde would need to control the impacts of development suggests that the proposals would have an impact on the qualifying features of the SPA. If this is the case, then Fylde Borough Council would not be able to conclude no likely significant effect and would need to carry out a full Appropriate Assessment (alone and in combination).

### **Biological Heritage Site**

*While the ES suggests that tree sparrows may no longer be breeding at this site it remains the case that much of the site is designated as a Biological Heritage Site and the proposals would therefore result in a significant adverse impact on a Local Site (and part of the local ecological network).*

### **Bats**

*According to the ecology report, several trees within the application area are suitable to support roosting bats although no evidence of bats was found at the time of surveys. The ES notes the possibility that bats could colonise suitable features in advance of development (or any proposed tree works). Appropriate mitigation will need to be secured: paragraph 7.156 states that of the six trees with bat roost potential, three would be lost, and recommends felling using Reasonable Avoidance Measures. Whilst this is appropriate, given that this is an outline application and there is thus likely to be a delay between any planning permission and felling, it seems likely that further surveys will be required to confirm continued absence of bats prior to felling and, if bats continue to be absent, felling using Reasonable Avoidance Measures will be appropriate. If, however, the presence of bats is confirmed at that time, additional (and licensed) mitigation will be required. The submission of updated surveys, together with updated mitigation proposals (if required), should be secured by planning permission/ at the reserved matters stage. I note that the ES (e.g. paragraphs 7.156 and 7.158) recommends that three general purpose bat boxes and one Schwegler 1FS large colony bat box should be attached to retained trees. Whilst this seems appropriate to replace the loss of roosting potential within trees proposed for felling, it is increasingly considered good practice to incorporate bat roosting opportunities within new buildings (i.e. more permanent roost provision). Further details of bat roosting provision could be required by planning condition, to be submitted for approval in writing, subsequent implementation in full and maintenance thereafter. ...*

*Fylde Borough Council could consider attaching a planning condition to the effect that no external lighting will be installed, except with the written permission of Fylde Borough Council, and that all lighting proposals will be in accordance with the guidance mentioned above. The application area supports habitat suitable for foraging and commuting bats. Clearly, the quantity and quality of habitat (woodland, trees, hedgerow, drainage ditches) should be at least maintained and ideally enhanced as part of any planning approval for this site. This should be a requirement of the landscaping scheme, if Fylde Borough Council is minded to approve this application.*

#### Breeding birds

*Habitats on the site are suitable to support nesting birds. It therefore needs to be ensured that detrimental impacts on breeding birds are avoided. This can be dealt with by planning condition to the effect that no site clearance, site preparation or development work shall take place during the period March to August inclusive, unless the absence of nesting birds is confirmed in advance by a suitably qualified and experienced ecological professional. Surveys carried out in support of this application (and the earlier proposals) noted the presence of numerous bird species thought to be breeding. In addition to avoiding impacts on nesting birds (an offence), it will therefore also be appropriate to ensure that the development proposals retain sufficient bird nesting and foraging habitat in order that the proposals do not result in a loss of biodiversity. Whilst tree and hedgerow planting may provide some benefit for birds, it should be ensured that adequate replacement habitat is provided outside of proposed garden curtilage.*

*As mentioned above, part of the site is designated as a Biological Heritage Site due to the presence of a breeding colony of tree sparrows. Unfortunately it appears that the historic nest box scheme has not been maintained and it seems likely that the tree sparrow population has declined as a result. Indeed, according to the ES, four surveys carried out at this site failed to find evidence of breeding tree sparrow; and there are now only three bird boxes and a few woodpecker holes present that could support this species. The ES*

*concludes that the site is therefore of negligible value to this species.*

*However, Fylde Bird Club correspondence in respect of application 08/08/0058 noted that tree sparrows are elusive and quiet when breeding, and could possibly be missed by surveys. In addition, although tree sparrows do form colonies, these can be loose (over a wide area) and solitary pairs are not unknown. It should be noted that the BHS threshold for designation refers to sites which regularly support at least five pairs of tree sparrow. In this case, this site forms one part only of Lytham Moss Copses BHS and would not therefore necessarily be expected to support a large colony of this species in isolation. It may therefore be more appropriate to adopt a precautionary approach and assume that this species remains present, albeit it at low numbers. Indeed, without concurrent survey from the remaining part of the BHS (which functions to support the same colony), the absence of tree sparrows from the BHS could not be confirmed in any case. However, regardless of whether or not this species is still breeding on site, I note that the applicant is proposing the provision of new tree sparrow nest boxes as part of the development proposals: the erection of 20 tree sparrow boxes on telegraph poles along the eastern boundary in the new hedgerow. Further details of nest box provision (design, location) and mechanisms to secure maintenance of nest boxes in the longer term should be secured as part of any planning approval (i.e. details to be submitted for approval, subsequent implementation in full and maintenance thereafter at reserved matters and/or dealt with by planning condition) if Fylde Borough Council is minded to approve this application.*

*The provision of nest boxes alone will not be sufficient to mitigate/ compensate impacts on this species and its habitat however, unless adequate replacement foraging habitat is provided as part of the landscaping scheme (outwith proposed gardens).*

#### Water voles

With regard to voles they state that further precautionary surveys will be required to confirm their continued absence and should be secured by planning condition.

#### Hedgerows

A hedgerow to the west of the site will be removed to facilitate the development but 300m of hedgerow will be planted to compensate. Whilst this might be adequate if these are proposed to be garden boundaries details of their management will be required.

#### Toads

Common toads are located on the site within the eastern ditch and utilise terrestrial habitats on site. LCC note that whilst residential gardens can provide habitat for amphibians, common toads are perhaps the least likely to benefit from gardens. It will therefore need to be ensured that adequate habitat is provided outside of gardens (i.e. adequate vegetated buffers retained associated with the boundary drainage ditches, whether water holding or dry). This can be achieved via a condition and via the detailed Reserved Matters design. Permeable garden boundaries will need to be used (to allow the passage of wildlife), and amphibian friendly gully pots and dropped kerbs will also be appropriate. It would also need to be ensured that the proposals did not result in adverse impacts to ditch hydrology as a result of the proposals.

#### Moss Bladder Snails

The survey work carried out on behalf of, and as reported by, TEP (report ref 3552.008; submitted in support of application 05/13/0257) does appear sufficient to rule out likely

impacts on this species as a result of the current proposals

#### Hedgehogs

The site is suitable to support hedgehogs. Mitigation and compensation will therefore be required to minimise impacts and retain habitat. It would be appropriate to provide adequate replacement habitat for this species outside of residential gardens, not least as there can be no guarantee that future residents would maintain any habitat suitable to support this species.

It is important that impact on species of principal importance are avoided during site clearance works and that adequate suitable habitat is maintained within the development for these species

#### Habitat creation and landscaping

*Planning decisions should address the integration of new development into the natural environment (NPPF Para 61) and opportunities to incorporate biodiversity in and around developments should be encouraged (NPPF Para 118). Landscaping and habitat creation schemes should therefore ideally comprise native species and habitats appropriate to the locality.*

LCC state that in general the ecological objectives listed in the ES are appropriate however they have concerns about some of the proposals. Including that they do not consider that garden areas can be counted as mitigation/compensation for the impacts of the development, that the mitigation of the Queensway application has been designed for that development only and that the layout does not replicate the layout to the north and south. This has since been amended and LCC state that it now replicates the proposals to the north and south. They do not consider that trees within gardens will compensate for the losses on site. There is concerns about the ditches being located between the two housing schemes and how these will be retained with biodiversity benefit or enhancement.

As a consequence of their consultation response the indicative layout was revised and they commented that the treatment of the eastern boundary seems more in keeping with what was proposed in outline for Queensway (and found acceptable at the Inquiry). With regard to the tree sparrows they state that they acknowledge that the information we have about this site appears to suggest that it's value to tree sparrows is declining (nest boxes have not been maintained), and the proposals may therefore offer the opportunity to maintain/ enhance nesting opportunities at this site.

### **Natural England**

The first consultation response from Natural England stated that the site is within or in close proximity to a European designated site (also commonly referred to as Natura 2000 sites), and therefore has the potential to affect its interest features. European sites are afforded protection under the Conservation of Habitats and Species Regulations 2010, as amended (the 'Habitats Regulations'). The application site is in close proximity to the Ribble & Alt Estuaries Special Protection Area (SPA) which is a European site. The site is also listed as Ribble & Alt Estuaries Ramsar site and also notified at a national level as Ribble Estuary Site of Special Scientific Interest (SSSI).

#### European site interest

Natural England advises that Fylde, as a competent authority under the provisions of the

Habitats Regulations, should have regard for any potential impacts that a plan or project may have. Natural England notes that the HRA has not been produced by your authority, but by the applicant. As competent authority, it is your responsibility to produce the HRA. We provide the advice enclosed on the assumption that your authority intends to adopt this HRA to fulfil your duty as competent authority

They state that they object and that further information is required. The HRA submitted as part of the ES needs to be a standalone document. This assessment concludes that your authority can rule out the likelihood of significant effects arising from the proposal, both alone or in-combination. On the basis of information provided, Natural England advises that there is currently not enough information to rule out the likelihood of significant effects. Natural England therefore advises that your authority should not grant planning permission at this stage. Uncertainties remain relating to effects that may become significant when considered in combination with other plans or projects.

Natural England advises that the information and evidence gaps could potentially be resolved with additional information formally submitted by the applicant in order to amend the proposal. This would then provide an opportunity for your authority to repeat your screening to check for the likelihood of significant effects of the project as submitted (i.e. with all new information provided as part of the proposal). Natural England recommends that any information gaps should be met by the formal submission of information, so that the project as a whole, i.e. as submitted with all information and measures to protect the European site, can be screened to check whether the likelihood of significant effects can be ruled out.

They state they have reviewed the EIA and the HRA and comment;

- The HRA is embedded within the EIA, it needs to be a separate standalone document
- As acknowledged in the EIA the land surrounding the proposal is functionally linked to the Ribble & Alt Estuary SPA (paragraph 7.65), as such effects on all SPA birds need to be considered. Paragraph 7.42 refers to ecological surveys from 2011 that have been undertaken in the local area as part of the proposed mixed use development at Queensway and the M55 Link Road; the information contained within these documents has since been updated. The out of date reports have been used to scope out impacts on pink-footed geese and black-tailed godwit (paragraph 7.66), effects on pink-footed geese (as well as swans) need to be considered at all phases of the development: construction and operational.
- Paragraph 7.41 lists the information sources on which the baseline conditions were established, to better understand how SPA birds are using the surrounding area we advise that the desktop survey information includes data collected from Fylde Bird Club.
- Paragraphs 7.96 to 7.74 are from documents submitted for the Queensway development, as previously stated, these documents have since been updated. Baseline information for pink-footed geese needs to be established so any effects can be considered.
- The results of the updated desk-based (and baseline conditions) study will determine whether further survey work will be necessary.
- Paragraph 7.143 outlines the 3 proposed options for mitigation associated with construction; clarity is needed as to which option/s are to be used.
  - Option 1, the overwintering period is October to March not November to February. Both swans and pink-footed geese need to be considered



- Option 2, no information has been provided as to what happens if SPA birds are present within 200m of the proposal site during the check. This also presumes that construction where the works are likely to cause high levels of noise/vibration disturbance will take place during the overwintering period which is contradictory to the first option
- Option 3, no additional comments
- The proposal needs to consider its effects alone (as well as in-combination), there are several references to the proposed Queensway mitigation
- Paragraph 7.147 states that the proposal will include an area of open space which will reduce recreational pressures by dog walkers. However, upon review of the submitted site plan (MPSL Design, August 2014) the size of the area allocated to this open space is very small, recreational pressures outside of the proposal site will still potentially increase, this needs to be considered. The Habitats Regulations in-combination assessment has only considered the Queensway development, the following need to be considered:
  - The incomplete or non-implemented parts of plans or projects that have already commenced;
  - Plans or projects given consent or given effect but not yet started.
  - Plans or projects currently subject to an application for consent or proposed to be given effect;
  - Projects that are the subject of an outstanding appeal;
  - Ongoing plans or projects that are the subject of regular review.
  - Any draft plans being prepared by any public body;
  - Any proposed plans or projects published for consultation prior to the application

#### SSSI Implications

With regard to the SSSI they state that further information is required and that their concerns about the SSSI coincide with their concerns regarding the potential impacts up the SPA as detailed above.

They state that the LPA should also assess and consider other possible impacts resulting from this proposal on the following when determining the application namely local sites, local landscape character and local or national biodiversity priority habitats and species. They state that they have not assessed the application for impacts on protected species. They state that this application may provide opportunities to incorporate features into the design which are beneficial to wildlife, such as the incorporation of roosting opportunities for bats or the installation of bird nest boxes.

Following the submission of additional ecological information and the HRA as a standalone document NE have commented that they have reviewed the shadow HRA and have commented that;

With regards to mitigation:

- Proposed mitigation option 1 - we agree that undertaking works likely to cause high levels of noise/vibration disturbance outside of the overwintering period (October to March) will not result in the significant disturbance or displacement of SPA birds and no likely significant effect can be concluded.
- Proposed mitigation option 2 - we consider allowing prolonged periods of works likely to cause high levels of noise/vibration disturbance within the overwinter period providing no SPA birds are present as unviable. Although the option states

that weekly checks will be undertaken for the presence of SPA birds, once the check has been completed and work has commenced, any birds wanting to use the fields within 200m of the development will be subject to disturbance.

- Proposed mitigation Option 3 - we agree that postponing site development until after the implementation of the Queensway/M55 Link Road FCA and/or Nature Park has commenced will not result in the significant disturbance or displacement of SPA birds and no likely significant effect can be concluded.

They therefore recommend options 1 or 3.

#### In-combination assessment

Land adjacent Kilnhouse Lane and, Queensway, Lytham St Annes 12/0038 - the shadow HRA states that the proposal may be revised and that until the detail of the revised scheme is known the likelihood of in-combination significant effects cannot be considered. As the submitted application is the subject of an outstanding application the proposal as it has been submitted, needs to be considered. The shadow HRA needs to be a standalone document; page 5 states 'please refer to the Ecology Chapter of the Environmental Statement for sources. These issues need to be addressed in the standalone HRA.

#### **Lancashire County Council - Highway Authority**

The application proposed has been subject to much dialogue between LCC Highways, the applicants and the Local Planning Authority, their initial comments (dated 3 November 2014) are below, with further discussions also detailed.

#### Proposed Site Location and local network

*The current application is for the construction of a residential development of up to 53 dwellings. The proposed residential development lies on land formerly occupied by the Valentines Kennels site, off Wildings Lane. The centre of the proposed site is located over 200m to the north of the existing built environment. Wildings Lane, beyond the built environment, continues for approximately 360m, with dense verge to either side in parts and reducing to a track of approximately 2.5m in width. Its use is predominantly for access to fields and by locals for leisure purposes. It has no formal passing places. The site is surrounded by predominantly undeveloped agricultural land; however, a large residential development (Kensington Developments, 1150 Dwellings) has been approved on land to the north, west and south of the site. There are a limited number of derelict existing buildings on the proposed site, associated with its former use. Access to the site, as proposed, is from a priority junction with the Wildings Lane with wider access taken from the south via Heyhouses Lane. Wildings Lane runs in an approximate north-south alignment from Heyhouses Lane.*

#### Lytham and St Anne's strategic location for development

*LCC and Fylde BC have sought to set out a way forward in delivering long term, sustainable, economic development in the area. An accepted approach was developed as part of the agreements, scrutinised and set out at two public inquiries, involving the Kensington Development site (Queensway 1150 Dwellings). The County Council were able to support the approach set out for the development (described as site H1 in the emerging draft local plan) as this sought to realise and maximise potential future development aspirations and contribute to the housing allocation needs of Fylde BC while delivering appropriate and necessary infrastructure, amenity and mitigation. Key to the*

*approach was the provision of highway infrastructure and transport services deemed necessary to support development in this location. All required changes were to be funded by development following an agreed, planned and phased approach.*

*In terms of highways provision, a new east-west road will be provided as part of the development, to provide access to the approved Queensway site. The scheme will also facilitate the provision of a new link road from St Annes to M55, to enable the local highway network to have capacity to accommodate the additional traffic generated by the development. The M55 to St Annes Link Road has also been scrutinised at public inquiry and now also benefits from current planning permission.*

*As noted, the proposed Valentines Kennels development forms part of site H2 within the Lytham and St Annes Strategic Location for Development. Site H2 comprises large agricultural fields on the edge of the built up area of St Annes. The emerging Local Plan to 2030 document states, 'The site cannot be developed until after the implementation of the M55 to St Annes Link Road which is scheduled for completion in 2016.'*

*The 2016 date for completion of the scheme is considered optimistic by LCC as the funding for the scheme is triggered by the number of houses built and the trigger points are some years away. However, discussions are on-going between developers and the authorities (LCC & Fylde BC) to bring forward delivery of the scheme in part/in full. This is more pertinent given Wild Lane was closed to traffic in 2013 as the road structure, in part, has failed.*

LCC state that with regard to the TA that a scoping note was prepared by SCP and accepted by LCC. The scoping note included a commitment to consider all committed and emerging developments, including Queensway residential, the M55 to Heyhouses link and any others as appropriate.

#### Access strategy and master planning for the Area

*LCC have been clear about the need for an access strategy to be included in the TA which would highlights how the proposal will integrate into the committed Queensway development both in the short term and long term, whilst satisfying sustainable and accessibility requirements.*

*Two scenarios are assessed within the TA as part of the proposed Valentines Kennels development, these being: Scenario 1 – Access taken via Queensway site and the proposed East-West Link Scenario 2 – Access taken from Wildings Lane via Heyhouses Lane;*

*Clearly the current Valentines Kennels application proposes that the development is accessed from Wildings Lane via Heyhouses Lane. In the longer term, when the Queensway site is built up and Wildings Lane stopped up (in line with the approved Queensway residential planning permission) the proposal is that access can then be taken from the new East-West Link Road. LCC have considered the application with regard to these two basic scenarios to assess development impact and acceptability in highways and transport terms.*

#### Scenario 1 – Access taken via the Queensway site

They have considered the information presented in the TA and consider that the traffic impact would be minimal when the additional infrastructure and public transport

provision is in place. If an application was submitted with access taken from the approved East-west link road then they would have no objections subject to an appropriate layout, any necessary off site highway works and a necessary 106 contribution towards sustainable development and infrastructure.

#### Scenario 2 – Access from Wildings Lane via Heyhouses Lane

They state that there could be any number of potential variations in regard to the access implications associated with scenario 2. Given that the Queensway development is not approved they state that LCC must give consideration to all possible/potential outcomes and the implications, impact and risk for the highway and transport network and whether it would prejudice the Queensway development or not. They state that the following questions and matters of concern have been considered by LCC in reaching their conclusion;

- Full consideration and assessment of how this development can come forward with due regard for the approved Queensway development, whereby Queensway is not disadvantaged in any way so that their ability to develop their site, as permitted, is not restricted by any approval, if permitted, for this proposal (i.e. how this development would not prejudice the approved Queensway development);
- The implications and impacts if this development (Valentines Kennels) comes forward i) in advance, ii) at the same time and iii) behind the approved Queensway development, which could potentially start on site early next year; - Consideration of the scale of the Queensway development (dwellings/infrastructure/measures/funding) that may/may not realistically be in place given scenarios i), ii) and iii) at the commencement of the kennels development site;
- Consideration for the potential for other portions of the approved Queensway site to be developed outside or in place of the indicated 'Phase 1' area and the implication this development may have on required infrastructure

*Consideration and assessment of the following key issues under scenarios i), ii) and iii) outlined above is therefore essential in understanding the potential impacts of this proposal:*

- *Whether there is adequate width of existing highway to undertake the proposed works on Wildings Lane as proposed by the Valentines Kennels development*
- *What would be the impact of this development on the key sustainable link from the Queensway site (Wildings Lane);*
- *Do the proposals introduce uncertainty/risk in securing the stopping up of Wildings Lane in the future with the committed Queensway site delivered;*
- *Full consideration and assessment of the impact of construction works on Wildings Lane;*
- *The level of contribution from this development towards necessary infrastructure;*
- *Full consideration for the mitigation and appropriate contributions required and consistent with that deemed appropriate for the Queensway development and agreed at Public Inquiry;*

LCC state that if approval were to be given to the VK application for access via Heyhouses Lane then this would have implications for the approved Queensway development site. They state that it is LCC's view that once residents have established a pattern of use this

will introduce a significant level of uncertainty that the stopping up could be guaranteed (particularly if this use has been established over a significant number of years). If the stopping up of Wildings Lane is not delivered the implications and impact on Wildings Lane and the proposed key sustainable link from Queensway, and the junction with Heyhouses Lane, will be significantly greater and therefore this should form part of any consideration, assessment and decision regarding this proposal. They consider a properly planned approach is the way forward as the correct way forward, with the H1 and H2 sites developed following delivery of the necessary East-West link Road. The closure of Wildings Lane, in turn, raises questions over the impact and consequences of abortive and potentially short lived works on Wildings Lane, for the approved Kensington site (potentially increasing infrastructure requirements and costs to Kensington over and above that expected for the committed scheme).

#### Construction impact

LCC state that they do not consider it appropriate to use Wildings Lane and the Wildings Lane/Heyhouses lane junction as this is in line with the approach deemed acceptable for the approved Queensway development. They say that this approach takes into consideration safety and impact on residents of Wildings Lane, Jubilee Way, Manor Crescent etc., recreational users (dog walkers, cyclists and equestrians, particularly considering Wildings Lane Riding School and links to the Bridleway network) the enforcement, control and consistency of approach with regard to what was considered acceptable regarding Queensway and that allowing the VK site to use Wildings Lane for construction traffic raises issues with regard to all of the Queensway traffic making use of the lane during the interim transition whilst that portion of Wildings Lane immediately adjacent to Queensway remains open (prior to being closed to vehicular traffic).

*To be absolutely clear, LCC consider the approach set out and agreed at Public Inquiry in respect of all future housing proposed for the area taking access from the East-West Link road is the properly planned approach which supports and best guarantees delivery of the necessary highways and transport infrastructure and services (including improved bus service provision). The Valentines Kennels application does not support this approach and potentially puts at risk the wider development aspirations as set out in the emerging draft Local Plan. This is a concern to LCC as local highway authority.*

*In conclusion to LCC's consideration of Scenario 2*

*It is clear that consideration of Scenario 2 – access from Wildings Lane via Heyhouses Lane raises many more issues and questions than Scenario 1.*

*The consideration of Scenario 2 introduces much greater uncertainty and risk into the process. LCC have had to weigh up all these considerations in order to reach a conclusion on the acceptability or otherwise of the proposed application.*

*With consideration for all the above information provided by the applicant to date, Lancashire County Council consider that there are substantial adverse highway and transport impacts associated with this development, both direct and indirect, as currently presented. LCC are therefore unable to support the application as presented.*

They comment on the submitted TA stating that the traffic modelling is acceptable and they conclude that there is only a small impact on network capacity. They seek contributions towards public transport and have concerns about the indicative layout. In terms of funding mechanisms they state that Section 278 agreements are appropriate where improvements are required in the public highway, paid for by the developer (costs to include design fees, safety audits, amendments to street lighting and traffic signalling

equipment and all other risks associated with the highway improvements required by the development so that public funds are not used in the provision of these features). It is expected that for development to be acceptable in highway and transport terms within the Lytham and St Annes Strategic Location for Development, works must be secured through a s278 Agreement and must be agreed with LCC, following further detailed consideration. There has been no agreement reached on necessary s278 works for the proposed development. Planning Obligation requirements are expected to be applicable to development sites within the Lytham and St Annes Strategic Location for Development for which the LPA are minded to approve. A coordinated request for Planning Obligations will form the basis of the Highway Authority response and a will be a material planning consideration. The starting point for each developer should be to look at what was deemed necessary for the Queensway development with consideration for scale and impact; the developer should then identify and present appropriate mitigation and planning contribution. This would then be the subject of further discussion and negotiation.

Planning contributions will be used to fund and provide measures which support sustainable communities and developments and to reduce the level of negative impact that would otherwise be produced by development by providing infrastructure that facilitates/supports necessary change in travel behaviour. There has been no agreement reached on planning contributions for the proposed Valentines Kennels application, given the wider concerns outlined above for regarding this proposal.

#### Summary and conclusion

*Lancashire County Council takes its responsibility seriously with respect to the current and future use of the highway network whilst also giving a high priority to supporting economic growth in key Strategic Locations; including supporting private sector led economic growth, the creation of jobs and access to employment, education and training. Masterplanning is a fundamental element in delivering these priorities and requires the support from all parties; this includes developers, LCC and the Local Planning Authority.*

*In reaching our position with regard to this development proposal, LCC have conducted a review of the Transport Assessment submitted in support of the planning application. With consideration for all the information provided by the applicant to date, Lancashire County Council consider that there are substantial adverse highway and transport impacts, both direct and indirect, associated with this development, as currently presented. The highway authority is therefore unable to support this application at this stage. In recent years, LCC and Fylde BC have sought to set out a way forward in delivering long term, sustainable, economic development in the area. An accepted approach was developed as part of the agreements, scrutinised and set out at two public inquiries, involving the Kensington Development site (Queensway 1150 Dwellings).*

*The proposed Valentines Kennels development forms part of site H2 within the Lytham and St Annes Strategic Location for Development as set out in the emerging Local Plan to 2030. This document states, 'The site cannot be developed until after the implementation of the M55 to St Annes Link Road which is scheduled for completion in 2016.'*

*LCC would re-consider any proposal on this site were it to come forward as part of an overall agreed master planned approach, in line with supporting infrastructure, including infrastructure required as part of the committed Kensington development site*

*(Queensway 1,150 dwellings) and accompanied by an agreed Transport Assessment. LCC will apply the same reasoning when considering any future major development application within the Lytham and St Annes Strategic Location for development. LCC are therefore more than happy to work with Fylde Borough Council, in close liaison with developers and their transport consultants, to progress a properly Masterplanned approach that will support an appropriate level of development within the Lytham and St Annes Strategic Location for Development*

On the basis of this consultation response which whilst raising objections because of their view of the development not fitting in with a proper planned approach Fylde officers attempted to construct some reasons for refusal. LCC responded on the 28 May 2015 to state *that they did not agree with the revised reasons for refusal as the issues raised cannot simply be a highways matter but that a properly planned approach is necessary in this location. LCC consider the approach set out at Public Inquiry in respect of all future housing proposed for the area taking access from the East-West Link road is the properly planned approach which supports residential development, the necessary highways and transport infrastructure and services (including improved bus service provision). The Valentines Kennels application with access served off Wildings Lane is not in-line with this approach and could potentially put at risk the delivery of your emerging draft Local Plan in this area.*

*Key to the approach was the provision of highway infrastructure and transport services deemed necessary to support development in this location. All required changes were to be funded by development following an agreed, planned and phased approach. Of key importance to this approach in regards to the Queensway development was that Wildings Lane cannot be used to provide future access into any part of the Queensway site. As the site is built out and the necessary highway infrastructure delivered Wildings Lane was to be closed to vehicular traffic to provide a necessary high quality link for sustainable transport modes. LCC as local highway authority has set out clearly in our consultation response the concerns raised by this proposed development of the Valentines Kennels site. I attach these comments again with this letter. With consideration for all the information provided by the applicant to date, Lancashire County Council consider that there are substantial adverse highway and transport impacts associated with this development, both direct and indirect. LCC are therefore unable to support the application as presented. However, the issues this proposal raises cannot simply be considered a highways matter; the highways issues relate not to capacity but the need for a properly planned approach. LCC understand that the highways issues are only one element in the numerous considerations that Fylde BC must weigh up in the decision making process. If Fylde Borough Council considers the issues raised by LCC are not inextricably linked to the need for a properly planned approach in-line with your emerging draft policy document then any weight behind highways Reasons for Refusal fall away and as such I would expect Fylde BC decision to reflect this. It is for the LPA to balance all information provided in coming to a decision.*

Following receipt of legal advice Fylde informed LCC that they were minded to approve the application and asked them to provide appropriate conditions. In response they stated;

*Clearly there has been a number of meetings, considerable correspondence from all*

*parties and further information provided by the applicant, as well as legal advice, which has all been taken into consideration by officers of Fylde in reaching the proposed recommendation to committee. However, I must be clear that LCC's position remains as set out in the letter of 28th May, that being:*

*'LCC are therefore unable to support the application as presented. However, the issues this proposal raises cannot simply be considered a highways matter; the highways issues relate not to capacity but the need for a properly planned approach. LCC understand that the highways issues are only one element in the numerous considerations that Fylde BC must weigh up in the decision making process. If Fylde Borough Council considers the issues raised by LCC are not inextricably linked to the need for a properly planned approach in-line with your emerging draft policy document then any weight behind highways Reasons for Refusal fall away and as such I would expect Fylde BC decision to reflect this. It is for the LPA to balance all information provided in coming to a decision.'*

They then requested conditions in relation to the access to the site, arrangement of the access works, phasing of the development site and the highway works, highway scheme construction, construction routing and impact and visibility splays.

#### **FBC Legal team**

FBC Legal team were consulted with regard to the applicants proposals for safeguarding the closure of Wildings Lane to vehicles when the Queensway highways infrastructure becomes available to the residents of the Valentines Kennels estate, the below is their response;

*Our view is that for the reasons set out below there is sufficient comfort that the SoS will consider it necessary to stop up Wildings Lane under s247 of the TCPA 90 in order to enable the Queensway development to be carried out should the Valentine's Kennels application be approved. Therefore, we believe that LCC's concerns that the Valentine's Kennels development, or more specifically the future residents of the development, could have an adverse impact on any decision to stop up Wildings Lane are ameliorated by the issues that the SoS must consider when making his decision and also the steps proposed in the agent's letter in terms of notifying the future residents of the site of the fact that Wildings Lane will be stopped up. The reason for our view is that in deciding whether to make the order the SoS will consider highway safety and also the fact that Wildings Lane will be stopped up as part of the Queensway development (n.b. we couldn't find anything in the Queensway decision letter about Wildings Lane being stopped up so have relied on you for this information). This means that the SoS is likely to give weight to the fact that the Queensway development has been approved on the basis that the residents do not use Wildings Lane as an access and therefore, unless he was persuaded that there was more of a danger to highway safety by not closing Wildings Lane and allowing the residents of this and the Queensway development to use it, he is likely to make the necessary order. In our view there is a good and cogent planning case to stop up Wildings Lane, despite any objections from the residents, and we would not expect the SoS to make a decision contrary to good planning. This view is of course tempered by the fact that there is of course no cast-iron guarantee whatsoever that Wildings Lane will be stopped up whether or not the Valentine's Kennels development is approved.*

#### **United Utilities - Water**

No objections. In accordance with the NPPF and Building Regulations, the site should be drained on a separate system with foul draining to the public sewer and surface water draining in the most sustainable way. To reduce the volume of surface water draining



from the site UU would promote the use of permeable paving on all driveways and other hard-standing areas including footpaths and parking areas. Request a condition relating to a scheme for the disposal of foul and surface waters for the entire site has been submitted to and approved in writing by the Local Planning Authority.

#### **Electricity North West**

We have considered the above planning application submitted on 2/9/14 and find it could have an impact on our infrastructure. The development is shown to be adjacent to or affect Electricity North West operational land or electricity distribution assets. Where the development is adjacent to operational land the applicant must ensure that the development does not encroach over either the land or any ancillary rights of access or cable easements. If planning permission is granted the applicant should verify such details by contacting Electricity North West, Estates and Wayleaves, Frederick Road, Salford, Manchester M6 6QH.

They also refer to a 6.6kV overhead line which crosses over the corner of the site which will have to be diverted and removed to allow the development of the housing to take place.

#### **Environmental Protection Team**

With reference to your memorandum dated 2nd September 2014, there are no objections to the above proposals in principle, however I would add the following conditions:

Construction/demolition shall be limited to the following hours – 08.00 – 18.00 Mondays to Fridays; 08.00 -13.00 Saturdays and no activity on Sundays and Bank Holidays

Satisfactory reports have been provided for air quality and noise but there does not appear to be any consideration for contaminated land. A condition is requested to allow this to be examined and a mitigation strategy defined prior to any construction work taking place.

#### **Lancashire County Council Education team**

##### Primary Schools

When assessing the need for an education contribution from this development Lancashire County Council considers primary school provision within a 2 mile radius of the proposed site. Latest projections for the local primary schools show there to be a shortfall of 26 places in 5 years' time. With an expected yield of 20 places from this development the shortfall would increase to 46. Therefore, they seek a contribution from the developer in respect of the full pupil yield of this development, i.e. 20 places.

Calculated at the current rates, this would result in a claim of:

$(£12,257 \times 0.9) \times \text{BCIS Indexation } (314.50 / 288.4 = 1.090499) = £12,029.62 \text{ per place}$   
 $£12,029.62 \times 20 \text{ places} = \textbf{£240,592}$

##### Secondary Schools

When assessing the need for an education contribution from this development Lancashire County Council considers secondary school provision within a 3 mile radius of the proposed site. Latest projections for the local secondary schools show there to be a shortfall of 267 places in 5 years' time. With an expected yield of 8 places from this development the shortfall would increase to 275. Therefore, they seek a contribution

from the developer in respect of the full pupil yield of this development, i.e. 8 places.

Calculated at the current rates, this would result in a claim of:

$(£18,469 \times 0.9) \times \text{BCIS Indexation } (314.50 / 288.40 = 1.090499) = £18,126.38 \text{ per place}$   
 $£18,126.38 \times 8 \text{ places} = \textbf{£145,011}$

#### Expenditure Project

Following an initial scoping exercise of the local schools it has been determined that Lancashire County Council intend to use the primary education contribution to provide additional primary places at St Annes On Sea St Thomas' Church of England Primary School. Lancashire County Council intend to use the secondary education contribution to provide additional secondary places at Lytham St Annes High School.

To ensure that the approach is in line with the Community Infrastructure Levy regulations, the County Council confirms that there are no secured Section 106 pooled against St Annes On Sea St Thomas' Church of England Primary School and Lytham St Annes High School. However, please note that the St Annes On Sea St Thomas' Church of England Primary School has been proposed as an expenditure project in relation to two other applications. The claim will be reassessed once accurate bedroom information becomes available.

#### **Tree Officer**

In view of what was then an uncertain and contested picture of the biodiversity value of this wooded site I made a tree preservation order to ensure some trees were retained. This TPO affected mainly a group of early mature poplars to the fore of the site which I wanted retained at least until the Council's view of the application was clarified. I did not however seek to confirm that TPO within the statutory six months, and it lapsed - became ineffective - in October.

I note a revised layout scheme with some provision for public open space and accompanying landscape planting. This seeks to retain some of the edge trees, though only as a short-term measure, and chiefly as habitat until new trees are established. I feel that so long as the Council ensures the provision of a landscaping scheme that secures the planting of new trees, of species to be agreed at RM stage, and that hedges are retained for their qualities of screening, appropriateness to the locality and biodiversity, then I'm content to remove my reservations about the scheme. There are few trees of individual merit here, excepting some early mature poplars, and the TPO system can't protect those trees with greatest biodiversity value because they are generally in poor condition and would trigger exemptions from the TPO.

#### **Landscape and Urban Design Officer**

Following a review of the submitted Landscape Plan the landscape comments are as follows; Based on the existing site conditions and in isolation of other planning approvals adjacent to the site the development would have an adverse visual and landscape character impact. Visual impact; The site is located within open countryside which is flat low lying agricultural land. The proposed development will be visually intrusive, highly visible and from Wildings Lane and across the open countryside. Landscape Character; the change of use from agricultural to residential, will have a significant impact on the urbanisation on the area. The landscape adjacent has approval for residential development. Therefore, the visual impact and landscape character will not be

applicable due to the change in conditions. The proposed development will be surrounded by the Kensington development which is significantly different in size, and the variation in scale and character. Therefore it is beneficial for the treatment of the developments to be similar and promote connectivity / permeability between the two sites. There is no Landscape Plan submitted in the application, thus this item has not been reviewed. Further information is required with regards to the:

- Layout of the landscape and the public open spaces within the development.
- The extent and the location of the play provision is not identified.
- The landscape treatment to frontage and entry to the development.
- The connectivity / public rights of way linking into the adjacent developments.

The Landscape Plan needs to show the proposed plant species, stock size, locations, numbers and densities. Further details required of the Play provision, street furniture, hardscape/paving treatments and street lighting provision. Due to the close proximity of the adjacent developments it is essential that main features like street lighting are consistent especially to frontage of Wildings Lane

#### **Environment Agency**

No objection in principle to the proposed development. The proposal will only meet the requirements of the NPPF if the measures detailed in the FRA are implemented and secured by way of planning condition. Request conditions relating to the surface water discharge and drainage scheme

#### **LCC Local Strategic Flood Risk**

*An FRA and outline drainage strategy has been submitted as part of the Environmental Statement. These documents state that final drainage strategy for the site is to be confirmed at detailed design stage. The FRA indicates that infiltration based SuDS techniques are unlikely to be suitable at the site however the current site is presumed to drain via infiltration or run off into the existing field drain system. The LLFA will require further evidence which demonstrates why preferable discharge options cannot be employed before approving one of the other options. The FRA indicates that the surface water drainage system for the developed site will include drainage to the existing land drain system and use of attenuation. Assuming that infiltration is proven not to be viable this proposal would be acceptable. The LLFA is aware of other development in the immediate proximity of this site and therefore consideration needs to be given to the cumulative effect on the local drainage system. The applicant will therefore need to ensure that the post development run off rate does not exceed the green field run off rate. The LLFA is aware that the land drains on the site are not currently well maintained. In order to ensure they can be incorporated as part of the surface water drainage system for the developed site these land drains will have to be subject to a regular maintenance regime. The FRA states that discharge rates to the drainage ditches need to be agreed with the EA. Whilst it is accepted that this FRA was produced prior to changes in responsibilities in this area, for the avoidance of doubt it is now the LLFA who is responsible for Land Drainage Consent for ordinary watercourses. The applicant is reminded that Paragraph 103 of the NPPF requires priority use to be given to SuDS and in accordance with Paragraph 80, Section 10 of the Planning Practice Guidance the preferred means of surface water drainage for any new development is via infiltration. The applicant must submit evidence as to why each 'level' of this hierarchy cannot be achieved. Prior to designing site surface water drainage for the site, a full ground investigation should be undertaken to fully explore the option of ground infiltration to*

*manage the surface water in preference to discharging to a surface water body, sewer system or other means. For example, should the applicant intend to use a soakaway, they should be shown to work through an appropriate assessment carried out under Building Research Establishment (BRE) Digest 365. The Lead Local Flood Authority also strongly encourages designing drainage systems for exceedance, working with the natural topography for the site. Should exceedance routes be used, the applicant must provide a site layout plan with these displayed, in line with Standard 9 of DEFRA's Technical Standards for SuDS.*

LCC have no objections to the proposed development subject to the inclusion of conditions relating to the reserved matters to include a surface water drainage scheme to be agreed, no occupation of the development until completion of SuDS in accordance with SuDS Scheme and management plan and a surface water lifetime management and maintenance plan.

### **Neighbour Observations**

**Neighbours notified:** 02 September 2014

**No. Of Responses Received:** Eight

**Nature of comments made:**

The letters object to the development, a summary of the comments made below;

- Inappropriate access to the site down Wildings Lane.
- Increased traffic and congestion.
- Highway safety.
- Impact on property through vibration, already felt during Booths construction.
- Road humps are a waste of time.
- If Queensway development uses this access then problems far worse.
- Negative impact on wildlife habitat (BHS).
- Impact on SPA and away from phasing of the Queensway site.
- Impact on open countryside.
- Phasing of Queensway means dwellings wont be built near Wildings Lane for 15 to 20 years. Ecology reasons for phasing is important and only received permission after and Appropriate Assessment.
- Application would round of a development that has not been built, may never be built and will take may years to reach that stage.
- Design of dwellings obtrusive in landscape, height should be restricted.
- Impact on animals in ditches around site.
- Insufficient public open space for wildlife.
- Where will geese go when busy estate is up and running.
- Flooding and drainage problems in area.
- Noise and dust pollution during construction phase.
- Prematurity of development prior to Queensway scheme.
- The improved access will be on third party land.
- Ecological and landscape buffer zones will be required.
- Site will set a precedent in allowing residential access from Wildings Lane.
- Will encourage a further application from the land between the application site and the urban boundary which would be difficult to resist.
- St Annes does not need housing.

- Impact on infrastructure.
- Why allow more new builds on renowned poor building land – look at Cyprus point.

A petition signed by 66 names objecting to the development, it states that they object to the application on the following grounds;

6. Vehicle and pedestrian access to the site is inadequate, the road being narrow and unable to accommodate the suggested number of vehicles
7. Extra traffic will significantly increase congestion at the junction of Wildings Lane and Heyhouses Lane and will cause traffic to short-cut through Jubilee Way (an access only estate)
8. Extra traffic will cause safety concerns for users of the lane and established bridleway, including horse riders and dog walkers who will be displaced.
9. The proposed development is over-intensive, it would cause further loss of countryside land and does not pay regard to the ecological issues which effect the site (designated biological site).

### **Relevant Planning Policy**

#### **Fylde Borough Local Plan:**

SP02	Development in countryside areas
HL02	Development control criteria for new housing proposals
HL06	Design of residential estates
TR01	Improving pedestrian facilities
TR02	Increasing provision of bridleways
TR03	Increasing provision for cyclists
TR05	Public transport provision for large developments
TR13	St Annes to M55 link road
TREC17	Public Open Space within New Housing Developments
EP10	Protection of important landscape and habitat features
EP11	Building design & landscape character
EP12	Conservation trees & woodland
EP13	Planting of trees, hedgerows and woodland
EP14	Landscaping of new developments
EP15	Protection of European wildlife sites
EP17	Development in or near Biological & Geological Heritage Sites
EP18	Natural features
EP19	Protected species
EP23	Pollution of surface water
EP24	Pollution of ground water
EP25	Development and waste water
EP26	Air pollution
EP27	Noise pollution
EP28	Light pollution
EP31	Managing water resources

#### **Other Relevant Policy:**

NPPF:	National Planning Policy Framework
NPPG:	National Planning Practice Guidance

## **Site Constraints**

Within countryside area

## **Comment and Analysis**

The main issues when considering this application are;

Principle of the development

Impact on the character of the area

Highways issues

Ecological issues

Impact on residential amenity.

### **The principle of the development**

When considering the principle of development regard must be had to the Development Plan with determination in accordance with this plan unless material consideration indicate otherwise. The statutory development plan and key material considerations in regard to the principle of development are the saved policies of the Fylde Borough Local Plan (2005) and the National Planning Policy Framework. In accordance with the NPPF 'due weight' should be given to the relevant saved policies within the Local Plan and the weight given to these policies depending upon the degree of consistency with the NPPF. The starting point for determining this applications therefore remains the saved policies of the Local Plan. If there is a conflict between these saved policies and the NPPF, the NPPF takes precedence, however it should be read as a whole and in context. The Local Plan identifies the site as being in the open countryside and as such policy SP2 – Development in countryside areas applies, this policy restricts development in the countryside asides for certain types of development of which the development proposed by this application is not one. Therefore on the face of it the application is contrary to Local Plan policy and so it has to be assessed whether or not the NPPF and other material considerations would justify overruling this policy.

The NPPF states that there is a need for the planning system to perform an economic, social and environmental role. In a social role, it is necessary that the planning system supports strong, vibrant healthy communities by providing the supply of housing required to meet the needs of present and future generations that reflects the community's needs. Local circumstances need to be taken into account. There is a presumption in favour of sustainable development and local planning authorities are urged to approve, without delay, development proposals that accord with the development plan. It advises that decision takers at every level should seek to approve applications for sustainable development where possible.

In section 6 of the NPPF 'Delivering a wide choice of high quality homes' the Framework requires the significant boosting of housing and local authorities should use their evidence base to meet the full objectively assessed needs for market and affordable housing in the housing market area. For market and affordable housing a five year supply should be maintained. Housing applications should be considered in the context of the presumption in favour of sustainable development (paragraph 44). Applying this policy context to the development requires considering the NPPF as a whole and assessing the weight which should be applied to SP2 and also considering the sustainability of the development and the balance of any positive or adverse impacts, within the NPPF context of seeking to boost housing supply and economic growth;

The Revised Preferred Option of the emerging Fylde Local Plan to 2032 is currently out for

consultation and therefore limited weight can be afforded to the policies contained within the emerging local plan. At a meeting of the Development Management Committee on the 16 September 2015 this site along with another site named 'land east of Wildings Lane' were proposed by Officers to be included as part of the housing allocation for St Anne's. The sites were previously part of the H2 Housing allocation in the original preferred options. H2 was removed as a potential allocation due to the majority of the site being declared as a Biological Heritage Site by Lancashire County Council, however the application site and the 'land east of Wildings Lane' site are not included in that designation and, given the approval of planning permission for housing to the north south and west through the Queensway approval, Planning Officers proposed to include these sites in the Revised Preferred Option. Members at that meeting determined that the Council had previously accepted their deletion when it agreed the draft version of the Revised Preferred Option on the 16 June and that these two areas of land should not be taken forward in the Revised Preferred Option.

### **Does the proposal deliver sustainable development?**

The National Planning Policy Framework requires developments to be sustainable. Proposals are to be considered against an economic, social and environmental role in this regard. Economically to ensure sufficient land of the right type is available in the right place to support growth and innovation. Socially by providing the supply of housing required with access to local services and environmentally by protecting and enhancing natural, built and the historic environment and improving biodiversity.

#### Accessibility of the site

The application site is located on the eastern edge of Wildings Lane, which is a road that joins Heyhouses Lane to the south. Of significance is that the land to the north south and west has planning permission for residential development including the provision of a new primary school. The site is located approximately 160m from the settlement of St Annes and all the services and facilities located there. There is a regular bus services along Heyhouses Lane, with the nearest bus stop approximately 320m away, with bus numbers 78 and 688 stopping here. Directly opposite the Wildings Lane and Heyhouses Lane junction is the former EDS site which has been developed with residential development, the Water's Edge Public House and a Booths supermarket. Clifton Primary School is located 0.5 miles from the site and St Annes Technology and Performing Arts Secondary School is 1 mile away. Whilst the application site is located within the open countryside, it is located in close proximity to Saint Annes and to the services within the settlement and the wider area can be accessed by walking or by local bus services. The site can be seen, therefore, to be in a sustainable position and comply with the NPPF requirement that housing applications should be considered in the context of the presumption in favour of sustainable development (paragraph 49) and that to promote sustainable development in rural areas housing should be located where it will enhance or maintain the vitality of rural areas and that Local Planning Authorities should avoid new isolated homes in the countryside (paragraph 55). Whilst the application would be contrary to Policy SP2 of the Local Plan in this instance there is greater weight to be given to the NPPF due to the site's sustainable location and the NPPF's housing objectives and presumption in favour of sustainable development.

#### Housing supply

The NPPF requires LPA's to 'identify and update annually a supply of specific deliverable sites sufficient to provide five years' worth of housing against their housing requirements with, if there is a record of persistent under delivery of housing, an additional buffer of 20% (moved forward from

later in the plan period) to ensure choice and competition in the market for land. The latest five year housing supply for Fylde Council is that as of the 31 March 2015 Fylde have a 4.3 year supply. Therefore planning policies for the supply of housing for the purposes of determining applications are considered out of date and this is significant as the NPPF states that where relevant policies are out-of-date, permission should be granted unless any adverse impacts outweigh the benefits, or other policies indicate otherwise, when assessed against the NPPF. This is a material consideration when determining this planning application. If a scheme is considered to deliver sustainable development and not have any adverse impacts that would significantly and demonstrably outweigh the benefit in housing supply, that guidance is clear that planning permission should be granted

#### Scale of development

The scale and density of the development proposed would be in line with that approved on the adjoining land. The highways issues surrounding the application are discussed in greater length below but the application proposes to utilise Wildings Lane until the Queensway site and access to it is developed and then this interim access will be closed to vehicles in line with the previous approval. It is not considered that the addition of up to 53 units would be an unacceptable scale of growth to the settlement and that there are sufficient services within the settlement to meet the needs of the occupiers of the dwellings. Policy HL2 of the Fylde Borough Local Plan lists a series of criteria that a development needs to comply with to be acceptable, with many of these consistent with the core planning principles in para 17 of NPPF and with other sections of that guidance. Criteria 2 requires that development should be of a scale that is in keeping with the character of the locality. It is considered that the scale of development proposed in this scheme is acceptable and would not be of a scale that would warrant refusal of the application. The scale of the development proposed in this application is considered to be sustainable development and is not inappropriate to the size of St Anne's or its services and would relate to the surrounding approved housing development.

#### Impact on the character of the area/visual impact

The application site is located directly adjacent to an approved residential scheme and the Planning Inspector when allowing that development at appeal considered the visual impact that proposal would have on the character and appearance of St Annes. This application effectively infills an area excluded from the development that the Inspector permitted to the north and south. The most significant view of the site will be from the east but with the development of the adjacent site and an appropriate scheme of landscaping it would be viewed as having a consistent boundary in line with the adjacent developments. The trees within the site that are of the best quality are shown to be retained on the indicative layout submitted and any Reserved Matters would need to reflect this. Tree and hedgerows are proposed and the existing ditches to the north and eastern boundaries will be retained with a scheme of landscape enhancement. The provision and retention of these features will assist in integrating this development into the setting of the adjoining development and St Annes. It is not considered the development will have a significant visual impact, it will eventually be well contained and surrounded by residential dwellings and existing natural landscape features.

#### Principle of the development – summary

The site is located in close proximity to the urban settlement of St Annes, but is located in an area classified as open countryside in the Fylde Borough Local Plan. It is adjacent to the approved housing to the north, south and west. The site is located 300m north of Heyhouses lane, a main road that runs through St Annes and its associated bus routes and is within reasonable distance of local and community services in St Annes. The proposed development is considered to be sustainable in



relation to the settlement and would not represent an unacceptable growth to the settlement in terms of scale and would therefore comply with the NPPF requirement that housing applications should be considered in the context of the presumption in favour of sustainable development. Furthermore when considering the housing objective of the NPPF Fylde does not have a five year housing supply for which there is an identified need. The proposal would therefore contribute to meeting this identified need for dwellings in the emerging Local Plan and the housing supply for the Borough as a whole. This site is considered to be a suitable location for development, and the scheme of a scale that can be accommodated without causing evidenced harm to the settlement.

## Highways

The application has been made in outline with access a detailed matter for consideration, a Highways Transport Assessment (TA) by SCP Transportation Planning has been submitted with the application. This has been considered by the County Highway Authority and has been subject to ongoing discussions since its submission. The Transport Assessment outlines the impact of the development and the proposed access arrangements to the site. The County Highway Authority have been consulted and their extensive comments are reported in the consultee section. The application proposes that initially the site will be accessed via Wildings Lane and then, when the Queensway site's highway network is constructed, it will then be used. The TA considers the existing highways conditions, the trip generation and traffic assignment generated by the development and the two different accesses and the impact on the various junctions from both scenarios.

### Proposed access solutions proposed and highways impact

The main highways consideration for this development is the proposed access to the site. The application proposes two basic scenarios;

- h) An 'interim' solution which proposes the site will be accessed via an improved Wildings Lane; and,
- i) A 'future' solution which proposes the site will be accessed through the adjacent Kensington Developments Ltd (KDL) 'Queensway's development site, once that scheme is fully developed out to the sites frontage in accordance with its approved masterplan

The reason why two access solutions are proposed and assessed in the TA is because the approved Queensway masterplan includes the stopping up of Wildings Lane to vehicular traffic and that the current route of Wildings Lane will be redeveloped as Wildings Lane is not appropriate to serve a development of the scale of that proposed on the Queensway site. Therefore once Wildings Lane is stopped up and developed the traffic from this application site will switch to the highways serving the Queensway site including the new east-west link road.

During the 'interim' solution the application proposes to improve a section of Wildings Lane to make it acceptable to use by the prospective residents of the site. These improvements are proposed over the 250m of Wildings Lane that lies between the proposed site access and the metalled, residential cul-de-sac to the south. The road improvements feature a 5m wide road cross section with a footway of 1.8m width on its eastern side. The application states that these 'interim' improvements can be achieved wholly within the extent of the existing adopted boundary, a copy of which has been transposed / underlaid at scale to Wildings Lane on the plan submitted in the TA.

The 'future' solution will result in the proposed development linking up with the adjacent housing development and utilising the highways network approved by that application. The signed Section 106 Agreement between KD and FBC / LCC states that the TR6 M55 – Heyhouses Link Road shall be

completed in full prior to the occupation of the 425th residential unit on that site (total approved units = 1150). The route of the new link road will run alongside the existing North Houses Lane / Wild Lane route. Funding is secured to turn the existing route into a bridleway in the S106 Agreement. As part of the Queensway scheme, KDL are also obligated through the S106 Agreement to construct the east-west link road (known as TR5) between the M55 Link Road and Queensway. The S106 obligates KDL to fund the delivery of the TR5 route in full prior to the occupation of the 375th dwelling on the site. At the point this infrastructure becomes available the site will no longer use the 'interim' access which will then be closed to vehicles.

The TA considers the highways impact of both the 'interim' and 'future' accesses, looking at the impact on various junctions in the vicinity. For the interim measure the TA considers the impact of the site being accessed by Wildings Lane with the TA study area includes the Heyhouses Lane /Wildings Lane junction, the Heyhouses Lane / Former Govt Offices site mini-roundabout access (planned) and the Heyhouses Lane / Blackpool Road signalised junction, and in the second 'future' access scenario, (b) the TA study area includes the planned Queensway site access roundabout, the planned TR6 M55 Link Rd / TR5 East-West Link Road roundabout and the planned TR5 East-West Link Road / Queensway site internal connector road junction. The TA submitted considers a development of up to 60 dwellings whereas the application is for up to 53 residential units. The applicants have confirmed that the application was amended to 53 units in order to achieve the best form of development on the site after the TA assessments had been prepared. As the TA has been prepared on a higher quantum of development than will ultimately delivered from the site it is considered to be robust and acceptable. The applicants have, however, provided the trip generation figures for 53 units which are as follows;

Proposed residential dwellings – Trip Rates (per Dwelling) and estimated Traffic Generation				
Mode	Weekday AM Peak Hour (8-9am)		PM Peak Hours (17-18pm)	
	Arrivals	Departures	Arrivals	Departures
Trip rates	7	24	23	12
Cyclists	0	1	1	1
Pedestrians	2	9	5	3
Public Transport	0	2	1	0

The amendment from 60 to 53 units results in four less vehicle movements in the AM hour and five in the PM hour (both two-way). The TA demonstrates that there would not be an adverse impact on Wildings Lane as a consequence of this development with the effect of this level of traffic on local residents amenity on Wildings Lane being found to be Minor-Adverse. The NPPF paragraph 32 states that "Development should only be prevented or refused on transport grounds where the residual cumulative impacts of the development are severe". The above trip rates are not considered to be severe to the degree that could warrant refusal of the application.

The County Highway Authority have raised a number of concerns regarding the applicant's proposed interim solution, however these do not relate directly to the proposed development but more as to whether the interim solution could potentially allow traffic from the Queensway site to utilise the Wildings Lane access, which would result in an unacceptable severe impact. Their concerns relate to the timings around this application and the Queensway one, whether this proposal could prejudice the Queensway development, whether there is adequate width of existing highway to undertake the proposed works in Wildings Lane as proposed in this application, the risk that the development might not be stopped up, impact of construction works on Wildings Lane, contributions from the development towards necessary infrastructure and the full consideration of the mitigation and appropriate contributions required and that these should be consistent with the Queensway development and agreed at Public Inquiry. The County Highway Authority have, therefore,

confirmed that their lack of support for this application does not relate to the capacity of the surrounding highways network but the need for a properly planned approach, therefore the application and the 'interim' access arrangement proposed in planning terms is acceptable. The consultation response from The County Highway Authority raises concerns but fails to provide a reason or reasons for refusal, Fylde Borough Council officers therefore prepared some refusal reasons for their consideration and they commented in writing that they do not agree with the reasons for refusal and consider that the issues this proposal raises cannot simply be considered a highways matter but that a properly planned approach is necessary in this location. They state; *"LCC consider the approach set out at Public Inquiry in respect of all future housing proposed for the area taking access from the East-West Link road is the properly planned approach which supports residential development, the necessary highways and transport infrastructure and services (including improved bus service provision). The Valentines Kennels application with access served off Wildings Lane is not in-line with this approach and could potentially put at risk the delivery of your emerging draft Local Plan in this area... LCC are therefore unable to support the application as presented. However, the issues this proposal raises cannot simply be considered a highways matter; the highways issues relate not to capacity but the need for a properly planned approach. LCC understand that the highways issues are only one element in the numerous considerations that Fylde BC must weigh up in the decision making process. If Fylde Borough Council considers the issues raised by LCC are not inextricably linked to the need for a properly planned approach in-line with your emerging draft policy document then any weight behind highways Reasons for Refusal fall away and as such I would expect Fylde BC decision to reflect this. It is for the LPA to balance all information provided in coming to a decision."* Therefore the highways concerns of the County are not in relation to the impact of this development on Wildings Lane and the surrounding highway network.

The 'future' access arrangements will see the largest percentage impact on the eastern section of the planned TR5 Link Road where an impact of 8.4% is forecast in the PM peak however. The effect of this level of traffic flow in the area is found to be Negligible. With regard to the future access scenario the County Highway Authority state that if an application were to be submitted with access taken from the approved East-West link road delivered in line with the Queensway site then they would support the application and that the traffic impact would be minimal. The County Highway Authority, therefore, accept that the level of traffic generated by this development would be acceptable in isolation in terms of its impact on Wildings Lane, however, they would have concerns if the access were to remain open and not closed up as proposed within the Queensway development. Both the outline approval and the pending Reserved Matters applications show Wildings Lane to be closed to vehicles, and an access plan is a condition of the outline approval. The issues surrounding the proposed approach are outlined below.

#### Restricting use of Wildings Lane to the application site only

Both the County Highway Authority and your Officers raised concerns with the applicant's plan with regard to the proposed 'interim' and 'future' solutions and the applicants and their Highway consultants have provided information in order to attempt to overcome these concerns. The main concern of both the County Highway Authority and LPA is that allowing this development could prejudice the stopping up of Wildings Lane to vehicular traffic in the future, something that is a requirement of the Queensway application (condition 17 requires submission of a movement strategy) and also that the occupiers of the adjacent site could utilise the Wildings Lane access, which if allowed to occur would result in a severe impact which would clearly be unacceptable. The mechanisms proposed by the applicants for this development to ensure the Kensington Developments scheme does not utilise Wildings Lane during the 'interim' solution are through the approved Queensway scheme itself which shows Wildings Lane to be closed to traffic in both the outline and pending Reserved Matters application. The phasing plans submitted with the pending

Reserved Matters Kensington application show that phase 2 includes completion of the link road, with phases 3 and 4 to be completed after this road is available. Phases 3 and 4 are those nearest to the Valentines Kennels site. As this is shown as part of the RM application the applicant argues that a requirement to close a highway can, and is regularly included within a planning condition, and has given examples of such condition, stating that a road closure is normally progressed pursuant to, and dependent upon a planning permission. They state that a condition with the following wording could be used;

*a) No part of the Queensway scheme shall be accessed via Wildings Lane, except by pedestrians and cyclist users.*

*b) Full details, including details of any road closure/s to Wildings Lane (or processes to that effect), construction phases, and proposed road dedication boundaries should be submitted and approved by the LPA. The approved road infrastructure (including that approved as part of phase 2) shall be subsequently implemented prior to the occupation of any unit served by the road infrastructure within phase 3. For the avoidance of doubt, the plans should include details to ensure that the ability of any adjacent landowner/s to access the public highway are not prejudiced by the closure of Wildings Lane or other works, as shown on the approved plans.*

This condition or similar would prevent any element of the Queensway development from using Wildings Lane in a vehicle and require that details of the road closure to this road including phases to be submitted to the Local Authority and that the approved infrastructure would be in place prior to the occupation of any dwelling contained within Phase 3. The applicants view is that the use of planning conditions to prohibit occupation of any dwellings in phase 3 or 4 of the Queensway development prior to the laying out, completion and opening of the estate road indicated on the phasing plan and, the closure of Wildings Lane to vehicular traffic; at which point traffic from the Valentines Kennels site could start using the new road and KDL could start occupying phase 3 would be wholly reasonable, in full accord with the NPPF and NPPG and serve to address any concerns the LPA might have. Should KDL subsequently wish to reconsider their access arrangements and utilise Wildings Lane they would require a new planning application to do so at which point the LPA would be able to consider the merits of any such proposal in light of the relevant policy at that time.

It is considered that such measures will offer the LPA an appropriate degree of control over the proposed interim solution. A planning application should be considered on its own merits, the Queensway scheme has been approved on the basis that none of the development would be accessed by vehicles via Wildings Lane. To change this approach would need a planning application to alter the approved access arrangements. If this occurred the Local Planning Authority would be able to take appropriate enforcement action.

#### Closing up of lane following availability of Queensway road network

Whilst it is considered that in principle the use of the 'interim' access arrangement can be controlled so that it is only used by occupiers of the application site', the closing up of this access to vehicles when the Queensway highways network following completion of phase 2 becomes available also needs to be considered. Occupiers of the development could be second or third occupiers who at that point would be accustomed to using the Wildings Lane access, as it forms a more direct and quicker route to St Anne's town centre. The County Highway Authority have raised this as a concern as potentially occupiers of the development could then object to the closing up of the road because once residents have adopted a pattern of use over a number of years. The County Highway Authority state that if the road is not closed then the implications and impact on Wildings Lane and the proposed key sustainable link from Queensway, and the junction with Heyhouses Lane, will be significantly greater and that this situation should form part of any assessment and decision

regarding this proposal. In the Queensway application, Wildings Lane has been set aside for use as a 3m wide high quality access for non-motorised sustainable modes to support the sustainable development of the large Queensway development. It will also serve as an emergency access route for this site which could ultimately deliver up to 1,150 dwellings. This facility is an important element in the overall sustainability of the approved Queensway development.

The applicants suggest that the 'switch' to access the site via the Queensway road network is secured via a S106 legal Agreement rather than a planning condition. Which would give the LPA and the County Highway Authority more assurance that any developers would not challenge such an agreement at a later date because legal agreements are much harder to change than planning conditions. To ensure that Wildings Lane is stopped up as and when the Queensway highways infrastructure is completed and it is no longer needed as a vehicular access for the application site the applicants have proposed that the most appropriate method for the stopping up of Wildings lane to be via Section 247 of the Town and Country Planning Act 1990. Any application for a Stopping-up Order made under this section of the Act would, if the Secretary of State is satisfied to do so, allow the stopping-up to be carried out in accordance with a valid and relevant planning permission. The requirement for the stopping-up can also be secured by way of planning condition. The applicants state that any objections to such an application would only be given significant weight if the objecting party would be unreasonably prejudiced by the proposals. Objections from individuals or groups who simply don't like the planning permission that the Section 247 is submitted pursuant to can carry no weight and cannot frustrate the process by objecting to the Stopping-up.

Therefore as long as the residents of the application site have been made fully aware of the planning approval and the requirements for the stopping up of the access in the future their objections would not carry significant weight and are highly unlikely to be considered by the Secretary of State as sufficient to refuse the order. The applicants therefore propose to make first and subsequent occupiers of the proposed dwellings aware of the requirement to stop up Wildings Lane by the following mechanisms;

- Notification within the sales particulars of the interim and future access arrangements. This could be required through the Section 106 Agreement;
- The properties could be sold on a leasehold or freehold basis with a clause within the leasehold/freehold disposals (title documents) identifying the planning permission and interim and future access arrangements

Therefore second or third occupiers would be aware of the future access arrangements to their dwellings through their title deeds. The applicants commissioned solicitors who have proposed the following wording which they consider adequately and lawfully addresses this matter;

*"The [Tenant] [Transferee] acknowledges and accepts that:*

*a. the [Landlord][Transferor] (or the developer of the Queensway Estate) intends to stop up Wildings Lane pursuant to s247 of the Town and Country Planning Act 1990 (as amended) or other legal means as part of the residential development of the Estate and/or the Queensway Estate; and*  
*b. following the stopping up of Wildings Lane access to the Estate will be over and along the roads (constructed or to be constructed) through the Queensway Estate including those shown coloured [green] on Plan [1b]."*

*Definitions to be used with deed are:*

*"Estate" – would be defined by reference to a plan of the development of the 53 dwellings and the planning approval reference number;*

*"Queensway Estate" means the residential development on the land shown edged red on Plan [1a].1*

With this clause included within the deeds there can be no point at which any future occupier of the site can assert that they have not been duly notified of the access arrangement and as such if they were to object to a stopping up order it would carry immaterial weight and would not be sufficient to warrant refusal of the order. Fylde Borough Council's Legal Officers have considered this aspect of the development and their view is that there is sufficient comfort that the Secretary of State will consider it necessary to stop up Wildings Lane under s247 of the Town and Country Planning Act 1990 in order for the Queensway development to be carried out should the Valentines Kennels application be approved. They state that they believe that the County Highway Authority's concerns that the future residents of the development could have an adverse impact on any decision to stop up Wildings Lane are ameliorated by the issues that the Secretary of State must consider when making his decision and also the steps proposed by the applicants in terms of notifying the future residents of the site of the fact that Wildings Lane will be stopped up. The SoS will consider highway safety and also the fact that Wildings Lane will be stopped up as part of the Queensway development) which means the SoS will give weight to the fact that the Queensway development has been approved on the basis that the residents do not use Wildings Lane as an access and unless he was persuaded that there was less of a danger to highway safety by not closing up the road and allowing them to use it he is likely to make the necessary order. In FBC's Legal officers' view there is a good and cogent planning case to stop up Wildings Lane, despite any objections from the residents and they would not expect the SoS to make a decision contrary to good planning. Therefore, notwithstanding the concerns of LCC over the control of the use of the access and its closure, it is considered that both of these can be adequately controlled.

The view of FBC Legal Officers has been shared with the County Highway Authority and they state that their position remains the same as set out in their letter of 28 May, that being;

*'LCC are therefore unable to support the application as presented. However, the issues this proposal raises cannot simply be considered a highways matter; the highways issues relate not to capacity but the need for a properly planned approach. LCC understand that the highways issues are only one element in the numerous considerations that Fylde BC must weigh up in the decision making process. If Fylde Borough Council considers the issues raised by LCC are not inextricably linked to the need for a properly planned approach in-line with your emerging draft policy document then any weight behind highways Reasons for Refusal fall away and as such I would expect Fylde BC decision to reflect this. It is for the LPA to balance all information provided in coming to a decision.'*

Your officers have balanced all the information provided by the applicants, the advice taken from Legal Officers and come to the conclusion that the development of the site from a highways point of view can be controlled so that it does not have severe impact on the highways network. The concerns of the County Highway Authority with regard to the misuse of the Wildings Lane are shared by the LPA however, with the measures proposed in place this can be controlled along with the closing up of the road when its use is no longer necessary. As we have indicated that we are minded to approve the application LCC Highways have provided conditions which they would like to be placed on any permission granted, these include schemes for the site access and off site highway works, including the site access junction with Wildings Lane and an agreed highway improvement scheme on Wildings Lane and its implementation, a phasing condition for the whole of the site and the highway works, a Construction Environmental Management Plan being submitted and visibility splays being maintained.

#### Highways impact during construction

During construction it is proposed that mitigation measures be carried out to ensure that access into

and out of the site onto the Local Highway Network by construction traffic is safe. These will take the form of appropriate temporary traffic management measures. Wheel washing facilities will be provided in the site to ensure that no mud or debris is carried onto the highway. The County Highway Authority have requested that a Construction Environmental Management Plan be submitted prior to development, and this will include the following details;

- a) how biodiversity would be protected throughout the construction period
- b) the potential impacts from all construction activities on both groundwater, public water supply and surface water and identify the appropriate mitigation measures necessary to protect and prevent pollution of these waters
- c) the parking of vehicles of site operatives and visitors;
- d) loading and unloading of plant and materials;
- e) storage of plant and materials used in constructing the development;
- f) the erection and maintenance of security hoarding including decorative displays and facilities for public viewing, where appropriate;
- g) wheel washing facilities to be retained throughout the construction period by which means the wheels of vehicles may be cleaned before leaving the site;
- h) a management plan to control the emission of dust and dirt during construction identifying suitable mitigation measures and including actions to be taken in the event that any dust control equipment employed on site fails;
- i) a scheme for recycling/disposing of waste resulting from construction work (there shall be no burning on site);
- j) a Management Plan to identify potential ground and water contaminants;
- k) details for their storage and how water courses will be protected against spillage incidents and pollution during the course of construction;
- l) a scheme to control noise during the construction phase,
- m) the routing of construction vehicles and deliveries to site.

They request that no construction or associated vehicle movements should take place on Sundays or Bank Holidays or outside the hours of 0800-1800 Monday to Friday and 0800-1300 on Saturdays and that the development shall then proceed in full accordance with this approved plan. It is considered that with the control of all these measures that the highways impact during the construction phase can be managed so that it does not have an unacceptable impact.

#### Internal layout

The layout of the development is reserved for future consideration, however the indicative layout shows a range of parking arrangements, including to the front, rear and side of the dwellings with a ratio of 150% for two bedroom units and 200% for three and four bedroom units. The final layout should accord to manual for streets.

#### Highways contributions

Given the County Highway Authority's stated position on the development the matter of appropriate section 106 contributions for transport has not been agreed between the highways authority and the applicant. They state that obligations are required and expected to be applicable for this site if the LPA are minded to approve the application and that the starting point for each developer should be to look at what was deemed necessary for the Queensway development with consideration for scale and impact, the developer should then identify and present appropriate mitigation and planning contributions which should be subject to further discussion and negotiation. The applicant provided a response to the County Highway Authority comments of the 3rd November

2014 in a letter from their Transport Consultant (SCP) dated 12th November 2014. This letter set out on page 5 what the applicant considered to be an appropriate contribution. The County Highway Authority do not agree with the level of contribution put forward by the applicant and further negotiations are required between the three parties. As the levels of contributions have not been agreed, if members are minded to approve the application the resolution would therefore be to delegate to officers to approve subject to agreement of an appropriate level of contributions towards highways.

#### Other highways issues

In their consultation response, the County Highway Authority have stated that it is questionable that there is adequate width of existing highway to undertake the proposed works on Wildings Lane and Kensington Developments Ltd in their objection state that they own the land on either side of the current track which will be required to construct the new highway and will not make this land available for such use and that as such there is no possibility of any permission requiring the improvement of the track to current standards being fully implemented. The applicants have confirmed that whilst there would be widening required that all the highway works can be completed without encroaching onto any third party land. They have submitted a plan which has been drawn using an accurate topographical survey and the adopted highway boundary plan (from the County Highway Authority) which show that the works are wholly achievable within the application site and the public highway without recourse to third party land.

#### Highways conclusion

The development of up to 53 dwellings in isolation will not have an unacceptable impact on Wildings Lane or the junction with Heyhouses lane in terms of capacity or safety and appropriate conditions can be imposed to ensure that the construction phase does not have an unacceptable impact on residential amenity. The applicant has demonstrated that the road improvements can be carried out entirely within the adopted highway and land owned by the applicant and conditions can be used to ensure that the improved access is not used by the larger Queensway site. When the Queensway site becomes available to the application site the improved access will be closed to vehicles and become the sustainable link that was approved as part of the Queensway site. A Section 106 agreement can be used to ensure that residents of the Valentines Kennels site are aware that the road will be closed post occupation and use of the road, and this legal agreement would also facilitate the closure of the road with the applicants bearing the cost for doing so. Contributions would also be made towards sustainable transport and towards the delivery of the Moss Road which is a benefit of the scheme. Therefore, despite the reservations of the County Highway Authority with regard to the future closing up of the improved road, there are no sustainable highways reasons to refuse the application. With regard to the issue of proper planning and the development of the wider area and highways infrastructure in a coordinated manner it is Officers opinion that the site can be developed without prejudicing this and without having a detrimental impact on the amenity of residents. Notwithstanding this, recent appeal decisions from elsewhere in the country have demonstrated that, in the absence of a 5 year supply of housing land, the lack of comprehensive and phased development is unlikely to be supported in the event of an appeal.

#### **Ecology**

The application site is identified as a Biological Heritage Site designated because of a tree sparrow population that resided in the trees and is adjacent to Lytham Moss Biological Site which is designated because it is a site within which 0.5% or more of the British population of any wild non-breeding species of wildfowl or wading bird is regularly present. This includes pint footed geese.



The conservation interest of the site is in part a direct result of its agricultural use. Wintering and passage populations of certain wildfowl and wading birds are of national and in some cases, of international significance. In this case Lytham Moss is known to support Wintering Birds related to the European Site. The site itself comprises a number of buildings with grassland and woodland. As well as the impact on the Biological Heritage Sites the development has the potential to cause impacts on common toad, breeding birds, bats, hedgehog and bluebell. The NPPF Chapter 11 states in terms of the natural environment that 'The planning system should contribute to and enhance the natural and local environment by:

- Protecting and enhancing valued landscapes, geological conservation interests and soils;
- Recognising the wider benefits of ecosystem services;
- Minimising impacts on biodiversity and providing net gains in biodiversity where possible, contributing to the Government's commitment to halt the overall decline of biodiversity, including by establishing coherent ecological networks that are more resilient to current and future pressures...'

Of relevance when considering the ecological impact of this development is the proposed Queensway development which will occupy a large area of open farmland located around the application site. Included as part of this scheme is farmland conservation area (ecological mitigation land) which is proposed to be established prior to development and the Nature Park also approved is to be created following the completion of 200 dwellings during phase 1 of that scheme.

The following ecological surveys were undertaken for the application site:

- Desktop Survey;
- Extended Phase 1 Habitat Survey (including assessment for species of conservation concern);
- Arboricultural Assessment;
- Badger Survey;
- Day Time Bat Inspection Survey;
- Reptile Survey;
- Tree Sparrow Survey; and,
- Water Vole Survey.

These surveys were carried out by appropriately qualified ecologists and use acceptable methodologies.

#### Wintering Birds and Habitat Regulations Assessment

'Habitats Regulations Assessment' (HRA) relates to the Conservation of Habitats and Species Regulations, and applies to European sites (SPA, SAC and Ramsar sites). As at this site, however, a development site does not need to be within the European designated site to fall under the provision of the Regulations – in this case the surrounding area (Lytham Moss Biological Heritage Site) is known to support significant populations of wintering birds (and these are qualifying species of the Ribble Estuary SPA) and the Local Planning Authority therefore need to be satisfied that the development does not result in a significant effect on the European site as a result of impacts on the wintering birds. Natural England in their initial response confirmed that the species that may experience an adverse effect from the proposals are pink-footed geese, whooper swans and Bewicks swan, subsequently an updated study for these three birds is included in the HRA report which was submitted as a standalone document following correspondence from Natural England which included requests that further details was required in relation to the impacts associated with the SPA, specifically the effects of pink-footed geese, clarity about the three mitigation options, recreational pressures outside of the proposal both alone and in-combination and that the

standalone HRA was produced. Subsequently the applicant submitted a shadow Habitats Regulation Assessment (HRA) with that information which finds that there is no likely significant impact on the European site and therefore an Appropriate Assessment is not required. The submitted Environmental Statement paragraph 7.143 outlines three options for mitigation associated with construction, which have been clarified in the HRA document. Option 1 is to undertake works likely to cause high levels of noise and vibrations outside of the overwintering period (October to March). Option 2 is to check that no overwintering birds are present prior to undertaking works and Option 3 is to delay development of the site until the implementation of the Queensway/M55 Link Road and/or Nature Park have commenced. Natural England have commented on the options submitted and recommend options 1 or 3 be utilised as they consider option 2 to be unviable, as although the option states that weekly checks will be undertaken for the presence of SPA birds, once the check has been completed and works commenced, any bird wanting to use fields within 200m of the development will be subject to disturbance. Option 1, they state, will not result in the significant disturbance or displacement of SPA birds and no likely significant effect can be concluded and Option 3, they agree, will not result in the significant disturbance or displacement of SPA birds and no likely significant effect can be concluded. It has been found that there would be no likely significant effect and this has been accepted by Natural England (if option 1 or 3 is used). Accordingly, the findings of the shadow HRA may be adopted as the Council's own subject to the removal of reference of the Ecology Chapter the ES within it.

#### Biological Heritage Site

A Biological Heritage Site (BHS) is a term which identifies that an area has biodiversity interest. In the case of Lytham Moss as discussed above this is because of wintering birds. In the case of the application site it is because of the presence of nesting tree sparrows. The Habitat Regulations only apply to sites which support the qualifying features of the European Site and therefore the sparrow designation is not related to the European site and does not need to be considered as part of the HRA and thus Natural England have not made any comments with regard to this element of biodiversity. The BHS designation was for tree sparrows and that designation was based upon artificially maintained populations (i.e. a nest box scheme which has not been maintained). This has resulted in the tree sparrows no longer maintaining a population in the boxes and, therefore, whilst the BHS designation remains extant the purpose of its designation is no longer applicable. There are no records of tree sparrows breeding within the site since 2006. The application includes details of a Tree Sparrow Survey which was undertaken over the course of four visits, with the nest holes located and observed each day. No sparrows were recorded and none were recorded during similar surveys in 2011. Tree sparrows are social birds and nest in colonies. Historically a nest box scheme operated at the Site provided sufficient breeding opportunities, however, this has since ceased and now only three bird boxes remain. The Site was assessed to be of negligible ecological value for breeding tree sparrow. The applicant is proposing as part of the development of the site to retain the trees with the greatest biodiversity value, and to compensate for the loss of the (deteriorating) nest boxes which without maintenance/repair will not be suitable for tree sparrows in the future by providing additional nesting opportunities throughout the development. The LCC Ecology Service (prior to their disbandment) have been consulted on this application, they state that given this situation that a refusal of the application based on significance adverse effects on the BHS would be difficult to support at a planning appeal, particularly as the trees themselves have no particular biodiversity value, other than the tree sparrow boxes which are attached them, which is clearly an artificial form of nesting.

The Queensway application at outline stage included mitigation for tree sparrows (in the form of pole-mounted nest boxes within the farmland conservation area) as that residential development effectively isolates the other part of the Lytham Moss BHS from tree sparrow feeding habitat

(although surveys carried out for that application similarly did not record evidence of breeding tree sparrows in that part of the BHS). The LCC Ecology Service state that notwithstanding impacts on the BHS mitigation/compensation in the form of pole or tree mounted nest boxes at the application site that are maintained this time (which would need to be secured as part of any permission) might provide more certainty of nesting opportunities at this site in the medium/long term. The application includes proposals to erect 20 Tree Sparrow nest boxes on the site in order to attract back and support a significant colony of the birds which will be a benefit of the development if approved. These would be located within the eastern hedgerow to facilitate foraging in Lytham Moss. They would be placed on telegraph poles within the hedgerow and this would minimise any potential for disturbance. Tree planting is also proposed as part of the application which will be a benefit to birds of all species. With regard to the proposed indicative layout as amended, the LCC Ecology Service state that the treatment of the eastern boundary is more in keeping with what was proposed in outline for Queensway and found acceptable at Inquiry. It is considered that the application can be subject to a Habitat Management Plan and that with this in place the development will bring about additional habitat for Tree Sparrows over what already exists (and is not used) at the site. There are therefore no issues with the development proposed with regard to the sites status as a Biological heritage site.

#### Protected Species

A survey of the site was undertaken for Badgers, this included all land within the site and that extending 30m from the site boundary. No records were found during the desk study and none were found during the survey so there is no impact upon badgers.

A survey of bats at the site was undertaken which inspected the buildings and trees on the site. A desk study was undertaken which found records of bats over 500m from the site boundary. The survey found five trees that had potential for roosting bats. The ES states that at best, the trees provided opportunities for solitary males and non-breeding females on a transitional basis during the summer. Although no signs of bats were identified during the survey, the risk of transitional roost establishment between the survey date and site development remains. The buildings themselves because of their poor state of repair were open to the elements and as such provided negligible bat roosting potential. The LCC Ecology Service have commented that bat opportunities should be provided in trees and buildings and that this should be subject to a condition. They also state that the LPA should consider a condition to the effect that no external lighting without permission and that it should accord with the relevant guidance.

Four records of brown hare (*Lepus europaeus*) were identified during the consultation process and all were greater than 400 m from the site boundary. No brown hares were identified within or adjacent to the site during any of the site survey visits. The species are typically associated with agricultural land requiring extensive areas of open grassland and tall vegetation as cover, particularly during the breeding season. The site is small and the habitats within it were largely unsuitable, particularly in comparison with the extensive areas of suitable habitat in the local area. The ecological value of the site is assessed as negligible for brown hare.

A survey of reptiles was undertaken over four visits and found no reptiles and as there are no records within the local area, the ecological value of the Site is assessed as negligible for reptiles.

A water vole survey was carried out using best practice guidelines and looked for water voles signs for the entire length of ditches around the site. Three records of water vole were found in the wider area however no water voles or signs of water vole were recorded during the site survey. One of the ditches however was found to be suitable for voles. The ephemeral nature of the ditch reduces the

likelihood of water vole residence. The ecological value of the site is assessed as negligible for water voles. The LCC Ecology Service have commented that the ditches will need to be checked again for voles prior to commencement of development.

### Trees

The proposal includes the loss of a number of trees centrally within the site, which individually have been assessed to be of limited quality. Some of these trees, however, present opportunities for protected species and their loss could be compensated for. The LCC Ecology Service have commented that proposed replacement tree planting within residential gardens will not be sufficient to offset habitat losses at the site. The Council's Tree Officer has considered the value of the trees at the site and has determined that they are not worthy of a preservation order and as such has no objections to their removal (an interim Tree Preservation Order was put in place to allow full assessment of the trees, but this was not confirmed and so has lapsed). It is proposed that the trees of the greatest value to the BHS are retained around the southern boundary of the site and that these will be managed to slowly phase out those with limited remaining contribution and promote a more sustainable, safer and better quality group of trees in the longer term. The application states that 44 existing trees will be retained and 40 new ones are proposed to be planted in compensation for those felled. A condition would be required to ensure this happens and so that the majority of the replacement trees are not located within gardens.

### Impacts and proposed mitigation

The submitted ES states that the loss of habitat within the site without mitigation may impact on the future capacity of the site to support tree sparrows and the development in general will impact upon biodiversity. The application in terms of mitigation and benefit proposes the following;

- Approximately 300 m of native species rich hedgerow will be planted along the northern and western boundary. This will establish a priority habitat within the Site, impose a net gain in the Sites biodiversity and create an important habitat resource.
- Approximately 44 existing trees will be retained along the southern and eastern boundary and a further 40 new native trees are proposed to be planted within new hedgerows and gardens
- 20 Tree Sparrow boxes are proposed to support a significant colony within the Site. It is proposed that these are placed on telegraph poles along the eastern boundary of the Site within the newly planted hedgerow. This will provide easy access into the neighbouring Lytham Moss (for foraging), limit disturbance from the residential dwelling proposed as part of this development and the adjacent Queensway project (to the north, south and west), and tie in with planting proposed as part of the Queensway illustrative Masterplan.
- No site clearance during bird breeding season. Creation of purpose built hibernacula and refugia for amphibians during construction and the use of ACO Wildlife Kerbs, which incorporate a "bypass pocket" set into the kerb, will be positioned behind all gully pots, with the gully positioned in the middle of the kerb.
- In addition to tree sparrow boxes other bird boxes to support general species to be placed in the retained trees in the south of the site.
- During construction the inspection of trees prior to felling for bats, and the creation of bat boxes throughout the site and places on the retained trees to the south and east of the site.
- To ensure wildlife movements it is proposed that small gaps (c.13x13cm) between gardens fences will facilitate movements.

### Ecology summary

The application presents an examination of the potential ecological impacts from the development of the site and concludes that there would be no significant impacts that cannot be mitigated. With appropriate conditions in place it is considered that there will not be any unacceptable impact on protected species or priority habitat. The scheme results in a loss of biodiversity, as does any scheme in a site such as this, however this proposal retains the trees of greatest value and ecological and landscaping conditions would be imposed on any permission in order to mitigate the loss of biodiversity. It is considered that, whilst there will be some loss of biodiversity, with mitigation the development of the site is acceptable and that the loss does not warrant justification for refusal of the application. The submitted HRA is acceptable and subject to the final document being agreed with Natural England will be adopted by the Council.

### **Flooding and drainage**

The site is not located in a flood zone and is, therefore, located in an area where the development of a more vulnerable use such as dwellings is acceptable. The site is over 1 hectares and accordingly the application has been submitted along with a Flood Risk Assessment (FRA) and outline drainage strategy prepared by Resource and Environmental Consultants Ltd (July 2014). The submitted FRA states that topographic survey of the site has been completed and it shows that the site slopes to the south and east with elevation differences of circa 0.4m and 0.14m. Land elevations in the north are approximately 4.484AOD and approximately 4.884AOD in the south. Land along the western boundary is at approximately 4.736m AOD and slopes to approximately 4.594m AOD at the eastern boundary. A topographic low point at the site has been identified at 4.155m AOD located within the northeast corner and a high point of 5.508m AOD close to the southern boundary. The FRA indicates that the total site area is 1.75 hectares and at present only 2.8% of it is an impermeable area. The proposed indicative site plan would result in 39.54% of the site or 0.69 hectares being impermeable. The undeveloped site has a run off rate of 8.8 l/s and 21 l/s for the 1 in 100 year storm event. It states that the run off rates would be restricted to existing greenfield run off rates or a minimum of 5 l/s to prevent the increased risk of surface water flooding. In order to restrict surface water run off to the same as the undeveloped site sustainable urban drainage systems (SUDS) should be used.

The FRA considers discharge via infiltration as means of surface water drainage stating that because of the existing naturally high ground water that it is unlikely that infiltration across the whole site would be suitable. It is therefore proposed that surface water drainage is into one or both of the adjacent watercourses to the south and east to mimic the existing situation with surface water drains placed within the highways of the development with the proposed outfall locations determined by detailed design. The flow of the water would be restricted by a hydrobrake and at greenfield rates. Because of the restricted flow there will be storage requirement during periods of intense rainfall which has been calculated to be between 286 and 416 cubic metres. The FRA states that this volume can be spread over a number of site controls and infrastructure. The exact SUDS methods used will be determined by the detailed design. With regard to foul water there is no dedicated foul or combined sewer in the vicinity of the site, the nearest being along Jubilee Way to the south. Consultation with UU found that any new foul connections are to be made upstream of the man hole where sewers are linked to ensure that the current system is not overloaded as a result of this development and the wider Queensway scheme.

The FRA and drainage strategy submitted have been considered by United Utilities, the Environment Agency and the Lead Local Flood Authority (LLFA). United Utilities have no objections to the development, they request a condition relating to a scheme for the disposal of foul and surface waters for the entire site has been submitted to and approved in writing by the Local Planning Authority. The Environment Agency have no objections and state that the development will need to

implemented in accordance with the measures outlined in the FRA and that this should be secured through planning condition. The condition that they request specifies that the development should be carried out with the mitigation measures detailed in the FRA, these being limiting the surface water run-off generated by the 1 in 100 climate change storm so that it does not exceed run off from the undeveloped site and the discharge of surface water from the site is restricted to the greenfield rate of 5l/s/ha. LCC as the Lead Local Flood Authority (LLFA) have commented extensively on the application. They state that the FRA's indicates that infiltration based SuDS techniques are unlikely to be suitable at the site however the existing site is presumed to drain via infiltration or run off into the existing field drain system. Because of the NPPG hierarchy for surface water disposal;

*Generally, the aim should be to discharge surface run off as high up the following hierarchy of drainage options as reasonably practicable:*

- *into the ground (infiltration);*
- *to a surface water body;*
- *to a surface water sewer, highway drain, or another drainage system;*
- *to a combined sewer*

The LLFA state that they will require further evidence which demonstrates why preferable discharge options cannot be employed before approving one of the other options. They state the FRA indicates that the surface water drainage system for the developed site will include drainage to the existing land drain system and use of attenuation. Assuming that infiltration is proven not to be viable this proposal would be acceptable. They comment on the various means of SuDs available and conclude that they have no objections subject to conditions. These conditions are that as part of any reserved matters application a surface water drainage scheme shall be submitted, that there shall be no occupation of development until completion of the Suds scheme and that no development of the site shall commence until details of an appropriate management and maintenance plan for the SuDS system has been submitted and approved. There are therefore no flooding or drainage issues with the application.

### **Ground Conditions**

Because it was determined that this application when combined with other approved developments would form EIA development it was scoped that Ground Conditions would need to be included as part of the Environmental Statement. A ground conditions and contamination assessment has been submitted to establish the likely contamination risks, and resultant effects upon receptors including construction workers, future users of the development, the underlying soil, surface waters and groundwaters. Historical maps show that the site comprised undeveloped agricultural land up to 1966 when a kennels was developed linked to Wildings Lane. Given the historic land uses on the Site, the overall risk of ground contamination on the Site is considered to be negligible. During construction and demolition of the existing kennels on the site works would be subject to health and safety controls required by law. Post construction the occupiers of the new development would be protected by the constructed dwellings and hardstanding as well as ground gas protection measures incorporated into the new development as necessary. The Councils Environmental Protection Officer has requested a condition requiring the submission of a desk study which assesses the potential for onsite contamination and gases.

### **Residential amenity**

The application is an outline application with all matters reserved asides access which is a detailed matter for consideration and is discussed above. It is, however, considered that a site layout can be designed which would meet the councils spacing guidance and would not harm residential amenity.

There are no existing residential dwellings in proximity to the site but it would be adjacent to development proposed by the Queensway application to the north south and west. The reserved matters application for that development is currently being considered by officers and shows the layout of these dwellings. The dwellings directly to the north and south of the application site either have their rear or side elevations facing the application site and those to the west either their front or side elevations. Back courtyard parking is also prevalent adjacent to the boundaries. The indicative layout shows the access to the site taken from Wildings Lane with a collector road leading through the site to a turning head with dwelling access roads leading off it, with the dwellings grouped around these roads. It is considered that a layout that accords with the principles established in the indicative plan would result in no unacceptable loss of light or overlooking created to surrounding dwellings. The existing dwellings to the south on Wildings lane would not experience any overlooking or loss of privacy as a consequence of this development. There are therefore no issues with this development when constructed in terms of impact on residential amenity.

### **Noise and Vibration**

Whilst the development when completed will not create overlooking or loss of light the construction phase of the development has the potential to create a noise and vibration impact to residential properties along Wildings Lane. The Environmental Statement submitted with the application includes a noise and vibration impact assessment which identifies the key sources of noise and vibration associated with the site upon the nearest sensitive receptors. To do this the report looks at baseline conditions using surveys and considers the proposed works and likely effects during the site preparation, construction and operational phases. The impact of the construction of the site is that it is inevitable with any major development that there will be some disturbance caused to those nearby during the clearance and construction phases of the Site. However, disruption due to construction is only temporary, limited to the Site and is of medium term duration. Specific details of the construction phases are unknown at this stage. It is anticipated that construction will take place on a plot-by-plot basis due to the nature of the Proposed Development. It would be expected that noise would be intermittent and would decrease in intensity over the duration of the construction period. Hours of operation can be controlled by planning condition and the Council's EHO has requested that construction periods are limited to 08.00 – 18.00 Mondays to Fridays; 08.00 -13.00 Saturdays and no activity on Sundays and Bank Holidays. With regard to vibration it states that there is potential for vibration to be felt at the nearest property but that the impact would be negligible. With regard to the construction generated road traffic noise it states a 25% increase in traffic movements will only result in a 1dB increase in noise levels. Similarly a 58% increase would be required for 2dB and 100% increase for a 3dB increase. It is noted that a 3dB increase in noise levels is generally barely perceptible to the average human. Upon completion of the development it is anticipated that local road traffic noise levels may change as a result of development generated vehicle movements. The biggest increase in noise will be along Wildings Lane with a 3.2 db increase predicted, but it is considered that this would not be perceptible. These levels correspond to external noise levels only and standard thermal double glazing with open windows should provide sufficient internal protection from this noise source.

### **Air Quality**

The development has the potential to cause air quality impacts at sensitive locations. These may include fugitive dust emissions from construction works and road vehicle exhaust emissions associated with traffic generated by the proposals. The report submitted assesses potential construction phase air quality impacts as part of the Environmental Statement. In order to prevent any unacceptable impact upon Air Quality mitigation measures have been identified. These include displaying communications material, site management, monitoring of the dust, preparing and

maintaining the site, and general good practice dust control measures. With these in place there will not be a significant impact. Again during operational phase the vehicle exhaust emissions of traffic generated by the development were assessed and found not be significant at any sensitive location in the vicinity of the site.

### **Cultural Heritage**

The Environmental Statement as requested also considers Cultural Heritage and finds that there are no designated or non-designated heritage assets within or close the application site with the nearest being St Anne's Conservation Area, over 500m away from the site. Features of the site which are of potential heritage interest are the ditches which border the site to three sides and demonstrate the historic drainage of the former bog to create agricultural land, and these will be retained as part of the development. The land was drained in relatively recent times (1600's) and therefore the archaeological potential of the site is low.

### **Cumulative impacts**

The Environmental Statement considers issues such as noise, vibration and air quality separately and finds that individually their impact is acceptable. However the collective impact needs to be considered to determine if that would be significant. The ES finds that consideration of the on-site impacts and the wider implications of the development in the area have concluded that the development will not cause negative cumulative impacts when considered in addition to existing and forthcoming developments in the local area.

### **Other issues**

#### Public open space

The Local Plan requires that open space be provided on site in residential developments of this scale in line with the amount per plot detailed in Policy TREC17, with appropriate provision made for the on-going maintenance of this. The outline nature of the application means that there can be no clarity on this matter, and the illustrative layout does not indicate any facility being included, this will need to be addressed at Reserved Matters. It is considered that the proposal could comply with Policy TREC17 and so no reason for refusal on this matter is justified.

#### Affordable housing

The Council's Strategic Housing team have not commented on the application. But have confirmed that the findings of the Housing Needs Study remain valid and this indicates that there remains a shortage of affordable housing in all parts of the borough. If members are minded to approve the scheme, the Applicant will have to enter into a section 106 agreement to ensure the provision of up to 30% of the site as affordable dwellings, which would then be resolved through the usual reserved matters applications.

#### Education

The improvement of any identified shortfalls in local education facilities is a recognised aspect of a major residential development proposal such as this one, with Policy CF2 of the Fylde Borough Local Plan providing a mechanism to secure for this where Lancashire County Council advise that such an anticipated shortfall is identified. In this case there is an anticipated short fall of twenty primary



school places in the area to accommodate the additional children that would result from the development and the Applicant would have to make a contribution in the order of £240,592 towards this. There would be a shortfall of eight secondary school places and the applicant would have to make a contribution of £145,011 towards this. Because the application has been made in outline this amount will be re-calculated when the precise number of bedrooms is known upon submission of a reserved matters application. This contribution would be secured through a section 106 agreement, if permission was granted.

### **Conclusions**

The application is considered to be in a sustainable location and given the lack of a five year housing supply will assist in the delivery of housing. The proposed 'interim' and 'final' access arrangements are considered acceptable subject to appropriate conditions and legal agreement and during the interim period the development will not have an unacceptable impact on Wildings Lane. The biodiversity of the site has been considered and it has been concluded that subject to appropriate mitigation that there will be not be any unacceptable impact on ecology. The impact on residents throughout construction has been considered and whilst there will be some impact as with any major construction project it is concluded that the impact would not be so harmful as to refuse this application. Therefore the application is recommended for approval.

### **Recommendation**

That authority to grant planning permission be delegated to the Head of Planning and Regeneration to GRANT planning permission to allow a Habitat Regulation Assessment to be undertaken, and subject to the completion of a Section 106 agreement in order to secure:

- provision, retention and operational details for 30% of the proposed dwellings to be affordable properties,
- a financial contribution to be determined towards the improvement of public transport and/or sustainable transport initiatives in the vicinity of the site,
- a financial contribution to be determined towards the new moss road,
- habitat management plan for the future maintenance of the Tree Sparrow nesting boxes, and
- the stopping up of Wildings lane to traffic

The agreement will be expected to meet the full amounts quoted above in all cases, unless a viability appraisal has been agreed with the Local Planning Authority.

Planning permission be granted subject to the following conditions (or any amendment to the wording of these conditions or additional conditions that the Head of Planning & Regeneration believes is necessary to make otherwise unacceptable development acceptable):

1. A subsequent application for the approval of reserved matters must be made not later than the expiration of three years beginning with the date of this permission and the development must be begun not later than whichever is the later of the following dates:
  - [a] The expiration of five years from the date of this permission;
  - or
  - [b] The expiration of two years from the final approval of the reserved matters, or in the case of approval on different dates, the final approval of the last such matter approved.

Required to be imposed pursuant to Section 92 of the Town and Country Planning Act 1990.

2. Before any development is commenced (a) reserved matters application(s) must be submitted to and approved by the Local Planning Authority in respect of the following reserved matters:

Nos. ( 1, 2, 3 and 5)

- (Reserved matters are:-
1. Layout
  2. Scale
  3. Appearance
  4. Access
  5. Landscaping

This permission is an outline planning permission and details of these matters still remain to be submitted.

3. The development shall be carried out, except where modified by the conditions to this permission, in accordance with the Planning Application received by the Local Planning Authority on 8 August 2014, including the following plans:

Proposed site location plan 14061 Drawing number 00  
Illustrative site layout plan 14061 Drawing number 02 Rev A  
Proposed site access plan SCP/14137/100

Reason: For the avoidance of doubt and so that the local planning authority shall be satisfied as to the details.

4. No development hereby permitted shall commence until it has been fully established and agreed with the LPA that the land required to deliver the access requirements and necessary highway access improvements on Wildings Lane are within the control of the applicant and can be delivered in line with Drawing SCP/14137/100, 'Proposed Interim Site Access Improvements to Wildings Lane' which shows a minimum 5.0m carriageway and 1.8m footway to be provided on Wildings Lane between house number 15 and the proposed site access.

Reason: In order to satisfy the Local Planning Authority and the Highway Authority that the final details of the highway scheme/works are acceptable and can be delivered before work commences on site. Also, in order to provide safe access to the site for all users (motorised and non-motorised).

5. No part of the residential development hereby approved shall commence until a scheme for the construction of the site access and the off-site works of highway improvement have been submitted to, and approved by the Local Planning Authority in consultation with the Highway Authority. The following schemes to be covered by this condition

- (i) The site access junction on Wildings Lane, and
- (ii) An agreed highway improvement scheme on Wildings Lane

Reason: In order to satisfy the Local Planning Authority and the Highway Authority that the final details of the highway scheme/works are acceptable before work commences on site. Also, in order to provide safe access to the site for all users (motorised and non-motorised).

6. Development shall not begin until a phasing programme for the whole of the application site and for the highways works referred to, has been submitted to and approved in writing by the local planning authority. Development shall be carried out in accordance with the approved phasing programme.

Reason: To define the permission and in the interests of the proper development of the site.

7. No part of the Development shall be occupied until all the highway works referred to in condition 5, have been constructed in accordance with a scheme that has been submitted to and approved by the Local Planning Authority in consultation with the Highway Authority.

Reason: In order to provide safe access to the site for all users (motorised and non-motorised).

8. No development of any phase shall take place until a Construction Environmental Management Plan (CEMP), for the construction and operation of the development, is submitted to and approved by the Local Planning Authority. The plan shall detail:

- i. how biodiversity would be protected throughout the construction period
- ii. the potential impacts from all construction activities on both groundwater, public water supply and surface water and identify the appropriate mitigation measures necessary to protect and prevent pollution of these waters
- iii. the parking of vehicles of site operatives and visitors;
- iv. loading and unloading of plant and materials;
- v. storage of plant and materials used in constructing the development;
- vi. the erection and maintenance of security hoarding including decorative displays and facilities for public viewing, where appropriate;
- vii. wheel washing facilities to be retained throughout the construction period by which means the wheels of vehicles may be cleaned before leaving the site;
- viii. a management plan to control the emission of dust and dirt during construction identifying suitable mitigation measures and including actions to be taken in the event that any dust control equipment employed on site fails;
- ix. a scheme for recycling/disposing of waste resulting from construction work (there shall be no burning on site);
- x. a Management Plan to identify potential ground and water contaminants;
- xi. details for their storage and how water courses will be protected against spillage incidents and pollution during the course of construction;
- xii. a scheme to control noise during the construction phase,
- xiii. the routing of construction vehicles and deliveries to site.

No construction or associated vehicle movements should take place on Sundays or Bank Holidays or outside the hours of 0800-1800 Monday To Friday and 0800-1300 on Saturdays. The development shall then proceed in full accordance with this approved plan.

Reason: In order to safeguard the biodiversity of the site, protect the water environment and public drinking water supplies, and to maintain the operation and safety of the local highway network during site preparation and construction, in accordance with local Policy and the provisions of the NPPF.

9. There shall not at any time in connection with the development hereby permitted be erected or planted or allowed to remain upon the land hereinafter defined any building, wall, fence, hedge, tree, shrub or other device within any visibility splay required to maintain safe operation for all users. The site access shall be constructed to provide a visibility splay of 2.4m x 43m and permanently maintained thereafter.

Reason: To ensure adequate visibility splays are maintained at all time.

10. All existing lengths of hedgerow within the proposed residential development area shall be retained, except for where their removal is required for the formation of access points or visibility splays or in other limited circumstances where an equivalent or greater length of hedge is provided

as a replacement and has been previously agreed in writing by the Local Planning Authority. No removal, relaying or works to existing hedgerows shall be carried out between March and August inclusive in any one year unless otherwise agreed in writing by the Local Planning Authority.

Reason: In the interests of protecting wildlife and biodiversity and to comply with the provisions of the Wildlife & Countryside Act 1981 and the National Planning Policy Framework.

11. No external lighting shall be installed until details of the lighting scheme have been submitted and approved in writing by Fylde Borough Council. The principles of relevant guidance shall be followed (e.g. the Bat Conservation Trust and Institution of Lighting Engineers guidance Bats and Lighting in the UK, 2009).

Reason: In the interests of protecting wildlife and biodiversity and to comply with the provisions of the Wildlife & Countryside Act 1981 and the National Planning Policy Framework.

12. A tree protection scheme for all retained trees and hedges on the site shall be submitted to and approved in writing by the local planning authority prior to the commencement of development. No work of any kind shall take place until the protective fences are erected around the retained trees in the position and to the specification agreed by the local planning authority. Such fencing shall be retained throughout the development where work of any kind is undertaken in proximity to trees and hedging.

Reason: In the interests of protecting wildlife and biodiversity and to comply with the provisions of the Wildlife & Countryside Act 1981 and the National Planning Policy Framework.

13. Prior to the commencement of works there shall be a further precautionary inspection/survey of ditches to inform any change in the habitat quality for and use by water voles. The report of the survey (together with proposals for mitigation/compensation, if required) shall be submitted to Fylde Borough Council for approval in consultation with specialist advisors. Any necessary and approved measures for the protection of Water Vole will be implemented in full.

Reason: In the interests of protecting wildlife and biodiversity and to comply with the provisions of the Wildlife & Countryside Act 1981 and the National Planning Policy Framework.

14. No works shall commence until full details of bird nesting opportunities to be installed with the re-developed site have been submitted and approved in writing by Fylde Borough Council. The details shall include provision for Tree Sparrow, Song Thrush, Dunnock and House Sparrow (Species of Principal Importance). Consideration should also be given to provision of opportunities for other declining species of bird such as House Martin and Swift. The details shall include details of nesting opportunities in trees, within/on buildings and 20 tree sparrow boxes within hedgerows. The approved details shall be implemented in full.

Reason: In the interests of protecting wildlife and biodiversity and to comply with the provisions of the Wildlife & Countryside Act 1981 and the National Planning Policy Framework.

15. No works shall commence until full details of bat roosting opportunities to be installed within the re-developed site have been submitted and approved in writing by Fylde Borough Council.

Approved details shall be implemented in full.

Reason: In the interests of protecting wildlife and biodiversity and to comply with the provisions of the Wildlife & Countryside Act 1981 and the National Planning Policy Framework.

16. No tree felling, vegetation clearance works, demolition work or other works that may affect nesting birds shall take place between 1st March and 31st August inclusive, unless surveys by a competent ecologist show that nesting birds would not be affected.

Reason: In the interests of protecting wildlife and biodiversity and to comply with the provisions of the Wildlife & Countryside Act 1981 and the National Planning Policy Framework.

17. No site clearance, site preparation or development work shall take place until a fully detailed landscaping/habitat creation and management plan has been submitted and approved in writing by Fylde Borough Council. The scheme shall demonstrate (1) adequate planting of native species appropriate to the locality to compensate for direct and indirect impacts, (2) that habitat connectivity through the site and to the wider area will be retained as a minimum, including for amphibians and in and around ditches (3) that any planting along site boundaries will comprise appropriate native species, (4) provide details of habitat creation for amphibians and (5) maintenance and enhancement of the biodiversity value of retained and established habitats and the site as a whole. The approved details shall be implemented in full.

Reason: In the interests of protecting wildlife and biodiversity and to comply with the provisions of the Wildlife & Countryside Act 1981 and the National Planning Policy Framework.

18. No development shall take place until there has been submitted to and approved in writing by the local planning authority a scheme of programmed landscaping for the area of residential development. The scheme shall include details of: all existing trees and hedgerows and those that are to be retained, together with measures for their protection during the course of the development; all planting and seeding; hard surfacing and the materials to be used; and, means of enclosure. The landscaping scheme shall include a tree belt, no less than 5 metres deep, along the eastern boundary of the site, which shall comprise a suitable mix of native tree species. All hard and soft landscape works shall be carried out in accordance with the approved programme and details. Any trees or plants which within a period of 5 years commencing with the date of their planting die, are removed or become seriously damaged or diseased shall be replaced in the next planting season with others of similar size and species.

Reason: To ensure a satisfactory form of development and to enhance the visual amenities of the locality, and in order to comply with saved Policy EP14 of the Fylde Borough Local Plan.

19. As part of any reserved matters application and prior to the commencement of any development the following details shall be submitted to, and approved in writing by, the local planning authority, in consultation with the Lead Local Flood Authority.
1. Surface water drainage scheme which as a minimum shall include:
    - a) Information about the lifetime of the development design storm period and intensity (1 in 30 & 1 in 100 year +30% allowance for climate change), discharge rates and volumes (both pre and post development), temporary storage facilities, means of access for maintenance and easements where applicable, the methods employed to delay and control surface water discharged from the site, and the measures taken to prevent flooding and pollution of the receiving groundwater and/or surface waters, including watercourses, and details of flood levels in AOD;
    - b) The drainage scheme should demonstrate that the surface water run-off must not exceed 5 litres per second. The scheme shall subsequently be implemented in accordance with the

approved details before the development is completed.

c) Any works required off-site to ensure adequate discharge of surface water without causing flooding or pollution (which should include refurbishment of existing culverts and headwalls or removal of unused culverts where relevant);

d) Flood water exceedance routes, both on and off site;

e) A timetable for implementation, including phasing where applicable;

f) Site investigation and test results to confirm infiltrations rates;

g) details of water quality controls, where applicable.

The scheme shall be fully implemented and subsequently maintained, 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

This condition is required for the following reasons:

1. To prevent flooding by ensuring the satisfactory storage of/disposal of surface water from the site.

2. To reduce the risk of flooding to the proposed development, elsewhere and to future users.

3. To ensure that water quality is not detrimentally impacted by the development proposal.

Although we are satisfied at this stage that the proposed development could be allowed in principle, the applicant will need to provide further information to ensure that the proposed development can go ahead without posing an unacceptable flood risk.

20. No development hereby permitted shall be occupied until the sustainable drainage scheme for the site has been completed in accordance with the submitted details.

The sustainable drainage scheme shall be managed and maintained thereafter in accordance with the agreed management and maintenance plan.

Reasons

1. To ensure that the drainage for the proposed development can be adequately maintained.

2. To ensure that there is no flood risk on- or off-the site resulting from the proposed development or resulting from inadequate the maintenance of the sustainable drainage system.

21. No development shall commence until details of an appropriate management and maintenance plan for the sustainable drainage system for the lifetime of the development have been submitted which, as a minimum, shall include:

a) the arrangements for adoption by an appropriate public body or statutory undertaker, management and maintenance by a Residents' Management Company

b) arrangements concerning appropriate funding mechanisms for its on-going maintenance of all elements of the sustainable drainage system (including mechanical components) and will include elements such as:

i. on-going inspections relating to performance and asset condition assessments

ii. operation costs for regular maintenance, remedial works and irregular maintenance caused by less sustainable limited life assets or any other arrangements to secure the operation of the surface water drainage scheme throughout its lifetime;

c) means of access for maintenance and easements where applicable.

The plan shall be implemented in accordance with the approved details prior to first occupation of any of the approved dwellings, or completion of the development, whichever is the sooner.

Thereafter the sustainable drainage system shall be managed and maintained in accordance with the approved details.

Reasons

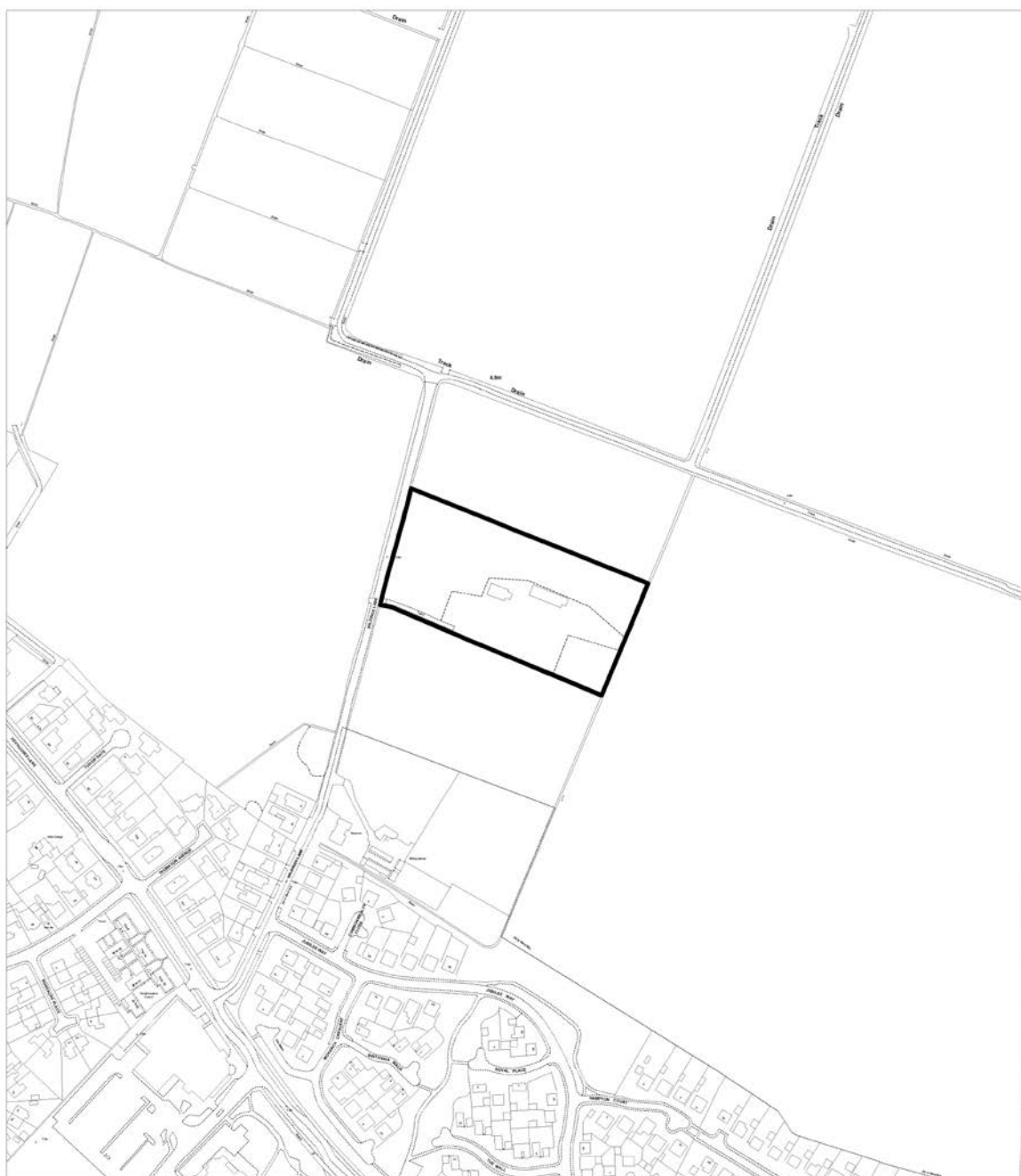
1. To ensure that appropriate and sufficient funding and maintenance mechanisms are put in place for the lifetime of the development

2. To reduce the flood risk to the development as a result of inadequate maintenance

3. To identify the responsible organisation/body/company/undertaker for the

sustainable drainage system.

22. Notwithstanding any indication on the approved plans, no development approved by this permission shall commence until a scheme for the disposal of foul and surface waters for the entire site has been submitted to and approved in writing by the Local Planning Authority. For the avoidance of doubt, surface water must drain separate from the foul and no surface water will be permitted to discharge directly or indirectly into existing sewerage systems. The development shall be completed, maintained and managed in accordance with the approved details.  
Reason: To ensure a satisfactory form of development and to prevent an undue increase in surface water run off and to reduce the risk of flooding
23. Construction/demolition shall be limited to the following hours - 08.00 - 18.00 Mondays to Fridays; 08.00 -13.00 Saturdays and no activity on Sundays and Bank Holidays  
  
Reason: To protect neighbouring residential amenity.
24. Prior to the commencement of development, the following information shall be submitted to the Local Planning Authority (LPA) for approval in writing:
- (a) A desk study which assesses the risk of the potential for on-site contamination and ground gases and migration of both on and off-site contamination and ground gases.
  - (b) If the desk study identifies potential contamination and ground gases, a detailed site investigation shall be carried out to address the nature, degree and distribution of contamination and ground gases and shall include an identification and assessment of the risk to receptors as defined under the Environmental Protection Act 1990, Part 2A, focusing primarily on risks to human health and controlled waters. The investigation shall also address the implications of the health and safety of site workers, of nearby occupied buildings, on services and landscaping schemes, and on wider environmental receptors including ecological systems and property. The sampling and analytical strategy shall be submitted to and be approved in writing by the LPA prior to the start of the site investigation survey.
  - (c) A remediation statement, detailing the recommendations and remedial measures to be implemented within the site.
  - (d) On completion of the development/remedial works, the developer shall submit written confirmation, in the form of a verification report, to the LPA, that all works were completed in accordance with the agreed Remediation Statement.
- Any works identified in these reports shall be undertaken when required with all remedial works implemented by the developer prior to occupation of the first and subsequent dwellings.



Development Services Fylde Council		(c) Crown Copyright and database right (2015). Ordnance Survey (100006084).	
Application No. 5/14/0580	Address Valentines Kennels, Wildings Lane, Lytham St Annes	Grid Ref. E.3341 : N.4298	Scale 0 20 40 60 80 m 



**Item Number:** 3

**Committee Date:** 09 December 2015

<b>Application Reference:</b>	14/0822	<b>Type of Application:</b>	Full Planning Permission
<b>Applicant:</b>	West Register (Realisations) Ltd	<b>Agent :</b>	Indigo Planning Ltd
<b>Location:</b>	(SITE 3) LAND AT DUGDALES CLOSE / BROOKLANDS WAY / HALLAM WAY, WHITEHILLS, WESTBY WITH PLUMPTONS		
<b>Proposal:</b>	PROPOSED ERECTION OF BUILDING PROVIDING 10,195 SQM OF RETAIL FLOORSPACE (CLASS A1) OVER TWO FLOORS WITH ASSOCIATED CAR PARKING AND ACCESS WORKS		
<b>Parish:</b>	WARTON AND WESTBY	<b>Area Team:</b>	Area Team 1
<b>Weeks on Hand:</b>	56	<b>Case Officer:</b>	Kieran Birch
<b>Reason for Delay:</b>	Need to determine at Committee		

**Summary of Recommended Decision:** Refuse

### **Introduction**

This application was originally presented to the Development Management Committee on 18 June 2015. Although the officer recommendation was that planning permission be refused, the Committee resolved:

*"Deferred in order to allow officers to enter into further negotiations with the developer to secure improvements to the layout and landscaping of the site and to discuss a suite of appropriate planning conditions and heads of terms to be included in a section 106 agreement to include: marketing of the applicant's other sites in the vicinity, public realm improvements, improvements to local highways, sustainable transport measures and restrictions on goods to be sold from the retail premises."*

This decision was made in the light of the report to members which included the reported benefits of the grant of planning permission and the following mitigation measures offered by the applicant to compensate for the loss of this allocated employment site to retail use:

- Finish off all highways within its ownership to an adoptable standard;
- Commit to the continued marketing of sites 5, 6 and 7 to encourage further investment in Whitehills;
- Offer a CIL compliant financial contribution towards improving public transport in the surrounding area; and
- Offer a CIL complaint financial contribution towards public realm and improvement works identified in the Council's Regeneration Framework.

Following that decision, amendments were made to the proposal to improve the site layout and officers engaged with the developer to discuss the package of mitigation.

As members were minded to approve the application possible heads of terms and conditions were reported to members to the 29 July 2015 Committee with the original report supplemented by a late observations sheet following the applicants' comments on the officers report. The original reported possible heads of terms were:

- Completion of key areas of highway network in and around Whitehills to adoptable standards to enhance attractiveness of unused employment sites for future development. The overall amount of contribution and phasing to be agreed, but could include:
- Upgrade works to A583/Whitehill Road traffic signals (Peel Corner) to Mova Signal Control including an early start for A583(N) works. Estimated costs between £40,000 and £50,000
- Upgrade works to Cropper Rd/School Rd roundabout. Estimated costs of £10,000
- Enhancement of pedestrian and cycle connections to site.
- Public transport contribution to enhance connections to site
- Funding to facilitate monitoring of Travel Plan submitted for development
- Enhancement of landscaping, signage and public realm in and around Whitehills to enhance attractiveness of unused employment sites for future development, with the amount of contribution and phasing to be agreed
- Contribution to assist Fylde BC marketing of employment sites on Whitehills for five years. Estimated costs of £1000 per year.

The applicants commented on these heads of terms stating that they agreed to pay s106 contributions which are CIL compliant. They stated that the amount should be that required to mitigate any effects that would otherwise render the project unacceptable. They further stated that the amounts that officers have suggested as being appropriate for a development of this kind to be unviable and not CIL compliant. Their offer, which was reported to members, was that they would make the following contributions;

#### Public realm improvements

Landscape treatment on two secondary roundabouts	£15,120
Focal points on two secondary roundabouts	£5,000
Signage and wayfinding	£5,000
Site 3 boulevard tree planting and shrub cover	delivered by on-site landscaping scheme
Site 5 landscaping	delivered by on-site landscaping scheme
<b>Total</b>	<b>£25,120</b>

#### Highways

Initiative (2) – Cropper Rd / School Rd roundabout	£10,000
Initiative (3) – Pedestrian & cycle improvements	£30,000
Initiative (4) – Public transport	£60,000
<b>Total</b>	<b>£100,000</b>

#### Marketing

£5000 to assist the Council in marketing employment sites on Whitehills.

Fylde Planning Officers considered that the mitigation offered was not sufficient to address the potential impacts of the proposal.

The Committee resolved':

*“GRANT planning permission delegated to the Head of Planning and Regeneration, in consultation with the Chairman and Vice Chairman, following further negotiations on the terms of a s106 agreement to mitigate the identified potential harmful impacts of the development including*

*marketing of the applicant's other land holdings in the vicinity, public realm improvements, improvements to local highways and the provision of sustainable transport measures all of which are required to enhance the attractiveness of the remaining sites to potential investors in order to offset the loss of this site to employment uses"*

This decision gave the Head of Planning and Regeneration the authority (having consulted the chairman and vice-chairman) to grant the permission once an acceptable section 106 agreement has been executed. It does not give authority to Head of Planning and Regeneration to refuse planning permission or to approve the application with a section 106 which does not include the above obligations. Any refusal or approval without those obligations would have to be a decision of the committee and hence why this application is being brought before members again.

Following committee's resolution it has been agreed that the heads of terms will include a public realm improvement contribution of £45,000.

The areas that have not been agreed are the finishing off highways in Whitehills to adoptable standards and the level of contributions to improve accessibility to the site.

The difference between the amounts requested and the amounts offered is outlined in the following table.

**Table 1**

<b>Item</b>	<b>Amount Requested</b>	<b>Amount Offered</b>
<b>Highway Mitigation</b>		
Initiative (1)(a) - S278 Improvement Scheme	Agreed in Principle	Agreed in Principle
Initiative (1b) - S278 A583/Whitehill Rd		
Initiative (2) – S106 Cropper Rd/School Rd	Agreed at £10,000	Agreed at £10,000
Initiative (3) – S106 Pedestrian & Cycle Improvements	£60,000	£30,000
Initiative (4) – S106 Public Transport	£240,000	£60,000
<b>Whitehills Business Park - Environmental Improvements</b>		
S106 - Public Realm Improvements	Agreed at £45,000	Agreed at £45,000
S106 - Site Marketing	Agreed at £5,000	Agreed at £5,000
<b>TOTAL</b>	<b>£360,000</b>	<b>£150,000</b>
<b>Whitehills Business Park – Additional Road Improvements</b>		
S106 – improving roads to adoptable standard	Unknown	Nil

The applicant has submitted a legal opinion on the draft obligations under dispute between the two parties which is reproduced as appendix 1 to this report.

That legal opinion considers that the upgrade of the roads is not necessary to make the proposal acceptable and the amount requested by LCC is not CIL compliant. To be CIL compliant contributions have to be (a) necessary to make the development acceptable in planning terms; (b) directly related to the development; and (c) fairly and reasonably related in scale and kind to the development.

### Upgrading of roads

The upgrading of the roads was part of the package of mitigation that the applicants stated they would be prepared to offer if permission was granted, and Members took that into consideration when making their decision. Subsequently when officers reported back with possible heads of terms the applicants stated that they would only make CIL compliant contributions and there has since been debate as to whether requiring the upgrading of these roads as part of granting planning permission for planning permission would be CIL compliant.

The legal opinion that has been submitted states that in, their opinion, the request for West Register to update roads to adoptable standards fails all three of the CIL Regulation 122 tests.

### Other Highway Contributions

The views of the County Highway Authority are reproduced as appendix 2 to this report. Clearly Lancashire County Council consider that a significantly higher contribution than that currently being offered by the applicant would be required in order to bring the accessibility of the site to a standard that would produce a sustainable form of development.

There is a clear difference of approach between the developer and the highway authority and despite lengthy discussions, it has not been possible to reach agreement.

### Conclusion

In the light of the Committees previous decision, Members are asked to confirm whether they consider that the package of mitigation as set out in column 2 of table 1 above is, in their opinion, sufficient to mitigate the impact of the development and proportionate to the scale of development. In so doing Members will need to consider the tests set out in Regulation 122 of the Community Infrastructure Regulations, i.e. that the contributions are:

- a) necessary to make the development acceptable in planning terms;
- b) directly related to the development; and
- c) fairly and reasonably related in scale and kind to the development.

Whilst Lancashire County Council consider that additional mitigation over and above that offered by the applicant is required, it is for the committee to resolve whether such contributions would be fairly and reasonably related in scale and kind to the development.

Members are reminded that, if they are minded to grant planning permission, the application will need to be referred to the Secretary of State in line with The Town & Country Planning (Consultation)(England)Direction 2009 as the retail floor area to be created in this out of centre location is in excess of 5,000 square metres.

The application was previously reported as follows and the officer recommendation remains as set out in that report. The late observation schedule relating to that report is attached as Appendix 3.

### Introduction

This application was presented to the 18 June 2015 meeting of Committee where the decision on the application was:

*"Deferred in order to allow officers to enter into further negotiations with the developer to secure improvements to the layout and landscaping of the site and to discuss a suite of appropriate planning conditions and heads of terms to be included in a section 106 agreement to include: marketing of the applicant's other sites in the vicinity, public realm improvements, improvements to local highways, sustainable transport measures and restrictions on goods to be sold from retail the premises."*

Since that time officers have engaged with the developer to discuss these matters as is presented in this Introduction. The officer recommendation on the application remains that the application should be refused for the reasons recommended originally with the original report repeated below the conditions for reference.

#### Revisions to Landscaping and Layout of Site

A revised landscaping plan overlaying the site plan was submitted on the 8 July 2015. The Council's Landscaping officer has considered it and states that we would need to see a planting plan with plant species, numbers and stock size. The submitted site plan shows the area of land to be landscaped with boulevard type planting with single rows of trees at 7m centres set in shrub/groundcover planting. If members are minded to approve the application a condition requiring full details to be submitted and then implemented would be appropriate.

No amendment to the layout of the site has been made.

#### Possible Heads of Terms to s106 agreement

- Completion of key areas of highway network in and around Whitehills to adoptable standards to enhance attractiveness of unused employment sites for future development. The overall amount of contribution and phasing to be agreed, but could include:
  - Upgrade works to A583/Whitehill Road traffic signals (Peel Corner) to Mova Signal Control including an early start for A583(N) works. Estimated costs between £40,000 and £50,000
  - Upgrade works to Cropper Rd/School Rd roundabout. Estimated costs of £10,000
  - Enhancement of pedestrian and cycle connections to site.
  - Public transport contribution to enhance connections to site
  - Funding to facilitate monitoring of Travel Plan submitted for development
- Enhancement of landscaping, signage and public realm in and around Whitehills to enhance attractiveness of unused employment sites for future development, with the amount of contribution and phasing to be agreed
- Contribution to assist Fylde BC marketing of employment sites on Whitehills for five years. Estimated costs of £1000 per year.

#### Possible Conditions

##### General

1. The development hereby permitted must be begun not later than the expiration of 3 years commencing upon the date of this permission, and where applicable should be undertaken in strict accordance with the plan(s) comprising all aspects of the approved development accompanying the decision notice.
2. Reason: This standard time limit is required to be imposed pursuant to Section 51 of the Planning and Compulsory Purchase Act 2004, while compliance with approved plans is required

to ensure the approved standard of development is achieved.

3. Notwithstanding any denotation on the approved plans samples of the roof treatment and wall brick and cladding [both inclusive of colour] shall be submitted to and approved by the Local Planning Authority prior to the commencement of any built development works on site. Thereafter only those approved materials shall be used in the development unless otherwise agreed in writing with the Authority.

Reason: In order to ensure a satisfactory standard of development.

4. Prior to the commencement of development, a scheme for the external lighting of the building / premises / site curtilage [including degree of illumination] shall be submitted to and approved in writing by the Local Planning Authority. Only lighting contained in the approved scheme shall be implemented at the site, with any addition or alteration to the scheme agreed in writing with the Authority.

Reason: In the interests of visual amenity.

5. Landscaping, including hard surface landscaping shall be carried out and preserved in accordance with a scheme and programme which shall be submitted to and approved by the Local Planning Authority before any development is commenced. Specific details shall include finished levels, means of enclosures, car parking [as applicable] hard surfacing materials, minor artifacts and street furniture, refuse receptacles, lighting and services as applicable soft landscape works shall include plans and written specifications noting species, plant size, number and densities and an implementation programme. The scheme and programme shall thereafter be varied only in accordance with proposals submitted to and approved by the Local Planning Authority and such variations shall be deemed to be incorporated in the approved scheme and programme. The approved landscaping scheme shall be implemented in a timetable of planting to be agreed in writing with the Local Planning Authority but which in any event shall be undertaken no later than the next available planting season. The developer shall advise the Local Planning Authority in writing of the date upon which landscaping works commence on site prior to the commencement of those works.

Reason: To enhance the quality of the development in the interests of the amenities of the locality.

6. The whole of the landscape works, as approved shall be implemented and subsequently maintained for a period of 10 years following the completion of the works. Maintenance shall comprise and include for the replacement of any trees, shrubs or hedges that are removed, dying, being seriously damaged or becoming seriously diseased within the above specified period, which shall be replaced by trees of a similar size and species. The whole of the planted areas shall be kept free of weeds, trees shall be pruned or thinned, at the appropriate times in accordance with current syvicultural practice. All tree stakes, ties, guys, guards and protective fencing shall be maintained in good repair and renewed as necessary. Mulching is required to a minimum layer of 75mm of spent mushroom compost or farm yard manure which should be applied around all tree and shrub planting after the initial watering. Weed growth over the whole of the planted area should be minimised. Any grassed area shall be kept mown to the appropriate height and managed in accordance with the approved scheme and programme.

Reason: To ensure a satisfactory standard of development and in the interest of visual amenity in the locality.

7. No goods of any description shall be stored other than within the defined buildings.

Reason: In the interests of visual amenity.

#### Retail

8. The non-food retail units hereby permitted shall not be used for the sale of any goods other than those within the following categories:

Outdoor activity equipment and associated clothing and footwear, DIY and decorating goods, garden goods, furniture, motor and cycle goods, soft and hard furnishings and furnishings, household textiles, pictures, homewares, glassware, tableware, household goods, electrical goods, bathroom and kitchen goods and accessories, household cleaning products, lighting, seasonal goods, giftware, toys, arts and crafts, pet products and ancillary confectionary products.

Goods falling outside of this range may be sold only where they form a minor and ancillary part of the stores' operation.

Reason: To prevent unacceptable harm upon the existing centres

9. The non-food retail units hereby approved shall not be subdivided or amalgamated without the prior consent of the Local Planning Authority

Reason: To prevent unacceptable harm upon the existing centres

10. The retail premises hereby approved shall not be used for the sale of food off the premises

Reason: To prevent the units becoming a food supermarket

11. Both of the retail units hereby approved shall be operated by a single retailer and shall not operate as a 'department store' or have a number of different retails operating within one unit.

Reason: To prevent unacceptable harm to the existing centres.

#### Highways

12. No part of the development hereby approved shall commence until a scheme for the construction of off-site works of highway improvement have been submitted to, and approved by the Local Planning Authority in consultation with the appropriate Highway Authority.

Reason: In order to satisfy the Local Planning Authority and the Highway Authority(s) that the final details of the highway scheme/works are acceptable before work commences on site.

13. No development shall take place until a Construction Method Statement has been submitted to, and approved in writing, by the Local Planning Authority. The approved Statement shall be adhered to throughout the construction period. The Statement shall provide for:

- a) the parking of vehicles of site operatives and visitors;
- b) loading and unloading of plant and materials;

- c) storage of plant and materials used in constructing the development;
- d) the erection and maintenance of security hoarding including decorative displays and facilities for public viewing, where appropriate;
- e) wheel washing facilities;
- f) a management plan to control the emission of dust and dirt during construction identifying suitable mitigation measures;
- g) a scheme for recycling/disposing of waste resulting from construction work (there shall be no burning on site);
- h) a Management Plan to identify potential ground and water contaminants
- i) a scheme to control noise during the construction phase.

Reason: To maintain the operation and safety of local streets and the through routes in the area during site preparation and construction.

14. Development shall not begin until a phasing programme for the whole of the development and for the highways works referred to, has been submitted to and approved in writing by the local planning authority. Development shall be carried out in accordance with the approved phasing programme.

Reason: To define the permission and in the interests of the proper site development.

15. Prior to first occupation hereby approved, the S106 contribution relating to offsite pedestrian and cycle route provision has been paid in its entirety.

Reason: In order to satisfy the Local Planning Authority and the Highway Authority that these sustainable transport links can be substantially completed at an early stage in the development of the site and hence effect the modal choice of the occupants; in order that the traffic generated by the development does not exacerbate unsatisfactory highway conditions.

16. Prior to first occupation hereby approved, the s106 funding for the highway improvement scheme at Cropper Road/Lytham St Annes Way Roundabout shall be paid in full. The scheme to be delivered will be subject to detailed design.

Reason: In order to maintain network reliability and safety and ensure that residents of the development have satisfactory access to services and facilities.

17. Prior to the first occupation the payment of s106 funding for the public transport improvement to help deliver a high frequency Public transport service must be paid to support delivery of a good frequency bus service.

Reason: To ensure the provision of a high quality public transport service that will limit the impact of this development on the local transport network.

18. Prior to the first occupation of the development hereby permitted, a Full Travel Plan shall be submitted to, and approved in writing by, the Local Planning Authority. The Travel Plan to include objectives, targets, measures to achieve targets, monitoring, and implementation timescales and continue with the provision of a travel plan co-ordinator. The approved plan(s) will be audited and updated at intervals as approved and the approved plan(s) be carried out.

Reason: To ensure that the development provides sustainable transport options.



19. There shall not at any time in connection with the development hereby permitted be planted hedges, trees or shrubs over 1m above the road level within any visibility splay required to maintain safe operation for all users.

Reason: To ensure adequate visibility splays are maintained at all time.

20. The developer shall fund the investigation, consultation and advertisement of Traffic Regulation Orders for parking restrictions on the local network surrounding the proposed site (roads to include Hallam Way, Brooklands Way and Dugdale Close). If the process concludes in changes to TRO's, the developer shall fund the subsequent implementation of necessary measures.

Reason: To maintain and enhance the operation and safety of the local highway network.

21. The car parking indicated on the approved plans shall be surfaced, demarcated and made available for use prior to the development hereby approved being occupied, unless otherwise agreed in writing with the Local Planning Authority. The car park shall then be available at all times whilst the site is occupied.

Reason - To ensure that there is adequate parking for the development proposed when the buildings are occupied

#### Drainage

22. The development hereby approved shall not be commenced until a scheme for the provision of surface and foul water drainage works, with full consideration for sustainable drainage principles, has been submitted to and approved by the Local Planning Authority. The means of drainage shall be implemented in accordance with the approved scheme, prior to first occupation of the development hereby approved.

Reason: To reduce the increased risk of flooding by ensuring provision of a satisfactory means of surface and foul water disposal.

23. Prior to the commencement of any development, details of the foul drainage scheme shall be submitted to and approved in writing by the Local Planning Authority. Foul shall be drained on a separate system. No building shall be occupied until the approved foul drainage scheme has been completed to serve that building, in accordance with the approved details. This development shall be completed maintained and managed in accordance with the approved details.

Reason: To ensure a satisfactory means of drainage

24. The development permitted by this planning permission shall only be carried out in accordance with the approved Flood Risk Assessment (FRA) to limit the surface water run-off to 9.8 l/s so that it will not exceed the run-off from the undeveloped site and not increase the risk of flooding off-site. The mitigation measures shall be fully implemented prior to occupation and subsequently 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.

25. Prior to the commencement of any development, a surface water drainage scheme and means of disposal, based on sustainable drainage principles with evidence of an assessment of the site conditions (inclusive of how the scheme shall be managed after completion) shall be submitted to and approved in writing by the Local Planning Authority. The surface water drainage scheme must be restricted to existing runoff rates and unless otherwise agreed in writing by the Local Planning Authority, no surface water shall discharge to the public sewerage system either directly or indirectly. The development shall be completed, maintained and managed in accordance with the approved details.

Reason: To prevent flooding by ensuring the satisfactory storage of/disposal of surface water from the site.

#### **Notes**

- The grant of planning permission does not entitle a developer to obstruct a right of way and any proposed stopping-up or diversion of a right of way should be the subject of an Order under the appropriate Act.
- The grant of planning permission will require the applicant to enter into an appropriate Legal Agreement with the County Council as Highway Authority. The Highway Authority hereby reserves the right to provide the highway works associated with this proposal that fall within the highway under LCC control. Provision of the highway works includes design, procurement of the work by contract and supervision of the works. The applicant should be advised to contact the Environment Director at County Hall, Preston PR1 0LD, in the first instance, to ascertain the details of such an agreement and the information to be provided.
- Traffic Regulation Orders, diversions of Public Rights of Way, Stopping Up of existing highway, changes to public transport scheduling/routing and other activities require separate statutory consultation processes beyond the planning application process. The applicant will be obliged to meet all the costs associated with these of works and ensure that any works which rely upon them do not commence until all legal processes have been satisfactorily completed.

#### **Summary of Officer Recommendation**

The proposal relates to a site that lies towards the centre of the existing Whitehills Employment Area, and is for the erection of a two storey building providing just over 10,000 sq m of retail floorspace.

The scheme raises a series of technical issues such as the capacity of the highways, flood risk, design, etc all of which are acceptable. However, the officer recommendation is that the application be refused as the loss of 1.69 hectares of employment land would be contrary to its allocation through policy EMP2 the Fylde Borough Local Plan, and the recommendations of the Fylde Employment Land and Premises Study (August 2012) and Whitehills Development Appraisal (October 2013) which both recommend the retention of the employment land and form part of the evidence for the Emerging Local Plan. The potential benefits of developing the site for retail uses do not, in officer's opinion, outweigh the negative loss of the employment land, which would result in the need for further land to be allocated to make up for that land, result in lower value jobs being created at the site. The qualitative value of the site for employment uses is considered to be high due to its strategic location and lack of barriers to its development and there is a reasonable prospect of the site being developed for this purpose within the plan period.

### **Reason for Reporting to Committee**

The application is presented to the Committee as a consequence of the proposal constituting major development.

### **Site Description and Location**

The application site comprises 1.69 hectares of vacant land, bounded by Hallam Way to the north and Brooklands Way to the east. It is characterised by rough grass and scrub, and is largely flat. To the east of the site is a large-format B&Q retail store and associated car park. Land to the south and west is largely vacant, with the exception of a builders' merchants to the southwest. Development to the north and north-west includes a bathroom showroom and offices. The application site is located on Whitehills which is Fylde's largest employment site. To the south east of the site is a public house and hotel. The site is well connected being located directly adjacent to the M55 motorway.

### **Details of Proposal**

The application as submitted proposes full planning permission for a retail development of 10,195 sqm of A1 floorspace. The floorspace would be within a single building with a footprint of 4663sqm located on the northern side of the plot, an outdoors sales area of 800sqm is proposed to the west of the store, with parking for 262 cars located on the southern side of the site. The proposed two storey building would have a flat roof and would be of contemporary design clad with large black tiles and features a glass corner element. Store entrances are highlighted with green cladding. The retail floor space would be split into two units;

- 6,675 sqm to be occupied by a large-format, mixed goods non-food retailer
- 3,520 sqm to be occupied by camping retailer, 'Go Outdoors'

The larger retail unit will sell mixed, non-food goods. The occupier for this unit is known to the applicant but cannot be divulged at the current time for contractual reasons. It will occupy the majority of the ground floor, comprising an indoor sales area of 4,369sqm and an outdoor space for garden goods of 800sqm. There will be a sales area on the first floor of 1,506sqm. Go Outdoors sells equipment for outdoor adventure, with a principal focus on tents, furniture for camping and caravanning, luggage trailers, and outdoor activity equipment. Go Outdoors will occupy the majority of the first floor (3,226sqm), with access from a ground floor lobby measuring 294sqm.

Public access to the site will be from Dugdales Close on the eastern side of the site, via the existing roundabout from Hallam Way. Servicing traffic will access the site separately, from Dugdales Close to the north. Perimeter landscaping is proposed around the site and will be a mix of native shrub and tree planting.

### **Relevant Planning History**

Application No.	Development	Decision	Date
07/1274	ERECTION OF TWO STOREY BUILDING COMPRISING OF CAR SHOWROOM, OFFICES AND WORKSHOP, NEW VEHICULAR ACCESS AND PARKING, PLANTING AND LANDSCAPING SCHEME.	Finally Disposed Of	08/08/2013

04/0562	PROPOSED INDUSTRIAL UNIT	Granted	02/09/2004
03/1065	OUTLINE APP. FOR CAR SHOWROOM/SALES	Refused	06/01/2004

### **Relevant Planning Appeals History**

None.

### **Parish/Town Council Observations**

**Westby with Plumpton Parish Council** notified on 04 December 2014 and comment:

*“No objections to the application. They made note that the matter of commercial sites is not in keeping with the overall rural aspect of the Parish, however, it was conceded that, due to the existing commercial buildings within the vicinity, it would be preferable to support this application in a relatively commercial area, as opposed to a different non-commercial site.”*

### **Statutory Consultees and Observations of Other Interested Parties**

#### **National Grid**

National Grid has a Major Accident Hazard Pipeline in the vicinity. It is essential that access to the site is not restricted. The building proximity distance for the pipeline is 8m. It appears that the car parking and service yard are over the pipeline, it may be possible that impact protection slabbing be installed over the pipeline. More details will need to be submitted to the NG for consideration, as unhindered access is required to the pipelines. On safety grounds it would not be acceptable to erect any fencing or enclose an area of ground that encompasses the pipelines legally negotiated easement strip. The fencing and enclosed garden centre area would not be acceptable as it appears from the site plan they restrict access to the pipeline. It is the responsibility of the applicant to contact NG prior to commencing any works on site.

#### **HM Inspector of Health & Safety**

The HSE's Planning Advice for Developments near Hazardous Installations (PADHI) installs land use planning distances that allows them to advise on the acceptability of new developments.

#### **Lancashire County Council - Highway Authority**

LCC Highways have provided extensive comments on the submitted application following meetings between them, the applications and Fylde Council. This was because the TA submitted with the application was found to be unacceptable. This was therefore supplemented with email correspondence, a technical note update (17/3/15) prepared in response to HE comments as well as a Transport Assessment Addendum, dated May 2015. They have considered all the information in these documents, the committed and other developments in the area and the modelling work that has been done. They have considered the sites accessibility and sustainable modes of transport to it.

Their observation is that access to the site will be heavily car dependent due to the nature of the land use proposed, and so impact on how it constitutes sustainable development and the sustainable transport implications of accessing it.

LCC do not object to the application subject to a number of mitigation measures and contributions which they consider to be necessary, directly related and reasonable in both scale and kind. They require link and junction improvements at the A584/Whitehill

Road traffic signals to provide additional capacity and a review of signals and phasing, they require an upgrade to a Mova signal control at the same position. They require a contribution of £10,000 to a scheme to deliver wider improvements to the highway network in around the cropper road/school road roundabout. They also because of the sites location and the proposed use require sustainable transport improvements namely pedestrian and cycle improvements, public transport provision and installation of quality bus stops.

*They state that “the retail car park will provide 282 spaces with 16 mobility impaired spaces and 40 cycle parking spaces. A parking accumulation has been provided that indicates that an acceptable level of parking provision has been provided for the proposed site. The provision is below the maximum parking standard and takes into consideration linked parking provision and requested support for sustainable transport measures. The site is to be serviced off Dugdales Close. This existing access has been delivered as part of the wider Business Park infrastructure. The issues identified at Whitehills Business Park associated with on street parking may impact safe access for large vehicles to the service area off Dugdales Close. I would therefore recommend, should approval be granted, that a Condition is attached that would require the applicant to fund investigation/consultation and if appropriate implementation of TRO waiting restrictions on the local network surrounding the site (roads to include Hallam Way, Brooklands Way and Dugdale Close). This would help maintain the safe operation of the local highway.”*

As well as the contributions and s278 works required to make the scheme acceptable they require conditions so that the off site works details are submitted, a construction method statement is submitted, a phasing programme for the highways works is submitted, the funding to have been provided prior to first occupation, a Travel Plan be submitted, visibility splays to be in place, drainage and car parking details.

#### **Blackpool Borough Council**

Comments are:

*“Thank you for consulting this Council regarding planning application reference 14/0822 and apologies for the delay in responding. We have concerns regarding the issues of impact on centres in Blackpool, regarding the sequential test and regarding retail evidence in terms of the requirements for the Fylde Coast and would welcome the opportunity to discuss these issues with Alyn Nicholls and Associates.*

*The application site is not within or on the edge of any defined town, district or local centre and is not well served by public transport. The nearest Blackpool Transport Services serve the Peel Park Offices (no 14) and serve the Clifton Retail Park on Clifton Road ( nos 3, 4, 14 and 16) with the nearest stop to the site being on Langdale Road. In addition it does not have a large residential population within walking or cycling distance and has the added problem of a large roundabout serving the M55 motorway and Yeadon Way/Progress Way segregating it from residential areas in Blackpool and the nearest bus stop. It is contended that the site is not ‘well connected to any town centre’ in terms of paragraph 24 of the National Planning Policy Framework. In terms of paragraph 24 of the NPPF there is a vacant site adjacent to the Sainsbury’s petrol station which would accommodate part of the development. There is a site adjacent to the Hounds Hill Centre (Tower Street/Corporation Street) which could accommodate part of the development. The Central Car park on Central Drive could accommodate the*

*development as part of a mixed retail/leisure development and although not in the Town Centre or on the edge of the Town Centre the former Devonshire Road hospital site could accommodate the development and is well linked to the Town Centre by bus services 5, 7, 9 and 14. In addition there is a permission for a unit at Blackpool Retail Park, Amy Johnson Way (10/1378)*

**Environment Agency**

No objections subject to a condition requiring the development be carried out in accordance with the FRA.

**United Utilities – Water**

No objections subject to conditions requiring details of surface and foul water drainage being submitted.

**Electricity North West**

Have considered the proposal and found that it has no impact on our Electricity Distribution System infrastructure or other ENQ assets. Any requirements for a supply of electricity will be considered as and when a formal application is received.

**Planning Policy Team**

Comments are:

*I have assessed the proposal against the Fylde Borough Local Plan (As Altered: October 2005) and the National Planning Policy Framework.*

**CURRENT LOCAL PLAN ALLOCATION**

*The proposed development lies within an area which is allocated as 'Existing Business and Industrial Areas' in the Fylde Borough Local Plan. Local Plan policy EMP2 operates to permit proposals for business and industrial development, specifically here for B1, B2 and B8 uses.*

*In August 2012 the council published an Employment Land and Premises Study (FELPS). It forms part of the evidence base for the emerging local plan to 2030, and it is therefore a material consideration for the purposes of development management. The study recommends the provision of between 26 and 33 ha of additional employment land. This needs to be allocated and brought forward to meet requirements for the Local Plan period to 2030. The FELPS also recommends the protection of the identified current employment land supply that is not the subject of existing consents for alternative uses.*

*Table 38 of the FELPS includes an assessment for site EMP2(13b), Whitehills Park. The FELPS recommends it be retained as a sub-regional employment area for B1/B8 and associated services. The proposal would result in the loss of 1.73 ha of the site area to non class B use.*

**RETAIL POLICY**

*Local Plan policy SH13 operates in relation to large retail stores. Whilst appreciating that the needs test mentioned in policy SH13 has now been removed from PPS4, this policy is still considered to be relevant in terms of sequential approach (criterion 1) and consideration of vitality and viability of existing town centres (criterion 4). SH13 states that proposals for out of centre sites will not be permitted unless the need for the development has been demonstrated against a range of four criteria.*

*The application of criterion 1 is particularly relevant given the fact that SH13 goes on to state "Proposals for large new retail development will not be acceptable on land identified under policies EMP1 and EMP2 for business and industrial use, unless the application is supported by substantial evidence that no other location is available."*

*You will no doubt be aware that the Portfolio Holder for Planning and Development accepted the use of the 'Fylde Coast Retail Study 2013 Update' as part of the evidence base for the emerging Fylde Local Plan and for use by Development Management in the determination of planning applications.*

*The Study 2013 Update identifies indicative figures for additional comparison goods retail floorspace (net – sales floorspace) over and above existing planning permissions for which provision should be made in town centres as follows:*

Centre	Additional comparison floorspace (sq.m net)		
	2013-2021*	2021-2030	2013-2030
St Annes town centre	197	1,376	1,179
Lytham town centre	197	1,376	1,179
Kirkham town centre	112	813	701
Remaining District and Local Centres	56	393	337
Fylde Total	562	3,958	3,396
Wyre Total	1,084	7,592	6,508
Blackpool Total	2,550	17,995	15,405
Total for Fylde Coast	4,196	29,478	25,282

*It should be noted that the above figures are to be used as a guide and the negative requirements 2013-2021 indicate that the expected turnover of existing retail planning permissions is greater than expenditure growth over that period. That said, the study does not identify any additional comparison goods sales area floorspace in out of centre locations.*

*Clearly the proposed development comprises a significant quantum of retail floorspace in an out of centre location and paragraph 24 of the National Planning Policy Framework is therefore relevant. It states that "When considering edge of centre and out of centre proposals, preference should be given to accessible sites that are well connected to the town centre." It is however noted that the applicant's Retail Assessment (November 2014) does not include an assessment of alternative out of centre sites. In terms of undertaking a thorough sequential test regard should be had to other out of centre sites which are accessible and well connected to the town centre.*

*Paragraph 24 of NPPF goes on to state that applicants and local planning authorities should demonstrate flexibility on issues such as format and scale. The proposal comprises three separate retail units, configured as 3,520; 5,875; and 800 gross floorsapce (sq.m). In terms of being flexible, the applicant needs to give consideration to how or if the proposal could be disaggregated and consequently individual units could be accommodated in sequentially more preferable or accessible locations.*

*I note that the applicant's Retail Assessment (November 2014) includes an assessment of impact based upon a 15 minute drive time. Although this may have previously been*

*agreed with the Council, it is not clear to me that this is the most appropriate catchment area. Given the quantum of retail floorspace involved it is my suggestion that the catchment area is likely to be significantly larger. Whilst I am not in a position to suggest what the alternative appropriate drive time ought to be, a slightly wider catchment would undoubtedly have retail impact upon Preston city centre, Freeport and Deepdale Retail Parks.*

*As presented, it is noted that at 6.49 the applicant's Retail Assessment (November 2014) claims the impact of the proposal will be extremely modest. And that it will not have a 'significant adverse impact' on any of the existing town, district or local centres in the study area.*

*In light of the above I recommended that specialist retail advice is sought in respect of the sequential approach undertaken and in considering the potential impact of the proposal upon the trading performance of existing facilities. In the absence of this specialist retail advice I suggest that the proposal is potentially contrary to policy SH13.*

*In addition to the above regard should also be had to Local Plan policy SH14 which is a criteria based policy. All 6 criteria are required to be met.*

*In considering whether there are any other material considerations which are of sufficient importance to outweigh the policy position established in the adopted Local Plan, you should also consider the provisions of the NPPF. Paragraph 14 of the NPPF states that there is a presumption in favour of sustainable development.*

*It could be argued that limited weight can be afforded to the emerging Development Plan due to the early stage that the Council is at in the overall plan-making process. The Fylde Local Plan to 2030: Part 1 – Preferred Options (LPPO) document includes policies relating to employment land, and retail and other appropriate town centre development. Appendix 4 of the LPPO sets out the Car Parking Standards which the Council currently operates.*

#### **Conclusion**

*The proposal is contrary to policy EMP2 of the Fylde Borough Local Plan. Specialist retail advice should be sought in terms of what has been provided in the context of Local Plan policy SH13. You will need to consider whether there are any other material considerations which are of sufficient importance to outweigh the policy position established in the adopted Local Plan. If minded to grant consent for the proposal you need to be satisfied that the loss of this area of employment land to another use is justified as it would further increase the borough wide requirement for employment land."*

#### **Environmental Protection (Pollution)**

No objections to the above proposals however due to proximity of dwellings and as a result of recent complaints from other premises the applicant shall ensure that light from any security fitting or car park stanchion does not cause illumination nuisance.

#### **Regeneration Team (Economic Development)**

Comments are:

*"In making these comments I have taken into account the following local, regional and national economic policy considerations;*



*The Plan for Growth (2011)*  
*Lancashire County Economic Assessment (2011)*  
*Lancashire County Council's Economic Framework (2010)*  
*The Fylde Coast Employment and Skills Strategy (2010)*  
*Fylde Borough Council Employment Land and Premises Study (2012) (ELS)*  
*Whitehills Development Appraisal (2013)*  
*Fylde Borough Council Economic Development Strategy and Action Plan 2012 – 2030 (FEDS)*  
*Fylde Borough Local Plan 1996-2006, Alterations Review (2005)*  
*The National Planning Policy Framework (NPPF)*  
*Employment Densities Guide 2<sup>nd</sup> Edition (2010)*

#### General

*Where I have attempted to balance more than one material consideration in making these comments and in considering the economic impacts of the proposed development, I have at all times given significant weight to the positive economic outcomes that may or will result from the proposed development. Conversely, I have also given significant weight to any negative or adverse economic outcomes that may or will result from the proposed development.*

#### Proposed Development

*The details of note from the application are that this is an application for the erection of buildings providing 10,195 sqm of retail floorspace (Class A1) over two floors with associated car parking and access works.*

#### Considerations

##### *Matters of Planning Policy*

*The site is within land allocated as 'Existing Business and Industrial Areas' in the Fylde Borough Local Plan 1996 – 2006, Alterations Review (2005) (Local Plan) and is covered by the scope of policy EMP2 which is permissive of uses within Classes B1, B2 and B8. I also feel that within the same document policy SH13 should be considered but I shall leave this to other better informed colleagues to comment. I also understand that specialist opinion has been sought on matters relating to the 'retail impact'.*

*Accordingly my primary focus will be the scope of policy EMP2 and the proposed development. I note that the Planning Statement in support of the application makes reference to the view that little weight should be given to EMP2 and further supports this position with reference to the Fylde Employment Land and Premises Study (2012) (FELPS) and also paragraph 19 of the National Planning Policy Framework (NPPF). The principle argument advanced here is that the loss of the employment land is acceptable owing to the findings of the FELPS and also that the NPPF requires consideration of the wider economic use of the land rather than just employment uses. Therefore a consideration of the economic impact of the proposed development follows.*

#### Economic Impact of the Proposed Development

##### *Employment Creation*

*The loss of land (approx. 1.60 ha) from an employment use to a retail use could be offset by the positive economic impacts of the proposed development. For this to occur I am of the view that the land would need to have little to no chance of being developed for an*

*employment use within an appropriate time frame. In addition the positive economic impacts would need to be significant. I feel that meeting these two criteria would lead me to conclude that the development would have a positive impact upon the local economy.*

*The most readily measurable economic impact of this development is the direct creation of jobs. I note from the Planning Statement that a figure of 92 is given, which is based on data provided by the Employment Densities Guide (2<sup>nd</sup> Edition 2010). This is approx. 110 sqm per FTE (Full Time Equivalent) job. It is unfortunate that only this estimate is provided and not more accurate predictions based on end users, but I note that only one end user is identified at this stage. So the number of 92 stands in direct comparison to the alternative use of the land which is for employment purposes. Again using the Employment Densities Guide I present some approx. values for the alternative use of the land within Class B;*

<i>Use Class</i>	<i>Area per FTE (sqm)</i>
<i>B1 (a)</i>	<i>17.4</i>
<i>B1 (b)</i>	<i>17.4</i>
<i>B1 (c)</i>	<i>47</i>
<i>B2</i>	<i>36</i>
<i>B8</i>	<i>75</i>
<i>Average All</i>	<i>38.56</i>

*I draw no direct conclusion from the above table about the likely employment level generated by an employment use, other than it would likely be higher than the proposed use.*

*Also relevant here is the likely value of each job. I feel that employment created within the B Use Class is likely to be of equal if not higher value than that within the A Use Class; in terms of both the earnings and value added or productivity.*

*Land Use - In the Planning Statement much is made of the NPPF and paragraphs 17, 19, 20 and 21 which variously put the onus on the Local Planning Authority (LPA) to be flexible and supportive of the local economy. Much is also made about EMP2 and the Local Plan not being up-to-date. In my view all of these matters are settled by the FELPS which acknowledges that land at Whitehills (including the application site) was allocated for a previous plan period and has not been developed. However I feel that the FELPS concludes that the application site is suitable and that there is likely to be demand for it in an employment use up to 2030. I consider this to be the most up-to-date evidence available taking into account wider growth opportunities and market signals.*

*Retail Impact - My views here are limited owing to better informed colleagues being able to comment and also the Council has sought specialist retail advice. I would only comment that the Council's Economic Development Strategy (EDS) makes clear the important role of town centres in the local economy and any adverse impacts from this development would need to be appropriately mitigated.*

### Other Considerations

*I can see no other consideration that I should take into account.*

### Conclusions

*On balance I feel unable to support the application. I do acknowledge that the proposed development could have a considerable impact upon the level of investor and developer confidence in the area and could play a role in 'stimulating' further development. However this is not sufficient to offset the value added role that this land could play in the local economy; namely being put to an employment use rather than retail. A use for which interest is likely given the evidence I have taken into account above; principally the FELP.*

*If this development were to be allowed I feel that there are a number of mitigating activities which would go some way to addressing the acceptability of the development in planning terms. I feel that they are necessary, directly related and reasonable in both scale and kind. These activities are;*

*Improvements to the highway network in and around the Whitehills area to resolve the issue highlighted in the Whitehills Development Appraisal. This would principally be the finishing off of all highways (within the ownership of the applicant) to a standard capable of being adopted by the Local Highway Authority.*

*To mitigate the loss of employment land the applicants should work jointly with the Council and commercial agents to undertake a wide ranging marketing campaign to encourage further investment and development of currently allocated and potentially allocated employment sites. This should be of an appropriate scale and duration.*

*Improvements to the public transport serving the area to improve the links between the residential areas of St Annes and Blackpool and existing and proposed employment sites.*

*Financial contributions toward the improvement works identified in the Whitehills Business Park – Environmental Improvements scheme as identified in the Council's Regeneration Framework."*

### **Highways Agency**

*As the development site is not immediately adjacent to the strategic road network (SRN), our consideration of the application has focussed on the traffic impact that the proposals would have upon the SRN, which in this case is the end of the M55 motorway at Junction 4. For reference, the roundabout and west-facing slip roads at the junction do not form part of the SRN. Consequently, our primary concern has been to satisfy ourselves that the development would not interfere with the operation of Junction 4 to the extent that there would be severe queuing of traffic seeking to exit the motorway at the junction.*

*Having reviewed the applicant's Transport Assessment, we are satisfied that the proposals would not have a severe material impact upon the SRN. Consequently, please find enclosed a TR110 Notice confirming that we do not have an objection to this application.*

*In reviewing this application, it is also worth noting that information regarding the traffic impact at the 10-year horizon date (as required by policy DfT Circular 02/2013 The Strategic Road Network and the Delivery of Sustainable Development) was not provided*

*as part of the initial Transport Assessment document. Whilst not critical to the decision, such information is required to that we are able to identify the future traffic burden development would add to the SRN for future planning purposes. We have subsequently sought and received this assessment from the applicant, which at our request also included an assessment of M55 Junction 4 during the Saturday weekend peak (this is particularly important where retail development such as this is concerned). We would therefore like to ask the Council to be aware that that we need to see analysis of the proper 10-year horizon traffic impact within Transport Assessments for sites in proximity to the SRN.*

**South Ribble Borough Council**

No comments received.

**Preston Borough Council**

No comments received.

**Wyre Borough Council**

Comments are:

*“Thank you for consulting Wyre Council in relation to the above planning application. It is noted that the proposal comprises a significant quantum of retail floorspace in an out of centre location and given the status of the Fylde Local Plan paragraph 24 of the National Planning Policy Framework is therefore relevant. This indicates that a sequential test should be applied in this instance. This test should not be confined to administrative boundaries and, given the proposal’s anticipated catchment area, should also consider centres within Wyre Borough. In our opinion, the relevant centres in Wyre are Poulton-le-Fylde and Cleveleys. Whilst the applicant’s Retail Assessment (November 2014) appears to have considered sequentially alternative sites in Cleveleys it is not clear from paragraph 5.13 of that document whether Poulton-le-Fylde has also been considered and this needs to be clarified.*

*Additionally, in outlining the methodology of their sequential assessment, paragraph 5.15 of the accompanying Retail Assessment states that “site visits included an assessment of the centres and a review of any sites within a 300m boundary from the primary shopping area boundary or town centre boundary where applicable.” Such an assessment will therefore consider in and edge of centre sites for retail purposes as defined by Annex 2 of the NPPF. However, paragraph 24 of the NPPF indicates that “When considering edge of centre and out of centre proposals, preference should be given to accessible sites that are well connected to the town centre.” Therefore, in my opinion, this requires the applicant to consider alternative out of centre sites that are accessible and well connected to the town centre and this does not appear to have been done in this instance. Additional analysis of sequentially alternative sites within the proposal’s catchment area should therefore be undertaken in order to ascertain that the sequential test has been passed.*

**Neighbour Observations**

**Neighbours notified:** 04 December 2014

**No. Of Responses Received:** One.

**Nature of comments made:**

Support the planning application whilst it will obscure our own business premises from the main road. We believe that more retail activity on the park overall all businesses on here should benefit.

## **Relevant Planning Policy**

### **Fylde Borough Local Plan:**

EMP2	Existing business & industrial uses
EMP4	Buffer zones and landscaping
SH13	Provision of large retail stores
SH14	Design of large retail stores

### **Other Relevant Policy:**

NPPF:	National Planning Policy Framework
NPPG:	National Planning Practice Guidance

### **Site Constraints**

Pipelines  
Article 4 direction

## **Environmental Impact Assessment**

This development does not fall within Schedule 1 or 2 of the Town and Country Planning (Environmental Impact Assessment) (England and Wales) Regulations 2011 as amended.

## **Comment and Analysis**

The main issues to consider when determining this application are:

- Loss of employment land
- Impact of the proposed retail development on existing retail centres
- Are there any sequentially preferable sites
- Design and visual impact of development
- Highways issues
- Flooding and drainage

In order to assist officers in the decision making process, specialist planning consultants were appointed to provide advice on the impact of the proposal on existing retail centres and whether or not there are sequentially preferable sites. This report takes into account the content and conclusions of the advice given.

### **Loss of employment land**

When considering this application regard should be had to the Development Plan which constitutes the Fylde Borough Local Plan and NPPF. Regard also needs to be had to the Whitehills Development Appraisal (WDA) (2013) and the Fylde Borough Council Employment Land and Premises Study (FELPS) (2012) both of which form part of the evidence base for the emerging Local Plan.

The site is allocated within the Local Plan under policy EMP1 – Business and industrial land allocations for B1, B2 and B8 uses, therefore the proposal which comprises two retail stores in one building, totalling 10,195 square metres of retail floorspace does not fall under any of these classes. As the policy states that land should be retained in this class the application is contrary to policy EMP2. The NPPF supports sustainable economic growth and that planning should operate to encourage and not act as an impediment to sustainable growth. The development is therefore on the face of it contrary to Local Planning policy.

The applicant's case for allowing the application and thus accepting the loss of this area of allocated employment land is extensive, a summary of which is as follows;

- Site 3 has been marketed for 5 years with no credible interest. The Council has not presented any evidence of interest.
- There is other available employment land in the applicant's ownership nearby. Sites 5, 6 and 7 are being marketed, but again there is little interest;
- A significant amount of additional employment land (circa 30ha) at Wyndyke Farm and the Western Extension of Whitehills is likely to be available soon. This could further weaken the interest in Whitehills for traditional employment uses;
- Local Plan policy EMP2 holds little weight because it is not consistent with the NPPF;
- Based on past trends of employment take up recorded by the Borough sufficient land will be retained to meet its needs beyond the Plan period;
- The FELPS has no material weight and is superseded by the WDA
- Where there is no reasonable prospect of a site being used for the allocated employment use, the NPPF is clear that sites should not be retained and that applications for alternative uses should be treated on their merits;
- The proposal will provide 113 FTE jobs as well as construction and other spinoff benefits to invigorate the overall estate. In comparison a B8 warehouse would generate only 44 jobs, the jobs would be for a range of opportunities including; Store Manager / Deputy, Department Managers, Sales Assistants, Specialist Sales Assistants (i.e. specialist expertise within a department), Warehouse Managers, Supervisors and Assistants, Till Operator / Checkout Assistants and Replen Assistants.
- Eight full time equivalent construction jobs created and 19 additional indirect and induced FTE jobs such as cleaning, landscaping and maintenance.
- The proposal will provide a higher density and range of jobs on site compared to traditional employment jobs.
- The opportunity of actual development and removal of a vacant site as oppose to a sterile site for an unknown period of time.
- The revitalisation of the wider Whitehills park through provision of a diverse offer in line with the Council's endorsed WDA.

Further to this the applicants has considered the suggesting mitigating activities that the Economic Development Officer has stated would be necessary if allowed and state they are prepared to:

- Finish off all highways within its ownership to an adoptable standard;
- Commit to its continued marketing of sites 5, 6 and 7 to encourage further investment in Whitehills;
- Offer a CIL compliant financial contribution towards improving public transport in the surrounding area; and
- Offer a CIL complaint financial contribution towards public realm and improvement works identified in the Council's Regeneration Framework (12k)

The applicants have provided a quantitative and qualitative assessment of the application site in their planning statement. In terms of quantitative they state that it can be demonstrated that the proposed development will not materially impact on the quantity of employment land within the Borough. They state "The Fylde Employment Land and Premises Study (August 2012) states that there are ample vacant premises to meet demand, despite the lower overall supply of employment land, at only 22.32ha. Four out of five forecasting scenarios demonstrated a significant oversupply of employment land in the Borough. This Study, taken with the October 2013 Whitehills Development Appraisal, clearly demonstrates a significant oversupply of employment land.". In terms of the

qualitative assessment they state that the WDA found a number of shortcomings with the business park such as lack of parking, poor broadband provision and lack of public transport to the site. The state that the Appraisal found that due to the identified shortcomings potential occupiers have chosen alternative locations and that the FELPS classified its deliverability as amber rather than green

The Council's economic development officer's response is outlined in full in the consultation responses section above. He states that the argument offered by the applicants is that the loss of the employment land is acceptable owing to the findings of the FELPS and also that the NPPF requires consideration of the wider economic use of the land rather than just employment uses. He states that whilst the loss of employment land could be offset by the positive impacts of the proposed development for this to happen the land would have to have little or no chance of being developed for an employment use within an appropriate time frame and the positive economic impacts would need to be significant. With regard to the economic impact of the development he states that the employment level generated by an employment (B class) use is likely to be higher than the proposed use when considering the Employment Densities and also that the value of employment jobs is likely to be of equal or higher value than retail jobs, in terms of both the earning and the value added or productivity. The development of the site in his opinion for a B use class for the same sized development would therefore create a greater number of better paid jobs with a greater output as oppose to the retail jobs that would be created if this proposal were allowed. With regard to the site being developed for a B class the economic development officer states the FELPS acknowledges that land at Whitehills (including the application site) was allocated for a previous plan period and has not been developed. The FELPS concludes that the application site is suitable and that there is likely to be demand for it in an employment use up to 2030. He considers this to be the most up-to-date evidence available taking into account wider growth opportunities and market signals.

The Council's planning policy officer has stated in his response that the development is contrary to EMP2 and that in August 2012 the council published an Employment Land and Premises Study (FELPS). It forms part of the evidence base for the emerging local plan to 2030, and it is therefore a material consideration for the purposes of development management. The study recommends the provision of between 26 and 33 ha of additional employment land. This needs to be allocated and brought forward to meet requirements for the Local Plan period to 2030. The FELPS also recommends the protection of the identified current employment land supply that is not the subject of existing consents for alternative uses. Table 38 of the FELPS includes an assessment for site EMP2(13b), Whitehills Park. The FELPS recommends it be retained as a sub-regional employment area for B1/B8 and associated services. The proposal would result in the loss of 1.73 ha of the site area to non-class B use. He states that if minded to grant consent for the proposal you need to be satisfied that the loss of this area of employment land to another use is justified as it would further increase the borough wide requirement for employment land.

The key issue for consideration is whether or not the permanent loss of this employment land is acceptable and whether or not the protection of the land by policy EMP2 is relevant or can it be considered to not accord with the growth and flexibility objectives of the NPPF. The benefits of the bringing forward the site for development for a retail use needs to be balanced against the negative which is the permanent loss of 1.69 hectares of employment land. A judgement needs to be made one whether or not the economic benefits of allowing the loss of the employment land are so significant that the loss of employment land is acceptable and also whether or not there are realistic prospects of the site being developed for an employment use.

Policy EMP2 requires retention of site for B class uses whereas the NPPF paragraph 17 states LPA's

should 'respond positively to wider opportunities for growth' and 'take account of market signals'. Paragraph 20 requires local planning authorities to 'plan proactively to meet the development needs of business and support an economy fit for the 21st century', whilst paragraph 21 requires local authorities to take account of whether existing business sectors are expanding or contracting, and to plan for new and emerging sectors with flexible policies. Paragraph 22 states that 'planning policies should avoid the long term protection of sites allocated for employment use where there is no reasonable prospect of a site being used for that purpose ... applications for alternative uses of land or buildings should be treated on their merits having regard to market signals and the relative need for different land uses to support sustainable local communities'. Paragraph 17 similarly requires a clear strategy which allocates 'land which is suitable for development'.

The positives of allowing the development have been well illustrated by the applicants and they state that the loss of this amount of employment land would not have a quantitative impact on the supply of employment land in the Borough and the land is not of a qualitative value that has attracted investment. However the loss of this amount of employment land would be contrary to its allocation in the Local Plan, and the emerging Local Plan which is currently being written. The FELPS forms a part of the evidence base for the Local Plan and recommends the protection of the identified current economic land supply, therefore this site is proposed to be protected and allocated for employment in the emerging Local Plan. The same study recommends the provision of between 26 and 33 ha of employment land, therefore it stands that if this development were allowed additional provision to that already found would need to be located and allocated. The applicants state that this document has been superseded by the WDA however it is Officers view that this is not the case and it forms an additional piece of evidence for consideration. Furthermore the WDA whilst acknowledging the weaknesses of the Whitehills site as a whole which has been highlighted in the applicants qualitative assessment states in paragraph 7.34 "It is therefore recommended that all currently allocated land in Whitehills Park (Phases 1 and 2) be retained as small plots to meet local land needs". Indeed the weaknesses outlined by the applicants and in table 23 of the WDA namely poor public transport, lack of parking, traffic congestion, limited access to local services, poor broadband, lack of street lighting and unadopted roads relate to the Whitehills site as a whole and not necessarily to this site specifically. The development of this site for employment is not hindered by these issues, the site is located in one of the most prominent locations in the Boroughs main strategic employment site. The site is large enough for sufficient parking for a large retail development and is large enough for parking for an employment use. The lack of broadband at the site has been resolved and the lack of street lighting and unadopted roads do not hinder this sites development. The applicants state that the WDA recommends "'Fylde and Blackpool Borough Councils should recognise the increasing level of precedents of non-B use employment activity provision within employment areas across the UK' including retail, food, hotels, vets practices, training centres and nurseries which will increase the attractiveness of the area for commercial operators (Table 23)". What they do not include is that the WDA states that in terms of retail options the council should recognise that there are national retailers that specialise in providing convenience retail and hot food options on business parks and that it is recommended that Fylde allocate a small site within the park for ancillary retail uses. What it does not recommend is that a large proportion of employment land be lost to a retail development. Therefore both pieces of evidence recommend retention of the site for employment uses and not for the development of the park or a portion of the park for a retail development. It is also considered that the protection of the site for the plan period up to 2030 is appropriate as the FELPS which acknowledges that land at Whitehills (including the application site) was allocated for a previous plan period and has not been developed. The FELPS concludes that the application site is suitable and that there is likely to be demand for it in an employment use up to 2030. This is the most up-to-date evidence available taking into account wider growth opportunities and market signals, notwithstanding the changes made by the government to the NPPG guidance on housing and economic development needs



assessments and housing and economic land availability assessments.

It is therefore considered that the retention of the site for employment uses is supported by the most up-to-date local evidence and that the protection of the site up to 2030 is appropriate and that there is a reasonable prospect of the site being used for its allocated purpose. Whilst the potential benefits in terms of creation of retail related jobs and potentially increasing the attractiveness of the wider business park are acknowledged it is considered that the application does not fully appreciate the qualitative value of the site which is in a prominent position on the Councils main strategic employment sites, located directly adjacent to the strategic highway network. The growth and flexibility objectives of the NPPF are clear however allowing retail development of this scale in this location has the potential to harm the employment character of the business park, could result in the need for additional employment land to be provided and whilst there would be some economic benefit of the development, the development of the site for employment would likely result in a higher number of jobs and they are likely to be of equal or higher value than retail jobs, in terms of both the earning and the value added or productivity. It is therefore not considered that the economic benefit of allowing the loss of the employment are significant enough to outweigh the loss of the employment land, and that there is a realistic prospect of employment development within the plan period.

#### **Impact of the proposal on existing retail centres**

The issue of the proposal being located on an existing employment site has been discussed above. Because the development is located outside of an existing retail centre its impact on these has to be assessed. Policy SH13 – provision of large retail stores states that proposals for large scale retail developments within existing town centres will be permitted. Proposals for edge of centre and out of centre sites will not be permitted unless the need for the development has been demonstrated by the application and:

- No preferential site is available in terms of the sequential approach to large retail developments; or
- The proposed development, by nature of its size, land requirement or likely vehicle generations would be inappropriately located within a town centre; and
- The nature and scale of the proposed development is appropriate to the sites location and the catchment area it seeks to serve; and
- The development would not in itself, or in conjunction with other existing or planned retail stores with planning permission significantly prejudice the vitality and viability of any nearby town centre.

Policy SH14 states that in addition to meeting the above requirements large new retail developments will also be required to meet criteria in relation to design, amenity, and highways impacts which are considered in turn in the report below. The NPPF is the most recent policy consideration and part 2 'Ensuring the vitality of town centres' states that planning policies should promote competitive town centre environments and recognises town centres as the 'heart of their communities'. Paragraph 26 states that retail developments outside of town centres, which are not in accordance with an up-to-date Local Plan should require assessment of their impact on town centre vitality and viability, up to 5 years from the time of the application (or 10 years in the case of major schemes) if the proposed floorspace is over 2,500 sq.m. The proposal is 10,195 square metres and outside the town centre so an impact assessment is necessary. In The NPPF has removed whether or not there is a 'need' for a development as a material consideration and therefore this does not need to be assessed. The NPPF concludes that where a proposal fails to satisfy the sequential test or is likely to have significant adverse impact, it should be refused. The NPPF contains the main criteria against which to assess the retail component of the scheme and is of greater

weight than Local Plan policies. The submitted RIA by Indigo Planning considers the proposed developments impact on the vitality and viability of centres within the Fylde Coast, including local consumer choice, trade in the town centre upto 5 years after the application. The assessment has been undertaken for comparison goods only and not any food floorspace as this is what is being applied for. The NPPG states that impact tests should be undertaken in a proportionate, locally appropriate way, drawing on existing information where possible. The assessment uses data from the Fylde Coast Retail Study updated (2014) and uses a standard methodology as follows;

- Identification of an appropriate study area for the proposal;
- Quantification of the spending potential in the study area;
- Estimation of the market share and turnovers of the existing retail facilities within the catchment area;
- Forecast of the proposal's turnover;
- A consideration of commitments within the catchment area;
- Estimation of changes to the existing shopping patterns as a consequence of the proposal including the likely trade diversion from existing centres;
- Assessment of the overall level of impact arising as a consequence of the trade diversion including a cumulative assessment with the known commitments;

The assessment uses data from FCRSU 2014. Data for the expenditure growth per annum is derived from Experian Retail Planner Briefing Note 11 which was used within the FCRSU. Mintel Retail Rankings 2014 has been used to ascertain the average sales density of a Class A1 non-food mixed goods value retailer. The sales density of Go Outdoors has been provided by the company. All of the data sources are accepted as industry standards. The catchment area is a 15 minute drive time from the site. 95% of the proposals turn over will be derived from destinations within the study area, and 5% from outside it. The total turnover for the development is predicted to be 17.97 million. The majority of the proposals turnover will be from Blackpool Town Centre, closely followed by Blackpool Retail Park. This is due to the range of goods sold, existing shopping patterns and the proximity of the location to the application site. Blackpool town centre has a turnover of almost 350million with the proposal drawing £5.05 million from it (3.4%) he draw from St Anne's is £0.05 and £0.02m from Lytham town centre, with £0.01 from Kirkham town centre. The submitted RIA states that the impact of the proposal on the centres within Fylde Borough will not be detrimental to their vitality and viability. Furthermore, the proposal will not have prejudice existing and planned public and private sector investment coming forward. The overall conclusion is that the overall impact of the proposal either on its own or cumulatively does not amount to a significant adverse impact.

The submitted RIA has been considered by the Council's consultant Alyn Nicholls and Associates, as well as the sequential assessment. They state that the impact assessment is based upon a conventional step by step methodology which assumes the development would be occupied by a large format home and garden retailed the identity of which is unspecified but the scheme has the characteristics of 'the range' and Go Outdoors. They state that there are a number of areas where the impact assessment is open to criticism such as the absence of trade diversions from district centres such as South Shore within Blackpool and the absence of any trade diversion from centres outside the catchment area, nevertheless the sensitivity testing they have undertaken indicates that the conclusions about the levels of trade diversion from main centres are reasonable. They state that the amount of trade diverted from existing centres arising from the proposal is unlikely to cause material harm to the vitality and viability of any centre and there is no evidence to suggest that the development would have an adverse impact on existing or future investment in centres. They state that the impact assessment is based upon the character and format of the scheme as described in

the application, if the character of retailing were to change the development would have a greater impact on existing centres and therefore a condition should be imposed to control the goods sold from the development. Such conditions would limit the goods sold to those assessed as not have having significant adverse impact and prevent the subdivision or joining of the two stores. Other conditions would include prohibition of the sale of food and drink other than for consumption on the premises, therefore only allowing a café within the development, restricting the amount of retail space within unit 1 that can be used for the sale of clothing, footwear and the sale of toys and that no jewellery or chemist goods can be sold from the development. The restrictions would allow the end users identified to sell their normal range of products and allow some flexibility but would prevent a retail selling predominately fashion, clothing and footwear and toys. Overall with regard to the policy tests raised in national policy they state that the proposal satisfies the requirements of policy regarding impact on existing centres.

### **Are there any sequentially preferable sites?**

In order to protect the vitality of town centres the NPPF requires local authorities to apply the sequential test to planning applications for main town centre uses when not in an existing centre or not in accordance with an up to date plan. Therefore as retail is a main town centre use the Sequential test needs to be carried out. The preference remains for town centres although if such sites are not available then the NPPF states that preferences should be given to edge of centre and out of centre sites that are accessible and well connected to the town centre (paragraph 24). To be considered sequentially preferable alternative sites have to be capable of accommodating “the application”. Whilst policy requires applicants (and LPAs) to be flexible about scale and format, it does not run to consideration of whether a site might accommodate a different scale of development or a different format. Consequently a site which might accommodate an alternative format with undercroft or rooftop parking would not be deemed suitable to accommodate the “the application”. Sites also need to be available and viable.

The sequential test submitted with the application considers sites that may be capable of accommodating “the application” which are within or closer to existing centres, the conclusions drawn was that none of the sites were capable of accommodating the scheme. The area of search was a 5 minute drive time from the application site and alternative sites were identified and visited that were within 300m of a centre or primary shopping area. These sites were all discounted as not being suitable due to the not being able to accommodate the scheme due to their size. The Council’s consultant has commented that the applicants approach to the sequential test was reasonable in its area of search but the analysis has not considered all centres within the defined area and that it appears that no enquiries were made of Blackpool Council as to whether it considered there to be potential sites that could be incorporated within the analysis, the analysis of which has only considered sites within 300m of the primary shopping area boundary or town centre boundary has precluded consideration of whether there are out of centre sites that might accommodate the application and which have better accessibility and connectivity to a nearby centre. With regard to the sites that have been assessed by the applicants, five of which were analysed in detail they would agree that none of these sites are suitable or available to accommodate the application, mainly due to the size of the sites.

As outlined in the consultation response Officers of Blackpool Council have expressed the view that four sites could be suitable for development. Two of these sites were considered in the applicant’s sequential test and discounted as unsuitable which is accepted and the remaining two sites are the central car park on central drive and the former Devonshire Road Hospital site. These sites were not assessed in the submitted RIA. Although these two sites like the application site are located outside of existing centres they could be seen to be sequentially preferable as they could be considered to be better connected to a town centre and have better accessibility to them.

Officers of Blackpool Council maintain that the Central Car Park site could accommodate the application as part of a wider redevelopment for a mix of uses on the site. The site of the Devonshire Road Hospital the Council's consultant states that whilst out-of-centre, is accessible and has good connectivity with the town centre. They state that the former hospital site would be significantly better than the application site in terms of accessibility on foot and by a choice of means of transport and in terms of connectivity with the town centre and therefore that site would be preferable to the application site subject to confirmation as to the availability and an indication from Blackpool Council that it is agreed to be suitable.

The fact that there were two potentially sequentially preferable sites out of centre in Blackpool was put to the applicants who consequently submitted a retail addendum which provides further information about the Blackpool district centres which were omitted from the submitted RIA and also an assessment of the two additional sites identified by Blackpool Council. The assessment of the local centres found that they all performed a specific convenience role. With regard to the central car park site they state that *'the car park offers one of the largest and well-used car parks close to the town centre and the promenade. The loss of this key and central parking site with its 714 parking spaces would be of detriment to vitality and viability of the town which relies upon the easy and convenient access for visitors.* The analysis of the site finds it is situated in an area of Blackpool predominately occupied by tourist attractions and the scheme would not complement these. Blackpool Council's emerging local plan identifies the site as a leisure quarter. With regard to the Central Car Park site, the Council and its consultant accept what the applicant is saying; the site is a well-used car park which is important to the town centre.

With regard to the former Devonshire Hospital Site the understanding is that the site is leased for temporary parking for Council staff. The applicants addendum suggests that the site is unsuitable because it is remote from existing retail units and that retail development would be incompatible with the Council's aspirations for the site. However, there are existing retail units a short distance to the south on Whitegate Drive and there are a variety of commercial uses in the vicinity. Retailing as a land use would not be inherently incompatible or incongruous in this location and the site has better connectivity by other means of travel.

Blackpool have not confirmed that they would approve 'the application' at the site. To do comprehensively they would need to consider the retail impact from this location, the highways implications and considerations of the design of the proposal in this location as well as the impact on residential amenity. They do however acknowledge that in terms of 'out of centre' sites it is reasonably well connected to the Town Centre being 400m from the Town Centre boundary and 800m from the eastern extent of the primary shopping area. There is a bus stop on Talbot Road and services 5,7,9 and 14 go down Talbot Road. It is 500m from Blackpool North Station.

The applicants state that the site is not available as it is being used for car parking by Blackpool Council staff following the relocation of the Council officers, planning permission being granted in May 2014 for the continued use of the site as a car park for 5 years with an additional 100 spaces. The site is also currently not being marketed for sale or lease. They also state that it is not suitable in access, layout and design terms being surrounded by housing which would be adversely impacted upon. They also state that there would only be room for 120 car parking spaces as oppose to the 260 proposed at the application site. They also state that the development of the site would not be viable, the store would be isolated from complementary retailers unlike the application site which has B and Q adjacent to it and is near to Clifton Retail Park. The location would not be conducive to driving footfall at the site, which is a key requirement for the operators.

Whilst Blackpool officers have suggested that the Devonshire Road site may be sequentially preferable and it can be considered better connected to Blackpool centre than the application site is too any centre they have not confirmed that they would view 'the application' favourably at the site. Furthermore an assessment of the site by the applicants has shown that it is not available, viable or suitable for the application which it needs to be to be sequentially preferable.

The Zurich Assurance (t/a Threadneedle Property Investments) V North Lincolnshire Council and Simons Development planning appeal considers the application of the sequential test, with the Justice agreeing with approaches adopted in the Dundee case stating that *'it is important to mark that developers, and planning authorities work in the real world. Working in the real world the (planning) committee were entitled and indeed bound to take into account the evidence.. Mark and Spencer would not locate to Scunthorpe town centre in the event that this application for the site was refused'*. Another appeal decision (Rushden Lakes, Northamptonshire) confirmed that if a site is not suitable for the commercial requirements of the developer then it is not a suitable site for the purposes of the sequential test. Working in the real world officers consider that whilst the Devonshire Road site is better connected to the town centre than the application site it is unlikely that the developer would locate this scheme in that position due to the nature of the retailing offer proposed and its location surrounded by residential properties would result in amenity and access issues, therefore not being a suitable or viable site for development. Furthermore the site has not been shown to be available for development with recent planning permissions granting permissions for car parking at the site and Blackpool have not confirmed that 'the application' would be viewed favourably at the site. Although the site is not within Fylde in your officers opinion the site may be suitable for retail but on a smaller scale than that proposed by this application, or a residential development would also be appropriate. The site is therefore not considered to be sequentially preferable to the application site and there are no sequentially preferable sites available.

### **Design and visual impact**

The site as existing is an undeveloped site within an industrial estate. The proposal is for a large new building for A1 retail use over two floors. The building is set back at the northern end of the site with parking at the front of the site. The building has a footprint of 4,663sqm and an outdoors sales area of 800sqm providing 10,195sqm of retail floors space over the two floors. Access to the store will be from the roundabout also serving B and Q to the south east of the store and parking will be provided for 262 cars. The building will have a flat roof and will be clad predominately in flat steel coloured Anthracite, will projecting box panels in jade with areas of glazing around the entrances. Because it serves two different operators over the two floors it will have two entrances, with the access to the first floor operator via a two storey glazed entrance way at the eastern end of the building adjacent to B and Q. This area of glazing wraps around the corner of the building. To the west of the site will be the fenced outdoor garden centre and to the rear will be the service access, yard and plant area. The building is of modern appearance and similar in scale to the adjacent B and Q. There is a mix in design and materials on the wider business park as a whole and it is considered that the design of the store is acceptable and the visual impact of the building in the wider area would also be acceptable. It would be visually prominent but would be adjacent to a building of similar scale. Insufficient landscaping is shown on the site plan at the front of the site adjacent to Hallam Way and this would need to be bolstered and subject to a condition if this application were to be approved.

### **Highways issues**

The application has been submitted with a Transport Assessment which has been considered by both LCC Highways and Highways England. The TA submitted with the application was found to be unacceptable and was therefore supplemented with email correspondence, a technical note update (17/3/15) prepared in response to HE comments as well as a Transport Assessment Addendum,

dated May 2015 prepared in response to LCC's comments.

Highways England considered the impact that the development will have on the strategic road network (SRN) which in this case is the M55 Junction 4. They needed to be satisfied that the development would not interfere with the operation of this junction to the extent that there would be severe queuing of traffic seeking to exit the motorway at the junction. Consequently upon reviewing the submitted TA they requested that the traffic impact assessment be extended to 10 years and also an assessment of the junction at the Saturday weekend peak. Having reviewed the data submitted they have no objection to the proposal.

LCC Highway's assessment of the TA is based on the impact of the development on the local highways network. LCC reviewed the TA and indicated areas of concerns to the applicants, which was followed by a meeting between LCC, Curtins and the LPA. To help move things forward with the submitted application, LCC reviewed the base traffic figures and carried out some further local surveys. This allowed a better understanding of current and future assessment traffic patterns that could be expected in and around Whitehills Business Park, with consideration for the complex nature of all committed and emerging developments. It also allowed LCC to form an up to date view on potential re-routing at key junctions, given the scale of development and the delivery of the M55 to Heyhouses Link Road. Curtins used the future assessment figures, provided by LCC, to develop further junction assessments. This work was presented in a Transport Addendum (May 2015). LCC also provided advice on future network changes to be delivered by other developments which includes the M55 to Heyhouses Link Road and these changes have also been included in the latest Transport Addendum modelling work. While LCC does not agree with a number of aspects in the TA Addendum, this latest updated information has been used by the LHA to inform their assessment of the impact of the development and any necessary mitigation measures. It is clear that the network will be at or beyond capacity at a number of locations when all committed development is taken into consideration in the future; in particular the Cropper Road/School Road/Whitehill Road roundabout and the A583/Whitehill Road traffic signal junction. Committed development includes erection of dwellings and employment buildings in the area. These all need to be considered when assessing the impact of this development on the local highway network.

The following Junction Operational Assessments were included in the Transport Addendum Report:

- A583 / M55 Junction 4 Roundabout
- A583/Hallam Rd/Lytham St Annes Way Roundabout
- A583/Whitehill Road/Peel Road Signalised Junction
- Dugdales Close leading to Site Access/Hallam Way Roundabout
- Cropper Road/School Road/Lytham St Annes Way Roundabout
- Cropper Road/Progress Way Roundabout

The assessment that has now been undertaken has satisfied LCC in respect of future assessment years, the use of average trip rates (assuming support for improvements to sustainable transport links) and Saturday peak assessment. However mitigation is considered necessary in order to make the impact on the local highways network acceptable, this work constitutes:

- Link and junction improvements in the form of an upgrade to Mova Signal Control at A583/Whitehill Road traffic signals including review of early start for A583(N) (Note: Any future proposed development with an impact at this junction will need to identify appropriate mitigation measures). Wider works may also be required with additional carriageway capacity improvements and a review of traffic signal operation and phasing

- e. Contribution towards a scheme to deliver wider improvements to the highway network in

and around the Cropper Road/School Road Roundabout. These works to include a spiral marking scheme and improvements to entry width and flare length to deliver additional capacity on approaches of Lytham St Annes Way and School Road, including a review and changes to traffic management and signing on the approach routes of School Road, Cropper Road and Whitehill Road.

Because of the sites location sustainable transport improvements area considered necessary and a contribution towards these is requested by LCC Highways. The range of pedestrian and cycle improvements measures identified to support development of the Whitehills BP include:

- improve the existing footpaths on the western edge of the site to provide improved connectivity to existing and proposed sustainable links to/from the wider network. Estimated Cost £20,000
- Shared Pedestrian/Cycleway, 3.5m wide on Lytham St Annes Way north side providing good quality sustainable link between Cropper Road Roundabout to A583/Hallam Way roundabout and on to M55 Junction 4 to tie in with measures to be being delivered at this junction by other development. Estimated Cost £100,000
- Enhancements and improved connectivity to the existing footway network connecting to bus turn around to the north of Brooklands Way and PROW (FP 4) and a potential link to the DWP offices/bus stop and to M55 J4 (to tie in with measures to be delivered at this junction by other development).

With regard to public transport LCC state that the bus stops on Preston New road are 460m (n/b) and 230m (s/b), however there are no controlled pedestrian crossing facilities linking the site to the s/b stop. Two other stops lie within the recommended 400m walking catchment (located 170m from the entrance to the development) but these do not have services associated with them. The stop on Lytham St Anne's Way is 685m waking distance from the site entrance, along a route via Graceways. There is also a bus turning point with bus stop markings (but no bus services route to this location) to the north of Brooklands Way; this is approximately 250m from the entrance of the site if a pedestrian route can be accessed directly from the site onto Brooklands way. There is a stop (for the 14 service) within approx. 800m of the site, however the route is not suitable for all year round pedestrian use as some of it is unpaved and unlit and is along an un-adopted road. LCC consider that the site is not as well served by the frequency and distribution of bus services as listed within the TA. They consider the site a car dependent site unless improvements are delivered. Therefore improvements are required to public transport serving the area to improve the links between the site and the residential areas of St Annes and Blackpool, these would constitute improvements to the frequency and routing of bus services and the new bus stops to be upgraded to quality bus standard. Therefore funding to secure long term, viable public transport service into and through Whitehills Business Park (BP) is necessary to serve this development. Any new bus service(s) to be provided within Whitehills BP will need 'pump prime' funding to ensure delivery. The funding will be used to provide an extension of service 14 into and through Whitehill Business Park for two years.

They have no objections to the development if all of the mitigation measures required are delivered by the developer. Without the inclusion of these measures the development would have an unacceptable impact on the local highways network and therefore permission could only be granted with the works conditioned and contributions triggered by condition and within a legal agreement.

### **Flooding and drainage**

The application has been submitted with a Flood Risk Assessment which was revised following an objection from the Environment Agency. The revision allowed the EA to remove their objection stating that the development will only meet the requirements of the NPPF if the measures in the FRA are implemented and secured by way of planning condition. The specific measure is that the

surface water run-off from the development is limited to 9.8l/s so that it does not exceed the run off from the existing site. United Utilities also have no objections and request conditions requiring details of foul and surface water drainage to be submitted and approved prior to the commencement of any development. There are therefore no flooding or drainage issues with the application.

### **Conclusions**

The proposed development will involve the loss of 1.69 hectares of allocated employment land from being available for traditional employment and the provision of 10,195sqm of A1 floorspace providing two non-food retail stores. The applicants have satisfactorily demonstrated that there will be no unacceptable impact on existing protected retail centres and that there are no sequentially preferable edge of centre or out of centre sites for the development proposed. There are therefore no issues with the retail impact of the proposal. LCC Highways have no objections to the proposal subject to highway improvements schemes and sustainable transport contributions to provide a bus service through Whitehills estate for two years. There are no flooding or drainage issues.

The loss of employment land however is seen as unacceptable by officers as the potential benefits of allowing the retail development do not outweigh the negative loss of the allocated employment land and the retention of which is supported by the most up-to-date local evidence, and that there is a reasonable prospect of the site being used for its allocated purpose. The qualitative value of the site for employment is considered to be high due to its strategic location and lack of barriers to its development.

### **Recommendation**

That Planning Permission be REFUSED for the following reason:

1. The proposed development would result in the loss of 1.69 hectares of employment land to retail use which is contrary to Policy EMP2 of the Adopted Local Plan which allocates it for retention in class B uses. It is not considered that there is adequate justification to accept that the loss of this site would not unacceptably diminish the supply of land available for such uses in the Borough, or that the application site is no longer viable for employment uses within the Plan period up to 2032. Retail use of this scale at this site would undermine the allocation of the employment land and would reduce the qualitative value of Whitehills as an employment site.



**WHITEHILLS BUSINESS PARK**

**COMMUNITY INFRASTRUCTURE LEVY REGULATIONS - SECTION 106 PLANNING  
OBLIGATIONS**

**OPINION**

**INTRODUCTION**

1. I am instructed by Simmons & Simmons on behalf of West Register (Property Investments) Limited (“WR”) in relation to an impasse reached in discussions with a local planning authority, Fylde Borough Council (“the Council”) and a highways authority, Lancashire County Council (“LCC”), as to the Section 106 contributions that can lawfully be sought by the Council and LCC following a decision by Members, against Officer recommendation, to approve a full planning application for a retail development at Whitehills Business Park, Fylde, subject to the entering into of a Section 106 obligation or agreement.
2. In summary, the Council seeks wider and more costly highway and other improvements to Whitehills Business Park than WR consider can properly be required under the Community Infrastructure Levy Regulations (“the CIL Regulations”). Having reached an impasse with Council Officers, WR seek my Opinion as to whether the Section 106 contributions offered by WR are acceptable and CIL compliant.

**THE CIL REGULATIONS**

3. The scope for the Council lawfully to request Section 106 planning obligations is addressed by Regulation 122 and 123 of the CIL Regulations.
4. In particular, Regulation 122 gives statutory effect to three of the five criteria which were previously included in Circular 05/2005, such that the lawfulness of planning obligations is now dependent on them being:
  - a. Necessary to make the development acceptable in planning terms;
  - b. Directly related to the development; and

- c. Fairly and reasonably related in scale and kind to the development.
5. A planning obligation which does not fulfil the criteria set out in Regulation 122 "must not constitute a reason for granting planning permission".
6. Regulation 123 limits the number of pooled Section 106 contributions towards a specific infrastructure project or a type of infrastructure to just five.

### **FACTUAL BACKGROUND**

7. In November 2014, Indigo Planning, on behalf of WR, submitted a full planning application to the Council for the erection of a single building extending to 10,195sqm of A1 floorspace, with associated car parking and access works, at land known as Site 3 on the Whitehills Business Park, Fylde. The land is part of a wider allocation for employment use. I am instructed that the application site is 1.69 ha in extent (although other figures range to 1.73 ha) and that the Whitehill Business Park allocation itself some 19.8 ha in extent.
8. Representations on that application were received from the Planning Policy Officer of the Council on 23 December 2014, stating as follows with respect to employment policies:

*"The proposed development lies within an area which is allocated as 'Existing Business and Industrial Areas' in the Fylde Borough Local Plan. Local Plan Policy EMP2 operates to permit proposals for business and industrial development, specifically here for B1, B2 and B8 uses.*

*In August 2012 the Council published an Employment Land and Premises Study (FELPS). It forms part of the evidence base for the emerging local plan to 2030, and it is therefore a material consideration for the purposes of development management. The study recommends the provision of between 26 and 33 ha of additional employment land. This needs to be allocated and brought forward to meet requirements for the Local Plan period to 2030. The FELPS also recommends the protection of the identified current employment land supply that is not the subject of existing consents for alternative uses.*

*Table 38 of the FELPS includes an assessment for site EMP2(13b), Whitehills Park. The FELPS recommends it be retained as a sub-regional employment area for B1/B8 and associated services. The proposal would result in the loss of 1.73 ha of the site area to non-class B use.*

*The proposal is contrary to Policy EMP2 of the Fylde Borough Local Plan.*

*You will need to consider whether there are any other material considerations which are of sufficient importance to outweigh the policy position established in the adopted Local Plan. If minded to grant consent for the proposal you need to be satisfied that the loss of this area of employment land to another use is justified as it would further increase the borough wide requirement for employment land."*

9. Representations on the application were also received from the Economic Development Officer on 10 February 2015, including as follows:

*"On balance I feel unable to support the application. I do acknowledge that the proposed development could have a considerable impact upon the level of investor and developer confidence in the area and could play a role in 'stimulating' further development. However this is not sufficient to offset the value added role that this land could play in the local economy; namely being put to an employment use rather than retail. A use for which interest is likely given the evidence I have taken into account above; principally the FELP.*

*If this development were to be allowed I feel that there are a number of mitigating activities which would go some way to addressing the acceptability of the development in planning terms. I feel that they are necessary, directly related and reasonable in both scale and kind.*

*These activities are:*

*Improvements to the highway network in and around the Whitehills area to resolve the issue highlighted in the Whitehills Development Appraisal. This would principally be the finishing off of all highways (within the ownership of the applicant) to a standard capable of being adopted by the Local Highway Authority.*

*To mitigate the loss of employment land the applicants should work jointly with the Council and commercial agents to undertake a wide ranging marketing campaign to encourage further investment and development of currently allocated and potentially allocated employment sites. This should be of an appropriate scale and duration.*

*Improvements to the public transport serving the area to improve the links between the residential areas of St Annes and Blackpool and existing and proposed employment sites.*

*Financial contributions toward the improvement works identified in the Whitehills Business Park – Environmental Improvements scheme as identified in the Council's Regeneration Framework."*

10. Indigo Planning responded on 27 February 2015, stating inter alia as follows:

***"General Points***

*We are glad to see that the officer acknowledges the contribution that retail can make in terms of positive economic impacts, and that these benefits can offset the loss of a site from allocation for traditional B class use. ...*

*However, we express some concerns regarding the limited evidence on which conclusions are drawn, and the confusion of economic development matters with planning policy. Nevertheless, we respond to the points raised for the purposes of clarification.*

***Employment Densities and Job Estimates***

*The proposed A1 scheme would generate 113 jobs ... The Council's review of the number of jobs which would be generated by alternative uses is misleading and partial. The Whitehills Development Appraisal finds that B1 use is not viable at the Business Park, stating that it is 'unlikely developers will pursue further office schemes' (para iv). It is therefore inappropriate to include an estimate for B1 use of the site, as it is not realistic to assume that such a use could come forward.*

*...*

***Fylde Employment Land and Premises Study (FELPS)***

*The officer's conclusion admits that the FELPS is the only source of evidence on which he bases his assumption of the site's attractiveness to B class occupiers. The FELPS was produced in August 2012. As such, it is not up-to-date. Nor does the officer cite any quantifiable evidence of the number of potential occupiers seeking employment premises, either at Whitehills or across the wider Borough. This does not constitute sufficient evidence, and is contradicted by other, more reliable sources of information.*

*Firstly, there has been an absence of market interest in the site for the duration of its allocation as an employment site, stretching back to the 1990s. It has been marketed on behalf of the applicant for a number of years by Jones Lang Lasalle, a well-regarded national agency. They have achieved no deliverable, viable interest.*

*Secondly, the FELPS is superseded by the Whitehills Development Appraisal, commissioned by the Council and produced in October 2013, fourteen months after the FELPS. It assesses the development potential of land in the Whitehills area, and finds that the office market is weak, with limited to no evidence of demand for offices of any size. In the short to medium term, it finds it 'unlikely developers will pursue further office schemes' (para iv).*

*The Appraisal highlights the changing nature of Whitehills Business Park. It notes its shortcomings as a centre for B class uses and describes its transformation into a mixed area (para 1.13). It recommends that 'Fylde and Blackpool Borough Councils should recognise the increasing level of precedents of non-B use employment activity provision within employment areas across the UK' including retail, food, hotels, vets practices, training centres and nurseries which will increase the attractiveness of the area for commercial operators (Table 23). This does not support the officer's conclusion that B class uses are likely to come forward on this site.*

*In light of the Whitehills Development Appraisal, the reliance on the FELPS is incorrect and should be revised.*

### **Long-term Protection of Sites**

*The officer considers that the land may be developed for other uses 'up to 2030'. In addition to the insufficiency of the evidence on which this is based, it is wholly unreasonable to expect a commercial operator to wait up to 15 years for a financially-viable development opportunity. This is diametrically opposed to the NPPF's flexible and supportive stance towards the economy and businesses, and it particularly contradicts paragraph 22, which requires local planning authorities to 'avoid the long term protection of sites allocated for employment use where there is no reasonable prospect of a site being used for that purpose'.*

*Our marketing evidence, and the site-specific Development Appraisal commissioned by the Council, demonstrate that there is no demand for office use on the Whitehills Business Park, limited demand for alternative B class uses, and a requirement to diversify Whitehills' offer in order to stimulate job creation and prosperity.*

*The Development Appraisal actively seeks and encourages applications like the retail proposal which is under consideration here. It recognises the benefits it would bring to the Park, including job creation and service provision to existing and potential occupiers.*

### **Suggested Conditions**

*We dispute the suggested conditions. The NPPF requires conditions to be necessary; directly related to the development; and fairly and reasonably related in scale and kind to the development (para 204).*

- 1. Regarding the highway network, a Transport Assessment was submitted which demonstrates the acceptability of the scheme in highway terms. The condition is therefore not appropriate.*
- 2. The second suggested condition suggests that the applicant should assist in the wider regeneration of the Park. It is not the responsibility of the applicant to do so. Rather, it falls to the Council or the relevant landowners.*

### **Conclusion**

*The application proposal will deliver 113 definite jobs across two non-food retail units. Two operators are lined up, with one having confirmed its tenancy and the other remaining confidential. These are guaranteed jobs which will generate additional jobs in construction and the supply chain; an improved level of activity and presence on the Whitehills Business Park; and enhanced local spending. It would be perverse for the Council to resist 113 guaranteed jobs in favour of theoretical employment which may (or may not) come forward at some point over the next 15 years."*

11. The Economic Development Officer responded again on 11 March 2015, responding to the points raised in the Indigo Planning letter of 27 February 2015 - including as follows so far as potential mitigation was concerned:

*"I made no suggestions for conditions in my comments of 10th February as suggested by the applicant's representatives. Instead I proposed a number of measures or 'mitigating activities' which could go some way to addressing the acceptability of the development. I made these suggestion based on the evidence of the Whitehills Development Appraisal and the Council's Regeneration Framework. I proposed these 'mitigating activities' for further consideration by yourself and in my own view thought that they could be addressed in a number of ways.*

*I made these proposals based on my own conclusions that the application could be considered to be somewhat finely balanced when all other planning and economic development matters are taken into consideration."*

12. Indigo Planning sent the Council a letter on 6 May 2015 asking the Council to consider the planning balance, stating inter alia as follows:

*"We write to you as the application approaches determination in order to summarise our case in view of the various responses that have been produced through the course of the application.*

***Highways***

*... Our project team is confident that comments raised by the County Council are capable of imminent resolution, so that there will be no highway objection.*

***Retail***

*The Council's independent review of the submitted retail assessment confirms that there is no adverse impact resulting from the proposal. ...*

***Loss of Employment Land***

*The site is protected by the outdated Local Plan Policy EMP2, which does not accord with the growth and flexibility objectives of the NPPF. Nevertheless, our submission justifies the loss of employment land. Quantitatively, based on past trends of employment land take-up recorded in the Borough's AMR, the Borough will retain sufficient land to meet its needs beyond the Plan period (Planning Statement pp. 12-13).*

*Qualitatively, the Whitehills Development Appraisal cites evidence that the Business Park struggles to retain and attract occupiers due to poor broadband provision and a lack of parking among other site-specific issues. It found no demand for office use, limited demand for alternative B class use and a need to diversify the Park's offer in order to stimulate job creation and prosperity.*

*The applicant's proposal will create 113 jobs (FTE) across varying roles and skill levels. In comparison, a B8 warehouse would generate only 44 jobs, and there has been no interest from such occupiers.*

*The economic development officer does not accept our case, but provides no evidence to substantiate his position. Instead, he relies on the Fylde Employment Land and Premises Study (FELPS, August 2012) to recommend that the site remain sterile until 2030.*

*The FELPS has no material weight and is superseded by the Whitehills Development Appraisal. We have provided clear evidence of the constraints of the site and wider Park; the lack of market interest in the site; the wide availability of employment land in the Borough based on take-up rates and local agents' experience; and the employment benefits to be generated by the development. It is wholly contrary to the NPPF to seek to delay a proposal with concrete economic, social and environmental benefits, due to preference for a theoretical future development which has not materialised since allocation in the 1990s, and is unlikely to come forward in the current or future market.*

### **Planning Balance**

*The NPPF requires the decision-maker to determine applications in line with the development plan, unless material considerations indicate otherwise (para 196). Where relevant policies are out of date, permission should be granted unless adverse impacts would significantly and demonstrably outweigh the benefits (para 14).*

*Subject to the imminent resolution of highway and retail issues, there are no objections to the scheme from the general public or technical / statutory consultees. The sole concern lies in the perceived loss of employment land. This concern has not been substantiated with evidence. It must be weighed in the planning balance against the economic, social and environmental benefits of the scheme, namely:*

- Policy EMP2 which restricts development on allocated employment sites, and the Fylde Borough Local Plan (2005) within which the policy is located, are out of date as they do not accord with the growth and flexibility objectives of the NPPF;*
- the provision of 113 jobs (FTE) across a range of skill levels; the revitalisation of the wider Whitehills Park through provision of a diverse offer in line with the Council's endorsed Whitehills Development Appraisal;*
- the opportunity of actual development (both retail occupiers are confirmed), as opposed to the potential development of the site for a B class use at some undefined point in the future, which is unlikely given the lack of interest in the site from the 1990s to the present day, as corroborated by expert agent advice;*
- reduced emissions, as local people will have less distance to travel to this type of retail store and associated employment opportunities; and*
- removal of a vacant site which is presently liable to fly-tipping, unauthorised traveller occupation and anti-social behaviour.*

*These benefits clearly outweigh the loss of employment land. In light of this, the loss of employment land is insufficient justification to refuse the application..."*

13. So far as highways matters are concerned, on 25 March 2014 the Highways Agency confirmed that they had no objection and no further comment to make, having received additional information that they had requested. As for LCC, their "final response" was dated 19 May 2015 and made no objection provided considerable contributions were made towards road works and related matters:

*"LCC would not object to this application subject to agreement on the proposed mitigation measures and planning contributions as set out below ... I consider that these measures are necessary, directly related and reasonable in both scale and kind.*

Link and Junction improvements

*The following measures have been identified to support development:*

***Initiative (1a) S278 - Improvement Scheme***

*Upgrade to Mova Signal Control at A583/Whitehill Road traffic signals including review of early start for A583(N) – to be delivered through a S278 agreement.*

*(Note: I have concluded that this will mitigate the impact of this development. However, it should be noted that future proposed development with an impact at this junction will need to identify appropriate mitigation measures.)*

***Initiative (1b) S278 – A583/Whitehill Rd Traffic Signals - Wider Improvement Scheme***

*Additional carriageway capacity improvements and review of traffic signal operation and phasing*

***Initiative (2) S106 - Highways***

*Contribution towards a scheme to deliver wider improvements to the highway network in and around the Cropper Road/School Road Roundabout. These works to include a spiral marking scheme and improvements to entry width and flare length to deliver additional capacity on approaches of Lytham St Annes Way and School Road, including a review and changes to traffic management and signing on the approach routes of School Road, Cropper Road and Whitehill Road.*

*Estimated full scheme cost of wider scheme => £50,000*

*(Note: the requested s106 contribution for this development towards this wider improvement scheme is only £10,000, i.e. part of the full wider scheme cost ...)*

Sustainable Transport Improvements

***Initiative (3) S106 - Pedestrian and Cycle Improvements***



*A S106 funding contribution will be required to improve connectivity to existing and proposed sustainable links to/from the wider network to support the application. This will somewhat mitigate the impact of this development by enhancing linkages for users of this proposed development as well for existing users. A range of measures which would support the wider development of the Whitehills BP area (including this development) have been identified.*

*(Note: Again, the estimated full cost of each measure is indicated, however, the requested s106 contribution for this development towards 'Initiative (3) S106 - Pedestrian and Cycle Improvements' is significantly below the sum of all potential measures identified, at £60,000 ...')*

*The range of pedestrian and cycle improvements measures identified to support development of the Whitehills BP include:*

- improve the existing footpaths on the western edge of the site to provide improved connectivity to existing and proposed sustainable links to/from the wider network.*

*Estimated Cost £20,000*

- Shared Pedestrian/Cycleway, 3.5m wide on Lytham St Annes Way north side providing good quality sustainable link between Cropper Road Roundabout to A583/Hallam Way roundabout and on to M55 Junction 4 to tie in with measures to be being delivered at this junction by other development.*

*Estimated Cost £100,000*

- Enhancements and improved connectivity to the existing footway network connecting to bus turn around to the north of Brooklands Way and PROW (FP 4) and a potential link to the DWP offices/bus stop and to M55 J4 (to tie in with measures to be delivered at this junction by other development).*

*Estimated Cost £80,000*

*...*

#### ***Initiative (4) S106 - Public Transport***

*It is essential that a level of flexibility is maintained with regard to route choice for any public transport options identified. The proposals should not compromise the opportunity to introduce positive changes to the provision of public transport services in the future with regard to improved accessibility or maximising patronage. A s106 funding contribution will therefore be used to support the following potential service or an appropriate alternative:*

- An extension of Service 14 Fleetwood – Blackpool – Mereside, into and through Whitehill Business Park (Estimated Cost £120,000 per annum)*

*(Note: it is usual for a developer to provide 5 years of funding, however, the requested s106 contribution for this development towards 'Initiative (4) S106 - Public Transport' is significantly below this level of funding at only £240,000 ...)*

...

### **S278 Works**

*A Section 278 Agreement for off-site highway improvements is expected between the developer and the highway authority to deliver the following scheme:*

#### **Initiative (1) S278 - Improvement Scheme**

*- A583 / Whitehill Road signals – MOVA upgrade and review of A583 (N) early start  
LCC consider the trigger point for the A583/Whitehill Road signals – MOVA upgrade should be prior to first occupation.*

#### **Planning Obligations (s106 Planning Contributions)**

*It is appropriate to seek planning obligation contributions from this development to support improvements to the local network and sustainable transport links. This funding will be used to implement changes to limit the negative impact of this large development on the existing congested network.*

*A considered and co-ordinated request for Section 106 contributions towards sustainable transport has been based on a detailed assessment of the site and surrounding network.*

*The full list of planning contributions requested is detailed below:*

#### **Initiative (2) S106 - Highways**

*- Contribution towards a wider scheme to deliver specific improvements to the highway network in and around the Cropper Road/School Road Roundabout. These works to include a spiral marking scheme and improvements to entry width and flare length to deliver additional capacity on approaches, including a review and changes to traffic management and signing on the approach routes of School Road, Cropper Road and Whitehill Road.*

*The trigger point for the funding contribution should be prior to first occupation.*

**Planning Contribution Request => £10,000**

#### **Initiative (3) S106 - Pedestrian and Cycle Improvements**

*- Contribution towards pedestrian and cycle Improvements to deliver improvements to sustainable links to support schemes as detailed under the heading 'Pedestrian and cycle Improvements' on page 6 of these comments;*

*The trigger point for the funding contribution should be prior to first occupation.*

**Planning Contribution Request => £60,000**

#### **Initiative (4) S106 - Public Transport**

- A s106 funding contribution will be used to support the ... potential service or an appropriate alternative as set out under the heading 'Public Transport' on pages 6 and 7 of these comments:

*The trigger point for the funding contribution should be prior to first occupation unless otherwise agreed by the LPA in consultation with the LHA*

**Planning Contribution Request => £240,000**  
(estimated equivalent 2 years funding)

**Total s106 Funding Request for Initiatives (2), (3) and (4) => £310,000**

#### **Conclusion**

...

*LCC would have no objection to the proposed development as long as all mitigation measures are delivered by the developer, as detailed above on page 9 under the headings 'Planning Obligations (s106 Planning Contributions)' and 'S278 Works'. I consider that these measures are necessary, directly related and reasonable in both scale and kind. Suitable planning conditions should be put in place to ensure these mitigation measures are delivered by the developer in line with required trigger points."*

14. The application was presented to Planning Committee on 18 June 2015 with a recommendation for refusal, as follows:

*"The scheme raises a series of technical issues such as the capacity of the highways, flood risk, design, etc. all of which are acceptable. However, the officer recommendation is that the application be refused as the loss of 1.69 hectares of employment land would be contrary to its allocation through policy EMP2 the Fylde Borough Local Plan, and the recommendations of the Fylde Employment Land and Premises Study (August 2012) and Whitehills Development Appraisal (October 2013) which both recommend the retention of the employment land and form part of the evidence for the Emerging Local Plan. The potential benefits of developing the site for retail uses do not, in officer's opinion, outweigh the negative loss of the employment land, which would result in the need for further land to be allocated to make up for that land, result in lower value jobs being created at the site. The qualitative value of the site for employment uses is considered to be high due to its strategic location and lack of barriers to its development and there is a reasonable prospect of the site being developed for this purpose within the plan period."*

15. The application was deferred by Members, however, for the following reason:

*"Deferred in order to allow officers to enter into further negotiations with the developer to secure improvements to the layout and landscaping of the site and to discuss a suite of appropriate planning conditions and heads of terms to be included in a section 106 agreement to include: marketing of the applicant's other sites in the vicinity, public realm*

*improvements, improvements to local highways, sustainable transport measures and restrictions on retail goods to be sold from the premises.”*

16. There were discussions and correspondence during the deferral as to what might be included within the proposed Section 106 agreement and Section 278 agreement. I will set out the final position with regards to those discussions in tabular form later in this summary of the factual background. However, it is right to note at this stage that, consistent with the consultation response of the Council’s Economic Development Officer, dated 10 February 2015, the Council sought contributions in respect of highway matters considerably in excess of those sought by LCC’s final response dated 19 May 2015, wanting WR to finance not only the matters set out in that response but to finance, as well, the carrying out of additional improvements to a number of other roads at Whitehills (Hallam Way, Brooklands Way, Dugdales Close, Thompson Road and Woodside) to bring them up to adoptable standards.
17. This was sought not for ‘highways’ reasons however, but to improve the ‘public realm’ so as to make the remaining parts of the Whitehills Business Park more attractive to future developers. The position of the Council in this regard was set out in the following terms in an email dated 15 July 2015:

*“As I have said previously the finishing off of the highways is in our view CIL compliant, in order to make a retail development acceptable on an employment site we consider it appropriate and necessary for those roads to be finished to adoptable standards, part of your argument that was presented to members was the potential galvanising impact this development would/could have on the rest of the employment site, indeed you even listed it as something you would do if approved. With regard to the 14k offer you have made towards public realm improvement we do not consider this appropriate whatsoever. I have already explained this. With regard to an appropriate contribution towards public realm improvements for the Whitehills estate we consider that given the reasoning behind allowing a 10,195 sqm retail development on an allocated employment site, such as the perceived positive impact it will have on the remaining employment land, and the fact that the employment land will be lost forever to retail a contribution based on the work done on setting Fylde’s community infrastructure levy in the emerging Local Plan is appropriate. The below table is taken from that document. As you can see Retail development has been considered for supermarkets, retail warehouses and shops. We consider due to the size and format of the development proposed that this development is akin to a retail warehouse. Whilst it does not have an unacceptable impact on centres, it does have some impact, as well as resulting in the loss of employment land, and given the reasoning behind allowing the development a contribution to the framework is appropriate and we believe this document allows for an appropriate contribution to be*

*made that both members and officers will find acceptable. Therefore using the below the contribution would total £815,600. The highways contributions including the cost of getting the roads up to adoptable standards would be included in this, as well as the marketing of the site etc. The remainder going towards the framework, we consider this to be CIL compliant and this will be the recommendation we make to members."*

18. The basis of the Council's required contribution of £815,600 reflected, therefore, a calculation made by reference to the Council's evidential base, such as it is, for its emerging CIL Schedule ( $£80m^2 \times 10,195m^2 = £815,600$ ).
19. This required sum of £815,600 was said to include the highways contributions, which I assume means that it includes the £310,000 requested by LCC, so that the remaining £505,600 would seem to be attributable the Council's additional demands (although how, if at all, the Council correlate their overall request for £815,600 with the LCC's costing is completely unclear to me).
20. In any event, the above request for £815,600 elicited a response from Indigo Planning, dated 24 July 2015, offering a sum of £130,120 instead, made up as follows:

Item	Amount Offered
<b>Highway Mitigation</b>	
Initiative (1)(a) S278 - Improvement Scheme Initiative (1b) S278 – A583/Whitehill Rd	Agreed in Principle
Initiative (2) – S106 Cropper Rd/School Rd	£10,000
Initiative (3) – S106 Pedestrian & Cycle Improvements	£30,000
Initiative (4) – S106 Public Transport	£60,000
<b>Whitehills Business Park - Environmental Improvements</b>	
S106 - Public Realm Improvements	£25,120
S106 - Site Marketing	£5,000
<b>TOTAL</b>	<b>£130,120</b>

21. The Indigo Planning response was accompanied by a detailed letter from my Instructing Solicitors, Simmons & Simmons, in which it was stated inter alia as follows:

*"Deborah Baker of Indigo Planning received correspondence from Kieran Birch, the planning officer responsible for the above planning application on 15 July 2015 setting out a request for a financial contribution in respect of the proposed retail development of £815,600. This is clearly markedly different from the maximum offer set out above which can be achieved through retail land value or employment land value. We have therefore been instructed by our client to address this with you, particularly the method of calculation of Mr Birch's request and the lawfulness of that request in terms of compliance with the Community Infrastructure Levy Regulations 2010 (as amended) ("CIL Regulations").*

*The financial contribution which Mr Birch has requested is calculated on the basis of £80 per square metre which is a figure derived from preliminary work carried out by the Council ("You") in 2013 to inform charging rates to be included in a future Charging Schedule in respect of the Community Infrastructure Levy. Neither this figure, nor a draft Charging Schedule has been subject to examination, neither have you as a Charging Authority adopted a Charging Schedule.*

*Mr Birch in his email of 15 July 2015 acknowledged that the granting of planning permission for our client's proposed retail development will "have a positive impact... on the remaining employment land" however that as a result of this and the loss of employment land to facilitate our client's proposed development that "a contribution... is appropriate". Further Mr Birch's report which was submitted for consideration to the last Planning Committee sets out a list of possible heads of terms for a Section 106 agreement. The first of these is reference to the above financial contribution for "completion of key areas of highway network in and around Whitehills to adoptable standards to enhance attractiveness of unused employment sites for future development".*

*We have addressed Mr Birch's request for a financial contribution by first considering Regulation 122 of the Community Infrastructure Levy Regulation 2010 as amended ("the Regulations"), second the purpose of Community infrastructure Levy, and third the role of the Charging Schedule.*

#### ***Compliance with CIL Regulations***

*The scope for you to request planning obligations, and for the provision or refusal to provide such planning obligations to be a material consideration in relation to the grant of planning permission, is addressed by Regulations 122 and 123 of the CIL Regulations. In particular Regulation 122 gives legal effect to three of the five criteria which were previously included in Circular 05/2005, being that the lawfulness of planning obligations is now dependent on them being:*

- (a) necessary to make the development acceptable in planning terms; and*
- (b) directly related to the development; and*
- (c) fairly and reasonably related in scale and kind to the development".*

*A planning obligation which does not fulfil the criteria set out in Regulation 122 "must not constitute a reason for granting planning permission". The Council is therefore precluded from requesting any planning obligation which does not meet the Regulation 122 tests and by implication must not refuse the grant of planning permission if an*

*applicant declines to provide a planning obligation which does not comply with the tests. In reporting the terms of a Section 106 planning agreement to the Planning Committee, officers would have to make expressly clear that any planning obligation included in such an agreement which does not meet the Regulation 122 tests must be disregarded by the Planning Committee in its decision making.*

*Setting aside the method of calculation of the financial contribution which Mr Birch has requested for the time being, the primary relevant matter is whether a contribution is required at all and if it is compliant with the terms of Regulation 122 of the CIL Regulations.*

*Mr Birch has already acknowledged in correspondence that our client's proposed development will "have a positive impact... on the remaining employment land" and that this is one reason for requiring the financial contribution. This is of course counter-intuitive. Mr Birch has not identified how our client's proposed development is either unacceptable in planning terms without the financial contribution he seeks, how the contribution directly flows from it, or how the sum of the financial contribution is reasonable for this kind of development. We will address the latter point separately. Mr Birch has however accepted that our client's development proposal is acceptable in planning terms in his email of 15 July 2015 (see extracts above), and in fact he has identified that it has a positive impact. Mr Birch has not identified that save for the works which would be carried out by you through the payment of the financial contribution our client's development proposal would be unacceptable in planning terms. What Mr Birch seeks is an opportunity to enhance the state of the Business Park over and above that which is necessary by exploiting our client's development proposal.*

*We have been provided with a copy of a lengthy consultation letter dated 19 May 2015 from Lancashire County Council which identifies that some transport infrastructure works may be necessary in respect of our client's development proposal. Our client's offer of a financial contribution is based on those items which it has identified as meeting the criteria in Regulation 122 of the CIL Regulations.*

*Mr Birch has also stated in correspondence that a financial contribution is justified in order to offset the loss of employment land. This is not a justification within the scope of Regulation 122 for the contribution. In fact Planning Committee members have previously accepted that the loss of employment land is acceptable in planning terms. A contribution towards highway infrastructure and public realm works has no direct relationship with the loss of employment land, particularly on a site where no development has come forward for over five years, and in relation to which there will be a positive impact from our client's proposed development. The items that our client has identified and in relation to which it has made its offer do not relate to the loss of employment land and are instead related to the enhancement of transport infrastructure and the public realm which will be necessary as a result of the use of a retail development."*

...

**Community Infrastructure Levy and the Charging Schedule**

...

*The ... legislation ... sets out a clear process in relation to which Charging Authorities must engage in order to adopt CIL through a Charging Schedule. That process opens up to scrutiny the evidence base which informs the need for infrastructure and the rates which are proposed to be charged for particular types of development. The mechanism also provides an opportunity for interested parties to put forward evidence to an independent examiner, and the outcome of an examination may lead to an examiner concluding that proposed rates are not supported by evidence and that lesser rates may be appropriate, if at all, and that exemptions and differential rates may apply. The rates cannot be charged and are wholly unsupported until that process has been exhausted.*

*The above process has not yet been followed by you neither has the rate which Mr Birch propose to charge in respect of calculating a financial contribution been subject to any formal scrutiny by an independent examiner. Our client has had no opportunity to comment on the rate, no assessment of the impact of that rate on the viability of development has been carried out, and the appropriateness of applying any rate at all has not been considered. Further the infrastructure which you seek to fund through the financial contribution is not identified in your local adopted land use policies.*

*Therefore, the sum which Mr Birch seeks to apply is wholly unsupportable and bears no direct relationship to any measures which are required to facilitate the development and use of the proposed retail development.*

...

*Mr Birch is seeking to charge rates which were calculated by you to provide infrastructure to support the development of the area, not rates which are necessary to provide works which would make a development acceptable in planning terms. ...*

*Further paragraph 004 of the PPGN in relation to planning obligations states that "in all cases, including where tariff style charges are sought, the local planning authority must ensure that the obligation meets the relevant tests for planning obligations in that they are necessary to make the development acceptable in planning terms... Planning obligations should not be sought where they are clearly not necessary to make the development acceptable in planning terms... Planning obligations must be fully justified and evidenced..." These tests have not been met neither have the tests in Regulation 122 of the CIL Regulations nor the policy tests in the PPGN as there is no justification or evidence to support either the need for the financial contribution or the sum proposed to be charged.*

...

**Conclusion**

*Mr Birch's request for a financial contribution towards transport infrastructure and improvements to the public realm fails to comply with legislation or national policy. The sum he seeks to charge is based on a charge rate which is wholly untested by independent*



*examination and is unjustifiable in all circumstances. You will be precluded from advising Planning Committee members that such a financial contribution is a material consideration in determining our client's planning application and further relying on our client declining to provide the sum sought as a reason for refusal.*

*As set out at the beginning of this letter our client is prepared to offer to pay a financial contribution of £130,120 towards transport infrastructure and public realm improvements which it has identified as being necessary and compliant with the terms of Regulation 122 of the CIL Regulations."*

22. Officers of the Council did not respond to these letters ahead of the application being heard for the second time at Planning Committee in July 2015. The £815,600 figure or reference to a draft CIL Charging Schedule was not mentioned in the Officer's Report, nor was it raised by Officers verbally at Committee been mentioned since.

23. The application went back to the Committee on 29 July 2015 when it was again recommended for refusal. However, Members rejected that recommendation and resolved as follows:

*"GRANT planning permission delegated to the Head of Planning and Regeneration, in consultation with the Chairman and Vice Chairman, following further negotiations on the terms of a s106 agreement to mitigate the identified potential harmful impacts of the development including marketing of the applicant's other land holdings in the vicinity, public realm improvements, improvements to local highways and the provision of sustainable transport measures all of which are required to enhance the attractiveness of the remaining sites to potential investors in order to offset the loss of this site to employment uses."*

24. Following the above resolution, further efforts were made to negotiate the proposed Section 278/Section 106 contributions with the Council and there has, as of 17 August 2015, been agreement in respect of contributions towards 'public realm' improvements at Whitehills Business Park (but excluding any upgrading of roads there) in the sum of £45,000 (an increase from £25,120 previously offered by WR). In particular, Officers confirmed on 4 September 2015 that the applicant's revised £45,000 contribution towards public realm was sufficient for Members "...but that this needs to go hand-in-hand with the bringing of the roads to an adoptable standard."

25. As matters stand, therefore, whilst the Section 278 presents no problems, and certain items under Section 106 have been agreed, there is still considerable distance between the parties. This disagreement relates to three Section 106 items:

- a. Two areas of disagreement relate to the quantum of contributions sought by LCC in respect of:
  - i. Initiative (3) (Pedestrian and Cycle Improvements); and
  - ii. Initiative (4) (Public Transport).
- b. The third area of disagreement relates to the Council's request (beyond any made by LCC, the highways authority) that WR fund the improvement of numerous roads at Whitehills to adoptable standards.

26. I have tabularised below the current position as I understand it, emboldening the areas of ongoing disagreement for clarity.

<b>Item</b>	<b>Amount Requested</b>	<b>Amount Offered</b>
<b>Highway Mitigation</b>		
Initiative (1)(a) - S278 Improvement Scheme Initiative (1b) - S278 A583/Whitehill Rd	Agreed in Principle	Agreed in Principle
Initiative (2) – S106 Cropper Rd/School Rd	Agreed at £10,000	Agreed at £10,000
Initiative (3) – S106 Pedestrian & Cycle Improvements	<b>£60,000</b>	<b>£30,000</b>
Initiative (4) – S106 Public Transport	<b>£240,000</b>	<b>£60,000</b>
<b>Whitehills Business Park - Environmental Improvements</b>		
S106 - Public Realm Improvements	Agreed at £45,000	Agreed at £45,000
S106 - Site Marketing	Agreed at £5,000	Agreed at £5,000
<b>Whitehills Business Park – Additional Road Improvements</b>		
		<b>Nil</b>

S106 – Improving Roads to Adoptable Standards	Unknown	
<b>TOTAL</b>	<b>£815,600</b>	<b>£150,000</b>

27. There is, therefore, a difference of £665,600 between that which the Council is requesting and that which WR have offered, of which £210,000 arises from disagreements as to quantum over Initiatives (3) and (4) and the remaining £455,600 from the Council's requirement to fund the upgrading of certain additional Whitehills roads to adoptable standards and/or its reliance on an emerging CIL Charging Schedule.

28. The reasons for WR's disagreement in respect of the final matters, the Council's request that it fund the improvement of certain Whitehills Roads to adoptable standards, including by reference to its emerging CIL Charging Schedule, is fully set out in the letter from Simmons & Simmons dated 24 July 2015. Essentially, however:

- a. WR takes the view (on the advice of both Indigo Planning and Simmons & Simmons) that the upgrade of these roads is not necessary to make the proposal acceptable, and that whilst the Council purports to seek an upgrade to these roads as 'mitigation' to compensate for the loss of the application site from employment to retail use, in truth what they are seeking is an impermissible improvement to the wider industrial estate, one which is neither necessary nor justifiable having regard Regulation 122 of the CIL Regulations.
- b. In addition, and so far as quantum is concerned, WR takes the view (on the advice of both Indigo Planning and Simmons & Simmons) that it is illegitimate to have regard to a calculation sourced in an emerging CIL Charging Schedule which has been completely untested through any of the relevant statutory procedures.

29. It is, however, to be noted that the Council has gone quiet, in this regard, in terms of referring to the need for an £815,000 contribution and have not proposed any revised

sum in place of the £815,000. Nonetheless, the Council still believes that works are necessary to bring the highways within the Business Park up to an adoptable standard, including certain adopted highways which have not been properly maintained

30. So far as the first two areas of disagreement is concerned, those related to the LCC requests under Initiatives (3) and (4), the respective positions of the parties have evolved, I understand, as follows.

a. By their final consultation response dated 19 May 2015, LCC sought the following relevant contributions:

- i. Under Initiative (3), a contribution of £60,000 to help deliver three identified pedestrian/cycle schemes, the total cost of which would be £200,000 – in other words a 30% contribution. The third of those schemes was to provide enhanced connectivity between Whitehills Business Park and an existing Bus Service.
- ii. Under Initiative (4), a contribution of £240,000 to support an extension of Bus Service 14 with an estimated annual cost of £120,000 per annum (LCC were seeking funding for two years).

b. By their initial response dated 29 June 2015, Indigo Planning proposed as follows with respect to the above requests:

- iii. So far as Initiative (3) is concerned, a contribution of £17,000 rather than £60,000, upon the basis that the LCC £200,000 total costs estimate was for schemes serving the whole of Whitehills Business Park allocation, 19.8 ha in extent, when the application site was just 1.69 ha in extent, just 8.5% of overall site area. Hence, it was argued, a contribution of only 8.5% of the £200,000 estimate would be CIL compliant - £17,000.
- iv. So far as Initiative (4) is concerned, a contribution of £60,000 rather

than £240,000 (£120,000 per annum for two years), upon the basis that £120,000 per annum covered the cost of a new vehicle and additional driver when LCC was only seeking to divert an existing service, so that it was excessive to provide a new vehicle to deliver the requested diversion (which would add between just five and ten minutes to the existing route). Hence, it was argued, a contribution to fund only an additional driver's shift for 2 years at £30,000 per annum would be CIL compliant - £60,000.

- c. LCC responded on 1 July 2015 stating that in their view both contributions (£60,000 and £240,000) were necessary. This was prefaced as follows:

*"Sustainable Transport Measures*

*Development to date at Whitehills has fallen well short in delivering sustainable development that would be in line with the latest NPPF. The proposed site is unlikely to result in different travel patterns than the travel mode patterns currently observed across the wider Business Park, unless much greater consideration is given to encouraging sustainable modes through provision of improved services and facilities/infrastructure. The need to change towards more sustainable development is critical – starting with this development.*

*LCC planning policy paper would indicate that a planning contribution request in excess of £1M could be applicable to this application. However, LCC only request contributions where identified necessary schemes should be delivered.*

*My detailed consultation comments set out the traffic situation at a number of key junctions where traffic congestion will increase in the future. A package of measures was considered necessary which included contributions towards highway improvements and sustainable transport measures. The overall s106 funding contribution is considered necessary in order to somewhat mitigate the impact of this development by enhancing linkages for users of this proposed development (as well for existing users). A range of pedestrian and cycle measures (not exhaustive) which would support the wider development of the Whitehills BP area were identified - all of these were considered to be directly applicable to this development. The LCC S106 request reflects our position that highway improvements alone will not mitigate the impacts of this development. I do not accept the applicants simplistic pro rata assumption on overall development at Whitehills. The sustainable improvement measures are needed now. In addition, the sums requested reflect the number of CIL contributions that can be requested and*

*also the need to ensure a funding mechanism is followed that will secure delivery of the improvements (as necessary now).*

*Initiative 3 Pedestrian and cycle movements - The request of £60,000 is necessary.*

*Initiative 4 Public Transport - It is essential that funding is secured to provide a long term, viable public transport service into and through Whitehills Business Park (BP) to serve this development. I would refer you to my detailed comments on public transport and the need for flexibility in terms of both service provision and routeing. Given my original consultation comments and those above I consider the request of £240,000 is necessary."*

- d. On 24 July 2015 Indigo Planning wrote to the Council advising that WR would increase its offer for Initiative (3) to £30,000, stating that this represented "50% of the total estimated cost of improving connectivity across the whole estate and would, therefore, make a significant contribution towards achieving this goal". It was also stated that it was unnecessary to provide enhanced connectivity between Whitehills and the existing Bus Service, the third of the schemes specified in the LCC letter, since Initiative (4) would extend Bus Service 14 into Whitehills and to contribute twice would not be CIL compliant.
- e. On 17 August 2015 Indigo Planning met Council Officers to try to agree the contributions. Following the meeting, Officers requested a note from LCC to justify how the level of contributions it was requested was CIL compliant.
- f. An email from LCC was received on 11 September 2015 and stated as follows:

“Initiative (3) – Pedestrian & Cycle Improvements

*The applicant states that they are ‘prepared to increase this contribution to £30k. This represents 50% of the total estimated cost of improving connectivity across the whole estate.’*

*This statement is not correct. A range of pedestrian and cycle measures (not exhaustive) which would support the wider development of the Whitehills BP area were identified in my consultation comments – all of these were considered to be directly applicable to this development.*

...

*The £30,000 therefore does not represent 50% of the total estimated cost of improving connectivity across the whole estate. Indeed, I consider the developer offer fails to reflect the nature of their proposal (an out of town retail) and certainly does not reflect what LCC consider to be necessary to deliver sustainable development in line with the NPPF. Clearly it is also not simply about connectivity across the site, but connectivity from the site to the wider network.*

***The necessary sum requested by LCC is calculated as follows:***

*£200k/5 =>£40,000 (assuming up to a maximum of 5 contributors could be identified as permitted by CIL regulations) – the reality is measures are needed now and the approach LCC is promoting seeks to share the burden while providing a realistic chance that sufficient funds can be secured to deliver the measures. If insufficient funds are offered/secured then measures cannot be delivered.*

***The centroid of this development in relation to the proposed infrastructure in comparison with other recent/emerging development has meant it has been given a heavier weighting (50%) factor, therefore the requested sum is  $40 \times 1.5 \Rightarrow £60,000$ .***

*This approach is simple, reasonable and will secure delivery of necessary sustainable measures! The approach is simple in respect that it does not differentiate between land use type or mode usage.*

Initiative 4 – Public Transport

*The applicant states that ‘the proposed extension to Service 14 to service Whitehills will add between 5 to 10 minutes to the existing route. An appropriate contribution would equate to the cost of an additional driver’s shift for two years, totalling £60,000.’*

*This statement demonstrates a lack of understanding in what is required to deliver/enhance PT services. To maintain existing service frequency (15 minute) and deliver an enhanced service into/through Whitehills BP will require an additional bus and all associated costs, estimated at £120,000 per annum. It is normal for LCC to seek a minimum of 5 years funding to best support the long term viability of any service to be delivered.*

*I would refer you to my detailed comments on public transport and the need for flexibility in terms of both service provision and routeing.*

*In working with the developer to support this development, LCC have been prepared to accept a reduced contribution equivalent to two years funding support, 2 x £120,000 => £240,000."*

31. The above LCC justification for the contributions that its seeks under Initiatives (3) and (4) have been considered by consultants acting on behalf of WR (Curtins) who have made the following comments (these are asserted in my Instructions – I am not sure whether they have also been made to LCC):

- a. The proposed WR development would, throughout a typical weekday, generate a total of just 377 two-way pedestrian movements, 25 two-way cycle movements, and 153 two-way movements undertaken by bus (with movements generated during the Saturday period significantly lower than weekday movements).
- b. So far as the LCC "centroid" argument is concerned, proximity to the proposed infrastructure does not have a direct relationship with the level of anticipated usage due to the proposed development scheme.
- c. Diverting Bus Service 14 into Whitehills BP would enhance the public transport accessibility of the area and wider Whitehills BP. However, the proposed development site is suitably accessible by the existing public transport infrastructure in the vicinity of the site and it is not considered a necessary requirement to provide a diverted bus service in order to deliver the proposed development scheme. Further, and as part of Initiative (3), WR is funding enhancement to pedestrian routes which link the site to existing public transport infrastructure.

## ISSUES

32. The crux of what WR needs to know is whether the LCC's demands for Initiatives (3) and (4), together with the additional road improvements sought by the Council over and above LCC's requests, are Regulation 122 compliant such that if WR refuses to



enter into the Section 106 agreement on terms proposed by the Council, it would have a defensible position at appeal.

33. To these ends I have been asked to advise on the following specific Questions in my Instructions:

- a. Are Fylde Borough Council's proposed S106 obligations CIL compliant with regard to:
  - i. Highways Initiatives (3) and (4); and
  - ii. Other Highways Improvements at Whitehills?
- b. Is WR's Section 106 offer acceptable and CIL compliant?
- c. Can Fylde Borough Council legitimately seek upgrades to roads in WR's ownership that are not directly affected by the proposed development?
- d. Can Fylde Borough Council legitimately seek upgrades to un-adopted roads that are not in WR's ownership that are not directly affected by the proposed development?
- e. Can Fylde District Council legitimately seek upgrades to adopted roads in the vicinity of the site that may be affected by the proposed development?

## **ANALYSIS**

### **The Improvements to Whitehills Business Park Roads to Adoptable Standards**

34. I will consider, first, the Council's request for contributions to upgrade the various Whitehills roads to adoptable standards, these not being required by LCC (as highways authority) to mitigate any traffic impacts generated by the proposed development, but being required instead by the Council (as local planning authority) by reference to "the perceived positive impact it will have on the remaining employment land, and the fact that the employment land will be lost forever...".
35. I have noted above that the Council has gone quiet, in this regard, in terms of referring to the need for an £815,000 contribution and have not proposed any revised

sum in place of the £815,000. Neither have they set out how this requested sum is CIL Regulation 122 compliant, sourced as it is in an un-adopted CIL Schedule. In my view that silence is understandable: to source any Section 106 demand in a non-existent, untested, CIL Schedule seems to me to be wholly wrong.

36. However, as also noted above, it is apparent that the Council still believes that works are necessary to the highways within the Business Park to bring them up to an adoptable standard, including certain adopted highways which have not been properly maintained. It is to the acceptability in principle of such a requirement that I therefore turn.

37. As already noted, the scope for the Council lawfully to request planning obligations, or to refuse permission because one is not offered, is limited by Regulation 122 of the CIL Regulations. In particular, Regulation 122 gives statutory effect to certain criteria previously included in Circular 05/2005, such that the lawfulness of planning obligations is now dependent on them being: (a) necessary to make the development acceptable in planning terms; (b) directly related to the development; and (c) fairly and reasonably related in scale and kind to the development.

38. In my view, the request for WR to upgrade roads to adoptable standards fails all three of the CIL Regulation 122 tests in circumstances in which Members have resolved to approve retail development on an employment allocation because of “the perceived positive impact it will have on the remaining employment land”, and when the works to upgrade roads to adoptable standards are not required by the highways authority in order to mitigate any harm caused by the development (i.e. to accommodate the traffic generated by the development) but are being sought only because they may improve the prospects of developing the remaining allocation site for employment.

39. In particular:

**Necessary to make the development acceptable in planning terms?**

- a. Since the request for WR to fund the upgrading of roads to adoptable standards is not being required by LCC as highways authority to mitigate the impact of traffic generated by the proposed development, those works cannot be said to be “necessary to make the development acceptable” in highway terms.
- b. Moreover, and since Members resolved to approve the WR retail proposal on allocated employment land inter alia because it has a positive impact on the developability of the remaining employment land, those works cannot be said to be “necessary to make the development acceptable” in employment terms either.
- c. As such, the Council is seeking to have WR fund the upgrading of roads to adoptable standards not because WR's development would otherwise be unacceptable in planning terms, but simply to enhance the Whitehills Business Park.

**Directly related to the development?**

- d. Further, and since the Council is seeking to have WR fund the upgrading of roads in circumstances in which WR's development proposal is entirely acceptable in planning terms without those works, those works are not “directly related to the development”; indeed they are not related to the development at all.

**Fairly and reasonably related in scale and kind to the development?**

- e. Neither, in the light of the above, can they conceivably be “fairly and reasonably related in scale and kind to the development”.
- f. Moreover, that failure is exacerbated in circumstances in which the Council appear to have been justifying a required payment of £815,600 by reference to an un-adopted CIL Charging Schedule, and an evidence base which has not

been subject to any formal scrutiny by an independent examiner and upon which WR has had no opportunity to comment.

40. It follows that, in my view, the answers to Questions (a)(ii), (c), (d) and (e) as set out in my Instructions are that the Council's requirement of S106 contributions to fund the upgrading of Whitehills roads, over beyond any requirement made by LCC as highways authority, not to make the development acceptable in planning terms but to enhance the remainder of the Whitehills Business Park, is not compliant with CIL Regulation 122.

41. That leaves for consideration Question (a)(i) and the contributions sought by LCC in respect of Initiatives (3) and (4). I will consider them in turn.

### **Initiative 3 – Pedestrian & Cycle Improvements**

42. So far as Initiative (3) is concerned, relating to "Pedestrian & Cycle Improvements", the same Regulation 122 tests apply. Any contribution will only be justified if it is: (a) necessary to make the development acceptable in planning terms; (b) directly related to the development; and (c) fairly and reasonably related in scale and kind to the development.

43. LCC's email dated 11 September 2015 sets out the calculation for determining the £60,000 financial contribution towards the range of pedestrian and cycle improvements, ones which would "support the wider development of the Whitehills BP". In particular, the sum requested by LCC has been calculated by taking the total estimated cost of these works (£200,000) and dividing by five (assuming maximum of contributors could be identified as permitted by CIL regulations). The resulting sum of £40,000 has then be weighted (uplifted) by 50% (to £60,000) purportedly to reflect that it is the "centroid of this development" in relation to the proposed infrastructure in comparison with other recent/emerging development.

44. It is quite apparent, therefore, that in making the request for a £60,000 contribution, LCC has simply apportioned the total infrastructure costs (£200,000) across the maximum number of contributors permitted by CIL regulations. Indeed, LCC

themselves state within the correspondence that “the approach is simple in respect that it does not differentiate between land use type or mode usage”.

45. However, it follows that no account has been taken by LCC of any of the following considerations when determining the requested level of financial contributions:

- a. The proposed development land use;
- b. The actual level of impact that the proposed development scheme will have on the local highway infrastructure; or
- c. The possibility that a larger, more intensive development could be delivered within Whitehills BP that could have a significantly greater impact on the local highway network than that proposed by WR.

46. Further, LCC then go on to apply a 50% weighing factor on the basis that the site “centroid” is closer to the proposed infrastructure when compared to recent/emerging development proposals.

47. I do not consider that such an approach can be CIL compliant. In particular:

- a. The LCC approach is unrelated to actual use generated by the proposed development (or other developments with which it may fall to be pooled).
- b. To the extent that, through following such an approach, LCC seeks contributions beyond that needed to mitigate the impact of the proposed development, those contributions cannot be claimed to be (a) necessary to make the development acceptable in planning terms; or (b) directly related to the development; or (c) fairly and reasonably related in scale and kind to the development.
- c. Rather, the consequence of the LCC approach appears to be a request for a financial contribution towards schemes that are unlikely to be heavily

utilised by staff, customers and visitors to the proposed development itself.

**Initiative 4 – Public Transport**

48. So far as Initiative (4) is concerned, relating to “Public Transport”, that reduces itself down to matters of judgement and expertise, given that WR have accepted that they should make a contribution to the proposed extension to Service 14 for two years.
49. In particular, the question which then arises is whether the proposed extension does necessitate, if existing service frequency is to be maintained, an additional bus with its associate costs (agreed to be £120,000 a year), or just an additional driver’s shift (at a cost of £30,000 a year).
50. I am not in a position to reach final judgment on such an issue, which is one far more apt for expert discussion and negotiation. However, I do observe as follows in this regard.
51. Firstly, as noted previously, Curtins have calculated that the proposed development would generate 153 two-way public transport users throughout the entire day. If that is correct, then, based on a typical 12 hour working day, the proposed development would generate only six public transport users per hour in each direction; which would – it strikes me – make it difficult for LCC to argue that the public transport infrastructure currently available in the vicinity of the proposed WR development site is so unable to cater for this level of additional demand that an additional bus is needed.
52. Secondly, I also understand – although this will need to be confirmed – that in November 2014 the Council granted permission for a further development on the Whitehills Business Park, pursuant to a consultation response of in which they confirmed as follows:

*“The scale of this development will add a significant number of highway movements to the highway network and as such it is important that a choice of travel options is available. Given the changes that will be taking place it is considered that the most effective way of promoting travel options is through the introduction of a Travel Plan.”*

53. Importantly, no financial contributions appear to have been sought with regard to this development, just a condition requiring submission of a Framework Travel Plan prior to occupation. If that is indeed correct, it strikes me as fundamentally inconsistent and disproportionate for the Council to conclude, in relation to WR's proposal, that it should fund a long-term public transport service into and through Whitehills Business Park.

### **CONCLUSIONS**

54. In my view, and for all of the above reasons:

- a. The Council is not justified in seeking a contribution of £815,600 by reference to its emerging CIL Schedule when that is not in place and the evidential base for it has not been examined.
- b. The Council is not justified in seeking a contribution towards the upgrading of the Whitehills Business Park roads simply to improve that Business Park and not to mitigate any harms that would be generated by the proposed development.
- c. The Council may be justified in seeking a contribution in respect of Initiative (3), but their approach is flawed and not CIL compliant since it is unrelated to actual use generated by the proposed development (or other developments with which it may fall to be pooled) and may very well lead to a request for contributions beyond that needed to mitigate the impact of the proposed WR development.
- d. The Council may be justified in seeking a contribution of £240,000 in respect of Initiative (4), if the proposed extension to Service 14 for two years does necessitate an additional bus with its associate costs. If, however, it necessitates just an additional driver's shift (at a cost of £30,000 a year), then £60,000 is the CIL compliant figure. If, however, Curtins are correct and the WR development would generate just six public transport users per hour in

each direction, it will be difficult for LCC to argue that an additional bus is needed.

55. If I can be of any further assistance, my Instructing Solicitor should not hesitate to contact me, so that this Draft Opinion can be finalised before being made publicly available.

**PAUL STINCHCOMBE QC**  
**39 Essex Chambers, London, WC2R 3AT**

**22 October 2015**



## Appendix 2

### **Consultation email received from LCC Highways dated 12 November 2015**

Following our telephone conversation this morning, I would like to confirm that LCC Highways statutory comments (sent to FBC on 19<sup>th</sup> May 2015) and additional comments passed to FBC by email on 11<sup>th</sup> September sets out LCC Highways position in regard to this out of town retail development.

The further letters provided by Indigo planning provided with your last email do not change this position.

LCC's S106 request reflects our position which was clearly set out to the developers transport consultant and summarised in my final consultation comments, that highway improvements alone will not be sufficient to mitigate the impacts of this development. The approach LCC has developed to help support further sustainable development at Whitehills relies heavily on all future development maximising support for sustainable measures.

With consideration for the developers limited offer, I do not consider this out of town retail proposal has ensured that the use of sustainable transport modes has been maximised.

I consider the LCC section 106 request to be:

- a. Necessary to make the development acceptable in planning terms;
- b. Directly related to the development; and
- c. Fairly and reasonably related in scale and kind to the development.

### **Consultation email received from LCC Highways dated 11 September 2015**

Initiative (3) – Pedestrian & cycle improvements

The applicant states that they are 'prepared to increase this contribution to £30k. This represents 50% of the total estimated cost of improving connectivity across the whole estate.'

This statement is not correct. A range of pedestrian and cycle measures (not exhaustive) which would support the wider development of the Whitehills BP area were identified in my consultation comments - all of these were considered to be directly applicable to this development. I have repeated these below:

'The range of pedestrian and cycle improvements measures identified to support development of the Whitehills BP include:

- improve the existing footpaths on the western edge of the site to provide improved connectivity to existing and proposed sustainable links to/from the wider network.

Estimated Cost £20,000

- Shared Pedestrian/Cycleway, 3.5m wide on Lytham St Annes Way north side providing good quality sustainable link between Cropper Road Roundabout to A583/Hallam Way roundabout and on to M55 Junction 4 to tie in with measures to be being delivered at this junction by other development.

Estimated Cost £100,000

- Enhancements and improved connectivity to the existing footway network connecting to bus turn around to the north of Brooklands Way and PROW (FP 4) and a potential link to the DWP offices/bus stop and to M55 J4 (to tie in with measures to be delivered at this junction by other development).

Estimated Cost £80,000'

The £30,000 therefore does not represent 50% of the total estimated cost of improving connectivity across the whole estate. Indeed, I consider the developers offer fails to reflect the nature of their proposal (an out of town retail) and certainly does not reflect what LCC consider necessary to deliver sustainable development in line with NPPF. Clearly it is also not simply about connectivity across the site, but connectivity from the site to the wider network.

The necessary sum requested by LCC is calculated as follows:

£200k/5 => £40,000 (assuming up to a maximum of 5 contributors could be identified as permitted by CIL regulations) – the reality is measures are needed now and the approach LCC is promoting seeks to share the burden while providing a realistic chance that sufficient funds can be secured to deliver the measures. If insufficient funds are offered/secured then measures cannot be delivered.

The centroid of this development in relation to the proposed infrastructure in comparison with other recent/emerging development has meant it has been given a heavier weighting (50% factor), therefore the requested sum is  $40 \times 1.5 \Rightarrow \text{£}60,000$ .

This approach is simple, reasonable and will secure delivery of necessary sustainable measures!

The approach is simple in respect that it does not differentiate between land use type or mode usage.

#### Initiative 4 - Public Transport

The applicant states that 'the proposed extension to Service 14 to service Whitehills will add between 5 to 10 minutes to the existing route. An appropriate contribution would equate to the cost of an additional driver's shift for two years, totalling £60,000.'

This statement demonstrates a lack of understanding in what is required to deliver/enhance PT services. To maintain existing service frequency (15 minute) and deliver an enhanced service into/through Whitehills BP will require an additional bus and all associated costs, estimated at £120,000 per annum. It is normal for LCC to seek a minimum of 5 years funding to best support the long term viability of any service to be delivered.

I would refer you to my detailed comments on public transport and the need for flexibility in terms of both service provision and routeing.

In working with the developer to support this development, LCC have been prepared to accept a reduced contribution equivalent to two years funding support,  $2 \times \text{£}120,000 \Rightarrow \text{£}240,000$ .

LCC's S106 request reflects our position which was clearly set out to the developers transport consultant and summarised in my final consultation comments, that highway improvements alone will not be sufficient to mitigate the impacts of this development. The approach LCC has developed to help support further sustainable development at Whitehills relies heavily on all future development maximising support for sustainable measures.

As part of the reforms of planning policy, the Department of Community and Local Government published the National Planning Policy Framework (NPPF), DCLG 2012. In terms of Transport, the NPPF sets out the principles that 'plans and decisions should ensure developments that generate significant movement are located where the need to travel will be minimised and the use of sustainable transport modes can be maximised.

Clearly, given the developers limited offer and lack of support for the approach set out by LCC to support sustainable transport modes, I do not consider this proposal has ensured that the use of sustainable transport modes has been maximised. As such, this out of town retail proposal is likely to result in a car dominated development that will not be in line with NPPF.

**Appendix 3****Extract from Late Observations of 29 July 2015 relating to Item 3 – Application 14/0822****Applicant's Comments on Report**

Following publication of the committee report the applicant has commented on the possible Heads of Terms to a section 106 agreement, and on the suggested conditions should members be minded to approve the application. These comments are summarised here with officer views on their comments below.

**Applicant comments on possible heads of terms to s106 agreement**

The response states that the applicant agrees to pay s106 contributions which are CIL compliant. They state that the amount of these contributions should be required to mitigate any effects that would otherwise render the project unacceptable. They state that the amounts that officers have suggested as being appropriate for a development of this kind to be unviable and not CIL compliant.

The total contribution that the developer is prepared to offer is £130,120 which they state would provide a competitive return to the applicant and be CIL compliant. Their 'offer' is broken down as:

<b>Area of Contribution</b>	<b>Level of contribution</b>
<i>Public realm improvements</i>	
Landscape treatment on two secondary roundabouts	£15,120
Focal points on two secondary roundabouts	£5,000
Signage and wayfinding	£5,000
Site 3 boulevard tree planting and shrub cover	to be delivered through landscaping condition
Site 5 landscaping	To be delivered to through landscaping condition planning consent ref 14/0823
<i>Total Public Realm contribution</i>	<b>£25,120</b>
<i>Highways</i>	
Initiative (2) – Cropper Rd / School Rd roundabout	£10,000
Initiative (3) – Pedestrian & cycle improvements	£30,000
Initiative (4) – Public transport	£60,000
<i>Total Highways Contribution</i>	<b>£100,000</b>
<i>Marketing</i>	
Funding to assist the Council in marketing employment sites on Whitehills	£5000
<b>Total financial contribution overall</b>	<b>£130,120</b>

**Officer opinion on proposed contributions**

It is the initial officer opinion that the contributions required to make the development acceptable need to be higher in respect of highways and public realm improvements. However, the developer's suggested contributions have only just been received by officers and it is appropriate that they are given further consideration. Crucially, this will involve dialogue with the County Highway Authority with regard to matters such as the adequacy of the suggested public transport contribution to achieve a viable bus diversion to the site as their initial indication that the sum proposed is inadequate for this and so would not satisfy them that the development would be acceptable in highways terms. Indeed the contributions offered for highways are well short of those required by LCC Highways which the developer has previously agreed to meet. Furthermore the proposed heads of terms does not include the completion of key areas of highway network in and around Whitehills to adoptable standards to enhance attractiveness of unused employment sites for future development.

#### Comments on Possible Conditions

The applicants have made the following suggested amendments or comments on the suggested possible conditions outlined in the committee report.

#### *Condition 7*

They propose to amend this condition to state "No goods of any description shall be stored other than within the defined buildings and outside sales and storage area of the garden centre. Reason: In the interests of visual amenity."

Officer opinion -The proposed amendment to this condition is acceptable.

#### *Condition 9*

This condition states: "*The non-food retail units hereby approved shall not be subdivided or amalgamated without the prior consent of the Local Planning Authority. Reason: To prevent unacceptable harm upon the existing centres*"

The applicant states that this condition serves no purpose and that the submitted sequential testing has demonstrated that there is no unit available of this size elsewhere. They believe that there is no justification that the amalgamation of the unit would harm the town centre.

Officer opinion – Whilst the impact on town centres has been considered to be acceptable for two stores operating to the proposed total floor space and limited to selling the goods outlined in condition 8, it is officers opinion that one large store over both floors would have an overall size and increased floorspace that has the potential to impact upon town centres detrimentally as it would change the way the store would operate. This would need further consideration by officers in order to fully assess the impact on town centres and so it is considered necessary that this condition remains if members are minded to approve the application.

#### *Condition 10*

This condition states: "*The retail premises hereby approved shall not be used for the sale of food off the premises. Reason: To prevent the units becoming a food supermarket*"

The applicant states that this condition is not necessary as condition 8 on the report controls which goods can be sold from the premises.

Officer opinion – This is correct and this condition can be removed.

#### *Condition 11*

This condition states: *“Both of the retail units hereby approved shall be operated by a single retailer and shall not operate as a ‘department store’ or have a number of different retailers operating within one unit. Reason: To prevent unacceptable harm to the existing centres”*

The applicant states that this condition should be removed as it serves no purpose. The subdivision clause will ensure that it will not operate as a number of smaller units, and the goods condition ensures that it cannot operate as a department store. This is not a standard retail condition and the LPA cannot restrict the operator.

Officer opinion – Whilst condition 9 will prevent the subdivision or amalgamation of the two stores this conditions seeks to prevent a number of different retailers operating within one store which would have the potential to impact upon existing centres and would need to be considered by officers. It is considered necessary that this condition remains if members are minded to approve the application.

#### *Condition 22*

This condition states: *“The development hereby approved shall not be commenced until a scheme for the provision of surface and foul water drainage works, with full consideration for sustainable drainage principles, has been submitted to and approved by the Local Planning Authority. The means of drainage shall be implemented in accordance with the approved scheme, prior to first occupation of the development hereby approved. Reason: To reduce the increased risk of flooding by ensuring provision of a satisfactory means of surface and foul water disposal.”*

The applicant’s state that this condition is not required as the submission of details for subsequent conditions will cover this information.

Officers opinion – It is agreed that conditions 23 (foul drainage) and condition 24 (surface water) cover the requirements of this condition and it can be removed.

#### *Condition 25*

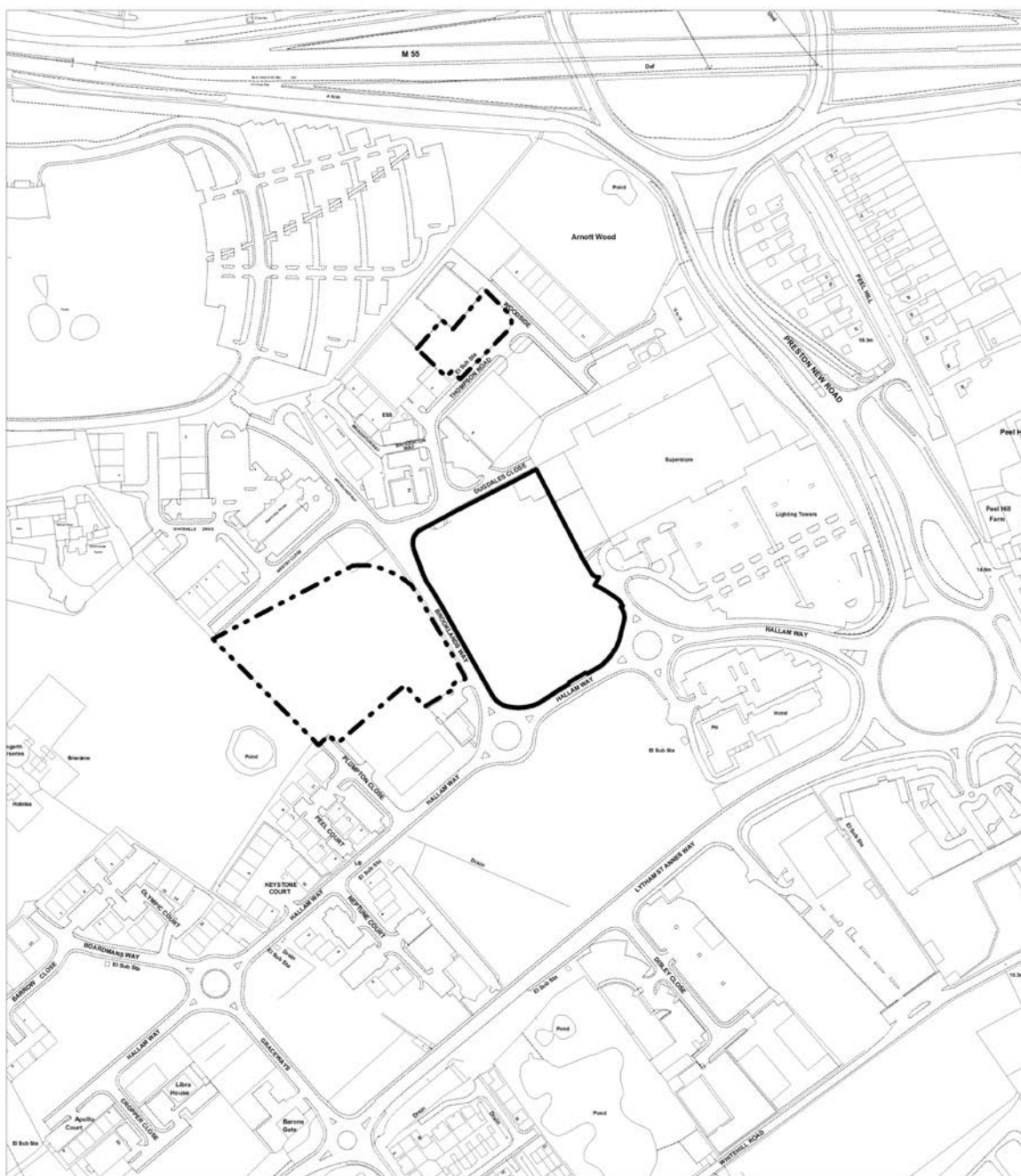
The applicant proposes that this condition be amended to read: *“Prior to the commencement of any development, a surface water drainage scheme and means of disposal, based on sustainable drainage principles with evidence of an assessment of the site conditions (inclusive of how the scheme shall be managed after completion) shall be submitted to and approved in writing by the Local Planning Authority. The surface water drainage scheme must be restricted to 9.8 l/s unless otherwise agreed in writing by the Local Planning Authority. The development shall be completed, maintained and managed in accordance with the approved details. The existing public sewer network adjacent to the proposed site has been originally designed to accommodate for each of the development plots throughout the Whitehills business park, with this knowledge and by agreement with the adopting authority, our proposed strategy is to discharge into the existing adopted public sewer network to maintain the original methodology.*

Officer opinion – This alteration changes the restricted run off rates from existing to 9.8 l/s. This has been agreed with Untiled Utilities and there is no objections to the amendment of this condition.

#### Recommendation

The officer recommendation in the report is to refuse the application, but suggests that if members are minded to approve it then the decision should be delegated to the Head of Planning and Regeneration, in consultation with the Chairman and Vice Chairman, to allow further negotiations on the terms of a s106 agreement to mitigate some of the harmful impacts of the development. These

comments do not change that view as it is suggested that further dialogue is required to achieve agreement on these matters.



Development Services Fylde Council		(c) Crown Copyright and database right (2015). Ordnance Survey (100006084).	
Application No. 5/14/0822	Address (Site 3) Land at Dugdales Close/Brooklands Way/Hallam Way, Whitehills, Westby	Grid Ref. E.3350 : N.4331	Scale 0 20 40 60 80 m



**Item Number:** 4

**Committee Date:** 09 December 2015

<b>Application Reference:</b>	15/0195	<b>Type of Application:</b>	Full Planning Permission
<b>Applicant:</b>	Trax Academy	<b>Agent :</b>	De Pol Associates Ltd
<b>Location:</b>	HILL TOP FARM, BACK LANE, WEETON WITH PREESE, PRESTON, PR4 3HS		
<b>Proposal:</b>	PROPOSED ERECTION OF BUILDING AND USE OF LAND AND EXISTING PREMISES FOR THE PROVISION OF AGRICULTURAL AND EQUINE TRAINING AND THE RELOCATION OF EXISTING ACCESS FROM WEETON ROAD TO BACK LANE.		
<b>Parish:</b>	STAINING AND WEETON	<b>Area Team:</b>	Area Team 1
<b>Weeks on Hand:</b>	37	<b>Case Officer:</b>	Alan Pinder
<b>Reason for Delay:</b>	Delays in consultation replies		

**Summary of Recommended Decision:** Grant

**Summary of Officer Recommendation**

The application site is a triangular area of land bounded by Weeton Road to the west, Back Lane to the north and the M55 to the south. It currently provides a private equestrian facility with a timber stable block, sand paddock and grazing land.

This application seeks a change of use of existing private stables and the construction of an additional stable block/store to be used as a training facility for equestrian and small animal care, and instruction on the operation and repair of agricultural machinery. The application also includes the closing of the existing access from Weeton Road and the formation of a new access from Back Lane.

Subject to the imposition of conditions requiring details of how the operation is to be managed the proposal is considered to accord with the aims of policies SP2 and SP13 of the Fylde Borough Local Plan and para 28 of the NPPF. Members are therefore requested to approve the application.

**Reason for Reporting to Committee**

The application is subject of an objection from the Parish Council and so as the officer recommendation is to grant planning permission it is necessary for the decision to be made by the Development Management Committee.

**Site Description and Location**

The application site is a triangular area of land, measuring approximately 1.4 hectares in area, located adjacent to the south side of Back Lane, east of its cross road junction with Weeton and Kirkham Roads. The southern boundary lies adjacent to the M55 motorway. The site lies opposite two residential properties located along the north side of Back Lane, but is screened from them by an established hedge along the northern boundary of the site. It has an existing access from its western frontage to Weeton Road, complete with dropped kerbs and hardstanding, and also

has a well-established hedge screen along this boundary.

The current lawful use of the site is for private stabling of horses, which comprises of a stable block for 3 horses/hay store/tack room, a menage, four small animal pens, and a septic tank.

### **Details of Proposal**

Planning permission is sought for a change of use of the site to an Agricultural and Equine Training facility. This involves:

- the change of the use of the existing stables and menage without any alterations to them
- the erection of a new building which measures 12m x 9m and a ridge height of 5.3m. This is to provide an additional 3 stables, a further tack room and general storage. It is sited in the vicinity of the existing stables and is indicated to be built in brick to 2.4m with metal panelling above and to the roof.
- the permanent closure of the existing vehicle access from Weeton Road and formation of a new access from Back Lane.

The applicant is 'Trax Academy' (part of 'TraxCare') who provide vocational training for young people. The supporting statement explains that the proposed scheme is intended to provide practical training in equestrian and small animal care, and the operation and repair of agricultural equipment/machinery. The proposed facilities would be used to instruct a maximum of 6 young people at any one time under the supervision of no more than 6 TraxCare staff. Associated study work would be carried on in Trax Academy's classrooms located elsewhere off-site. This proposed facility is proposed to operate between the hours of 09.30 and 16.00 on all days of the week (including bank holidays).

### **Relevant Planning History**

Application No.	Development	Decision	Date
12/0397	PROPOSED ERECTION OF BUILDING TO PROVIDE 4 X SMALL ANIMAL PENS, EARTH MOUND WITH ASSOCIATED LANDSCAPING, AND SEPTIC TANK WITH SOAKAWAY. (PART RETROSPECTIVE)	Granted	18/10/2012
10/0776	PROPOSED SILAGE TANK ASSOCIATED WITH PREVIOUSLY APPROVED STABLES AND RELOCATION OF MANURE STORE	Refused	18/01/2011
10/0018	USE OF LAND FOR THE GRAZING OF HORSES, ERECTION OF STABLE BUILDING AND FORMATION OF MANEGE FOR PRIVATE USE (AS AMENDED)	Granted	14/04/2010
07/0776	OUTLINE APPLICATION FOR STABLES AND MENAGE FOR PRIVATE USE	Granted	12/09/2007

### **Relevant Planning Appeals History**

None

### **Parish/Town Council Observations**

Weeton with Preese Parish Council notified on 25 March 2015 and comment:

*“Parish Council recommends refusal of the application for the reasons as follow:-*

*Access onto Back Lane is not acceptable there is a rise on the road close to the proposed access and too close to the Weeton Road/Back Lane junction. Back Lane already carries a heavy load of HGV vehicles to and from local farms and to create a new access will cause further problems.*

*Original application was for private use and not commercial for the use of the applicant’s family – local knowledge is that the site has never been used as such.*

*Concern that size of the land in comparison to the proposed number of horses looking to be stabled is not sufficient.*

*We would further request that this matter is NOT simply considered by a planning officer, but due to the nature and size of the proposed development, it rather be placed before the Planning Development Committee.”*

### **Statutory Consultees and Observations of Other Interested Parties**

#### **Highways Agency**

No comments received but not considered relevant as they would only be interested in relationship to M55 and this site does not impact on that road.

#### **Lancashire County Council - Highway Authority**

*“There are no highway objections to the proposed application. The new access along Back Lane will face lower volumes of traffic and reduced speeds compared to the current access arrangements along Weeton Road. The closure of the existing access, which is close to the four arm junction, will eliminate the potential collision conflict between vehicles along Weeton Road.*

*The entrance width of the new access shall be a minimum of 7.5m to allow two vehicles to pass each other when presented with a car and a horse box trailer. “*

They then suggest conditions to be imposed relating to the construction of the new access and closing of the existing.

#### **Regeneration Team (Trees)**

No objections to the proposal but expressed some concern as to whether the ground immediately adjacent to the new access is to be levelled off, with an expression that levelling should be avoided. In an email dated 30 March 2015 the agent confirmed that no ground level changes are proposed in the vicinity of the new access.

### **Neighbour Observations**

<b>Neighbours notified:</b>	25 March 2015
<b>Amended plans notified:</b>	31 March 2015
<b>No. Of Responses Received:</b>	One letter of objection
<b>Nature of comments made:</b>	Object to the proposal on the following grounds:

- The original planning permission on this site was for private use. The owner of Trax Academy is

Mr Sloan, who currently rents this site out to a person not related to him and hence is in breach of the permission

- The small animal pens approved under permission 12/0397 have never been constructed
- There is insufficient grazing land for the proposed number of horses
- The access off Weeton Road is perfectly acceptable and there is no reason to relocate it to Back Lane
- The use of the new access would disrupt the high level of heavy agricultural traffic that uses the narrower Back Lane to access Stanley Villa Farm.

### **Relevant Planning Policy**

#### **Fylde Borough Local Plan:**

SP02	Development in countryside areas
SP09	Diversification of rural economy
SP13	Stables and equestrian centres
CF01	Provision of community facilities
EP11	Building design & landscape character

#### **Other Relevant Policy:**

NPPF:	National Planning Policy Framework
NPPG:	National Planning Practice Guidance

#### **Site Constraints**

Within countryside area

### **Environmental Impact Assessment**

This development does not fall within Schedule 1 or 2 of the Town and Country Planning (Environmental Impact Assessment) (England and Wales) Regulations 2011 as amended.

### **Comment and Analysis**

#### **Policy Background**

Paragraph 28 of the NPPF advises that planning policies should promote a strong rural economy and support the sustainable growth and expansion of all types of business in rural area. This accords with the aims of policy SP2 which is restrictive of development within rural areas but supports that which is appropriate to a rural area and which would not harm the character of the surrounding countryside. Policy SP13 relates to commercial undertakings in rural areas and lists riding stables, livery stables, kennels, and animal hospitals. Whilst this proposal is not one of those uses it has clear linkages to them and so is considered to be an appropriate policy test in the determination of this application.

#### **Policy Assessment**

Considering first the requirements of policy SP2. As mentioned above SP2 seeks to restrict development within the countryside to that required for the purposes of a use appropriate to a rural area and which would not harm the character of that area. In this instance the proposed use is for a facility for practical instruction in the care of horses and small farm animals together with instruction in the operation and repair of agricultural machinery. The nature of both these activities are reflective of activities considered appropriate to a rural area and hence the proposed use is considered to accord with SP2 in this respect.

The other relevant aspects of Policy SP2 tie in with the more specific tests in Policy SP13 and so this is used to assess these elements, with its 5 criteria being:

Criterion 1 - In the case of a new enterprise the development is located where an existing dwelling can provide accommodation for supervision and security

This criteria is relevant as it would not be appropriate to establish a livery stables or kennels where there is no dwelling available to provide care for the animals being housed overnight at the site in the case of welfare issues arising.

There is no dwelling on the site at present but the owner of the business making the application is known to reside at No.5 The Barns which is located approximately 500 metres along Back Lane to the east of the site and is within the blue edge of the application. This is within easy walking distance and with the relatively limited number of animals being housed at the site is considered to satisfy the requirements of criterion 1. A condition is considered to be appropriate to require the submission and approval of a site management plan to effectively tie the operation of the proposed development to this residence and prevent the equestrian training centre being sold off separately.

Criterion 2 - Any new buildings are appropriately designed using materials which respect the countryside setting

The existing stables are blockwork with timber cladding and designed as typical stables. The proposed building is more of a functional agricultural design and scale with brick walls and a cladding upper section and roof. These are typically found on agricultural enterprises around the area and are considered to be appropriate here.

Criterion 3 - The building would have no significant prejudicial effect on the character and visual amenity of the area

The application site is bounded by tall hedgerows along both Weeton Road and Back Lane (north and west respectively) and by woodland to the south and east. This flora provides natural screening against views of the site and would adequately mitigate the potential visual impact of the development within the rural backdrop to an acceptable level.

Criterion 4 - There is adequate and safe access to the site and adequate parking facilities

There is an existing single access point to the site from Weeton Road which is located close to the junction with Back Lane and Kirkham Road into Weeton village. This proposal is to relocate that onto Back Lane. LCC Highways have been consulted on the proposal and have raised no objections as the new access along Back Lane will face lower volumes of traffic and reduced speeds compared to the current access arrangements along Weeton Road, and will be provided where there is a greater separation of the access from the junction.

Whilst the concerns of the Parish Council in this respect are noted it is considered that there is merit in the views of the highway authority and so this element of the scheme is acceptable. The closure of the existing access will eliminate the potential collision conflict between vehicles along Weeton Road and can be secured by condition along with the appropriate construction of the new access point. These works will require the removal and paring back of a short length of hedge to the east of the access point to ensure visibility is achieved, but this will not amount to an area of such significance that it will be detrimental to the rural character of that Back Lane frontage.

Criterion 5 - The development is located satisfactorily relative to other dwellings so as to not cause nuisance by way of noise, smell or general activity

The only property potentially affected by the proposal is 'Weatheroak' which is located on the

northern side of Back Lane and approximately 70 metres to the north east of the built development on the application site. This property provides a kennel facility and would be separated from the application site by two intervening high hedgerows. These hedges are considered that these combined with the separation distance would adequately mitigate against any potential nuisance from the application site.

## **Other matters**

### Animal welfare

Welfare guidance provided by both the Department for Environment, Food and Rural Affairs (DEFRA) and the British Horse Society advise that a minimum 1 acre of grazing land is normally required in order to provide an acceptable level of welfare for two horses. In this instance the grazing land associated with the stables measures approximately 1.4 hectares in area and so is 3.5 acres which is more than adequate for the existing level of use but below that which the guidelines advise for the 6 horses proposed.

Whilst this in itself is not a material consideration in determining a planning application it could result in the development becoming an unsustainable form of built development within the countryside to the detriment of the rural character. The applicant has provided a letter of support from a Rural Consultant who asserts that the land available could adequately support six horses if the land is managed correctly and provided with supplementary feed. To address this matter a condition is proposed requiring the submission and approval of a land management plan that details how the land will be adequately managed to support 6 horses.

### Deposition of material on the land

Since the submission of the application a large amount of clay and sub-soil has been deposited on the eastern part of the application site which would provide the grazing. Given the issue outlined above it is important that should planning permission be granted then an appropriate condition requiring this land to be brought back into use as acceptable grazing land be attached.

## **Conclusions**

The proposal will involve a more intensive use of the site than the present private equestrian use, and will involve new building work in the countryside. However, the officer view is that this is of an appropriate scale and design for this rural location and will offer a form of training that is suitable for a rural area such as this. Accordingly the proposal benefits from the support referred to in para 28 of the NPPF and complies with policies SP2 and SP13 of the Fylde Borough Local Plan, subject to the imposition of a series of conditions.

## **Recommendation**

That Planning Permission be GRANTED subject to the following conditions:

1. The development must be begun not later than the expiration of three years beginning with 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.

2. This consent relates to the following details:

Approved plans:

- Location Plan - Dwg No. P20b, dated December 2009
- Existing site plan - Dwg No. P200b, dated June 2012
- Proposed site plan and block plan - Dwg No. 1821/3.02 B, dated 12/11/2015
- Proposed elevations - Dwg No. 1821/3.04 A, dated 12/11/2015
- Proposed layout plan and roof plan - Dwg No. 1821/3.03 A, dated 12/11/2015
- Proposed access, visibility spalis & swept path analysis - Dwg No. H2059-01 Rev A, dated 19 February 2015

Supporting Reports:

- Planning statement produced by De Pol Associates and dated March 2015
- Arboricultural Report produced by GM Tree Consultants and dated 19 February 2015

Reason: For the avoidance of doubt and as agreed with the applicant / agent.

3. The external materials to be used in the development hereby approved shall accord entirely with those indicated on the approved plans; any modification shall thereafter be agreed with the Local Planning Authority in writing prior to any substitution of the agreed materials.

In the interests of visual amenity.

4. Notwithstanding any details shown on the approved plans and the requirements of condition 2 of this permission, prior to the commencement of development a landscaping scheme for the site shall be submitted to and approved in writing by the Local Planning Authority. The scheme shall include details of the type, species, siting, planting distances and the programme of planting of trees, hedges and shrubs. The duly approved landscaping scheme shall be carried out during the first planting season after the development is substantially completed and the areas which are landscaped shall be retained as landscaped areas thereafter. Any trees, hedges or shrubs removed, dying, being severely damaged or becoming seriously diseased within five years of planting shall be replaced by trees, hedges or shrubs of similar size and species to those originally required to be planted.

Reason: To ensure appropriate landscaping of the site in the interests of visual amenity, to enhance the character of the street scene and to provide biodiversity enhancements in accordance with the requirements of the National Planning Policy Framework.

5. Notwithstanding any details shown on the approved plans and the requirements of condition 2 of this permission, prior to the commencement of the approved development a scheme for the construction of all hard surfaced areas of the development shall be submitted to and approved in writing by the Local Planning Authority. The scheme shall include details of the design, construction (including sub layers and surfacing materials) and drainage of all hard surfaced areas, and a timetable for their provision. The hard surfaced areas shall thereafter be delivered in accordance with the duly approved scheme and the timetable contained therein.

Reason: In order to ensure satisfactory treatment of hard surfaced areas and a satisfactory standard of engineering works in the interests of visual amenity

6. Notwithstanding the provisions of the Town and Country Planning (General Permitted Development) (England) Order 2015, [or any subsequent replacement], the building hereby approved and the other land within the site edged red on plan P20b shall be used for Equestrian/Agriculture training (use class D1) purposes (as defined in the Town and Country

Planning (Use Classes) Order 1987 (as amended)) only, and for no other purpose (including any other use which falls within use class D1 of the same Order.

Reason: To restrict the use of the building to an operation which is compatible with the nature of surrounding uses and to prevent future changes of use which have the potential to detract from the character of the area and/or harm the amenities of surrounding occupiers in accordance with the requirements of the National Planning Policy Framework.

7. Prior to the commencement of the construction of the stable/storage building hereby approved a site management plan (SMP) shall have been submitted to and approved in writing by the Local Planning Authority. The SMP shall include such details to confirm arrangements for the management of the site by a suitably local and available resident and how they will be made aware of any emergencies or other such management issues associated with the use as approved. The site shall thereafter be operated in accordance with this SMP at all times, or with a variation to it that has subsequently been approved in writing by the Local Planning Authority.

Reason: To ensure the provision of adequate supervision and security of the site in accordance with policy SP13 of the Fylde Borough Local Plan

8. None of the development hereby approved shall take place until a Horse Welfare Management Plan (HWMP) has been submitted to and approved in writing by the Local Planning Authority. The HWMP shall provide full details of how the available land will be managed to provide adequate grazing pasture/feed to sustain the number of horses capable of being stabled on the application site.

Reason: The inability to provide adequate grazing pasture/feed would render the approved development redundant and an unsustainable form of rural development that would be harmful to the rural character of the area and fail to accord with any criteria of policy SP2 of the Fylde Borough Local Plan

9. None of the development hereby approved shall take place until that area of the application site that is currently being used for the storage of imported material (clay and sub-soil) has been brought back into use as suitable grazing pasture for horses

Reason: This area of land is required to contribute to the grazing pasture for the six horses that are to be kept on the site. The inability to provide adequate grazing pasture would render the approved development redundant and an unsustainable form of rural development that would be harmful to the rural character of the area and fail to accord with any criteria of policy SP2 of the Fylde Borough Local Plan

10. The approved equestrian/agriculture training facility shall only be open for business between 09.30 hours and 16.00 hours Monday to Sunday, and not at all on Public Holidays

Reason: To limit the potential for noise generation during unsocial hours and to prevent nuisance arising in order to safeguard the amenity of the occupiers of surrounding residential properties in accordance with the requirements of Fylde Borough Local Plan policy EP27 and the National Planning Policy Framework.

11. Prior to the first use of the access to Back Lane hereby approved for vehicular purposes it shall be provided with visibility splays of 2m x visibility to the junction facing west and 2m x 66m facing east when viewed on exit. These visibility splays shall be provided without requiring the removal of any length of hedgerow beyond the width of the access itself unless this has previously been



agreed in writing by the Local Planning Authority, and shall remain available at all times thereafter with no walls, fences, trees, hedges, shrubs, ground or other structures within them.

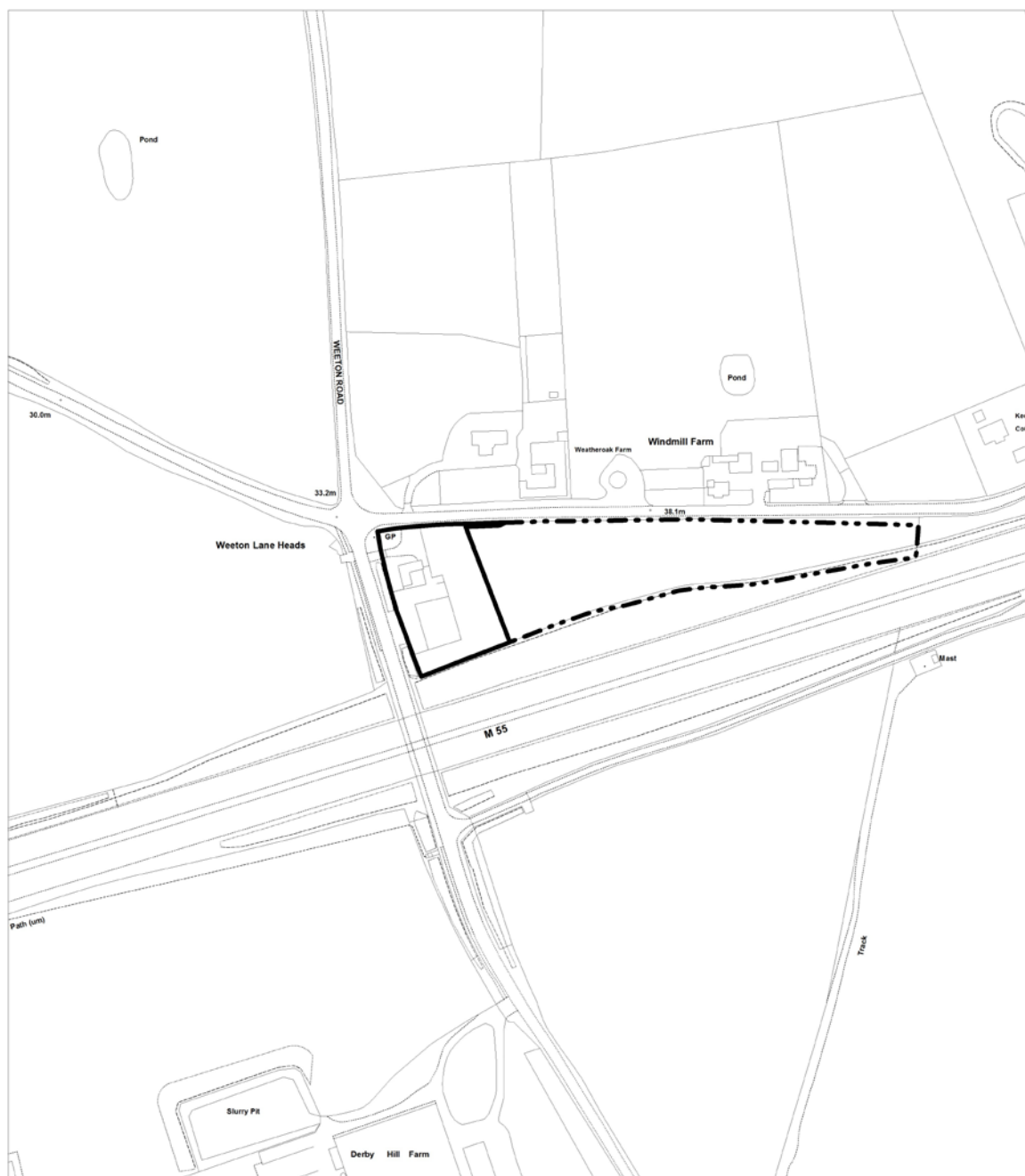
Reason: In the interests of highway safety whilst vehicles exit the site

12. Within one month of the new access to Back Lane becoming operational, the existing access to Weston Road must be permanently closed with the hedgerow to that boundary extended across the access point and the foot way/highway verge reinstated

Reason: In the interests of highway safety

13. Before the new access is used for vehicular purposes, any gateposts erected at the access shall be positioned 10m behind the nearside edge of the footway/carriageway.

Reason: To allow vehicles to pull clear off Back Lane into the site.



Development Services Fylde Council		(c) Crown Copyright and database right (2015). Ordnance Survey (100006084).	
Application No. 5/15/0195	Address Hill Top Farm, Back Lane, Weeton	Grid Ref. E.3389 : N.4345	Scale 0 15 30 45 60 m

**Item Number:** 5

**Committee Date:** 09 December 2015

<b>Application Reference:</b>	15/0326	<b>Type of Application:</b>	Full Planning Permission
<b>Applicant:</b>	Ms Allen	<b>Agent :</b>	Ben Jurin Architecture Ltd
<b>Location:</b>	GIRL GUIDE H Q, 67 LEACH LANE, LYTHAM ST ANNES, FY8 3AN		
<b>Proposal:</b>	PROPOSED ERECTION OF TWO STOREY BUILDING PROVIDING REPLACEMENT GIRLGUIDING FACILITY WITH ASSOCIATED LANDSCAPING, PARKING AND ANCILLARY DEVELOPMENT		
<b>Parish:</b>	ST LEONARDS	<b>Area Team:</b>	Area Team 1
<b>Weeks on Hand:</b>	30	<b>Case Officer:</b>	Rob Clewes
<b>Reason for Delay:</b>	Application Deferred by Committee		

**Summary of Recommended Decision:** Refuse

**Summary of Officer Recommendation**

The application relates to 67 Leach Lane which is a single storey building and its curtilage that serves as the base for the local Girl Guides. It is located at the edge of the settlement of St Annes with residential properties around on all sides other than to the north which is the outfield to Blackpool Airport. The site is in the settlement with the airport land being within the green belt.

The application proposes a development that seeks to replace the existing building with a new larger building which is capable of providing greater facilities. The concept of a replacement building and use of the site for community purposes is considered acceptable. However the resulting intensification of use of the site, as a result of the provision of greater facilities and increased use will lead to a greater impact to the amenity of the neighbouring properties on Rodney Avenue, and that this will be unacceptable.

In addition the proposed replacement building is far larger than the existing building and whilst a larger replacement building is in principle not unacceptable, the size and position of the building that is proposed in this application is considered to be overly large and will result in a cramped and dominant appearance within the site and the surrounding area. The existing openness of the site will be lost and the lack of any space around to provide meaningful landscaping exacerbates this dominance further. It is therefore considered that the design of the replacement building is unacceptable.

The development of the site will clearly provide enhanced facilities for the girl guides and for other such community groups to use and so will in that respect accord with the requirements of the NPPF to support healthy communities. However these benefits need to be balanced against the appropriateness of the scale of the building, the impact it could have on the character of the area and neighbouring residents and other material planning considerations. In this case there is considered to be harm to a number of these aspects which is to such a degree that it outweighs the benefits of the development and so the proposal is to be

recommended for refusal. This is on the basis that it is contrary to paragraphs 17, 61, 64 of the NPPF and Policies CF1, EP30 and TREC12 of the Fylde Borough Local Plan and therefore the application is recommended for refusal.

### **Introduction**

This application was presented to the 9 September 2015 meeting of the Development Management Committee, and following some debate a decision was deferred to allow members of the Committee to visit the site and for further discussions to take place between officers and the applicant/agent in an attempt to resolve outstanding issues of concern that had led to the scheme that was presented to that Committee to be recommended for refusal.

Since that meeting the Committee undertook a collective visit to the site on 4 November and were able to view the proposal from within the site, from Leach Lane and from the garden to one of the neighbouring dwellings on Rodney Avenue.

After the September meeting officers wrote to the agent to expand upon their concerns and suggest areas where further clarification and alteration to the proposal would assist in addressing those concerns. This was followed by a meeting on 15 October 2015 where these matters were discussed. Following that meeting further information and revised plans were presented to the council and so are now the subject of this report. Further consultation with the neighbouring residents, highway authority and Town Council has been undertaken on this revised proposal.

The report has therefore been revised throughout from that presented to the September meeting to reflect the changes made to the scheme and further comments received.

### **Reason for Reporting to Committee**

This application has been brought before the Development Management Committee as Head of Planning and Regeneration considers the proposal to be of significant public interest.

### **Site Description and Location**

The application site is the existing Kilgrimol Girl Guides site located on the western side of Leach Lane and to the north of the properties on Rodney Avenue. The site is located within the Lytham St Anne's settlement boundary. The site is a strip of land which stretches East/West with the existing building located at the Eastern end. The building is single storey with a dual pitched roof with front and rear gable ends. To the western end there is an area of hard standing which is used as an area for outdoor activities. The site consists of natural landscaping with mature trees along the southern boundary to the dwellings on Rodney Avenue and bushes and trees along the northern boundary to the airport.

The properties to the south are semi-detached residential houses which back onto the application site and are separated from the site by a brick wall which is approximately 1.2m high on the application site side. To the north of the site is Blackpool Airport which in the immediate area is an open expanse of land that is not actively used, and is separated from the site by a 2m high post and wire fence line. The Airport is defined as Green Belt land in the adopted Fylde Borough Local Plan.

## Details of Proposal

The proposal is for a replacement building to be used by the Girl Guides as well as acting as a community/activity centre. The new building is positioned further west (to the rear when viewed from the access point) with a new car park proposed between the building and the entrance from Leach Lane. The building is 48.4m in length and 9.3m in width. The roof is non-symmetrical with the eaves height on the south facing elevation (towards Rodney Avenue) at 4.5m and at 6.3m on the north facing elevation (towards the Airport). The ridge is 8.2m high and so it allows for two storeys of accommodation with windows provided along both side elevations to serve, albeit that those on the south are in the roof slope due to its reduced eaves height.

The building is of a contemporary design with a large glazed front elevation facing Leach Lane. The elevations are to be clad in horizontal red cedar timber boarding. Other elements of the proposal include the removal of much of the perimeter landscaping in the site and the planting of some replacement trees, a cantilevered entrance porch, bin/cycle storage facilities and solar PV panels on the roof.

The revisions made since the September meeting have not altered the scale or general design of the building. However the grassed canopy has been removed and replaced with a smaller cantilevered canopy, and the large glazed section in the south facing side elevation which serves the internal staircase has been obscurely glazed. There has also been a minor amendment to the parking layout following comments from the LCC highways surveyor.

The applicant was asked to provide some clarification over the need for and intended use of the building and this is reported here:

*“Our current building, despite all our loving care and attention, is coming to the end of its life so we are seeking to build a new centre. As part of this rebuild we shall address the land drainage problems which have increased over recent years. As we are building afresh it has been necessary to consider safeguarding issues, health and safety, ROSPA recommendations and disability access therefore the plans reflect this. We wish to increase the number of beds by just six from 22 to 28 to accommodate a standard Brownie Unit and supervising adults; there is no intention to significantly change or intensify the use of the building.*

*We currently offer the residential accommodation to guiding and scouting groups. We may consider lettings to similar youth organisations which share the same principles and who can evidence that their leaders undergo training to run residential events, operate to similar supervision ratios and conform to Disclosure and Barring Service regulations. Guiding members will be the prime users. There is no intention to let the building for residential use on a commercial basis.*

*During the week/day, the building is used by guiding units who meet there during term time and for leader training. The building is also used by other community groups such as PIP (a club for children with learning difficulties), a photographic club and a young children’s sports club. A small care company also hires it on an occasional basis to train people handling skills. We are happy for such organisations and similar to continue to use our facility. The building will not be suitable to be used for large conferences, weddings, large functions etc. – the dining room is designed to accommodate only 28 ‘small’ people and the ground floor toilets are limited. Due to the nature of our usage of the building, and continued priority for Guiding, it would not be practical to let the building to a daily user, such as a children’s day nursery.*

*The building, our home, is managed and operated by a group of dedicated volunteers. There is not*

*the volunteer capacity to cope with large commercial events. The decision to let to any organisation is made by a group of trustees who consider carefully the effect any letting would have on our guiding activities and the appropriateness of the organisation and where it fits with our ethos. It has been commented that we would have to increase commercial activity in order to run the new building. This is not the case. The building has been carefully designed to reduce our running costs."*

### **Relevant Planning History**

<b>Application No.</b>	<b>Development</b>	<b>Decision</b>	<b>Date</b>
04/0707	ERECTION OF METAL CONTAINER BUILDING TO REPLACE EXISTING SHED	Granted	24/09/2004
03/0809	REMOVAL OF CONDITION NO2 ON PLANNING PERMISSION 5/87/053	Granted	15/10/2003
93/0625	PROPOSED NETBALL COURT AND LAND IMPROVEMENTS	Granted	08/12/1993
91/0143	ERECT SINGLE STOREY REAR PORCH AND BIN STORE.	Granted	24/04/1991
87/0053	AMENDMENT TO CONDITION NO2 ON APPLICATION 5/82/71	Granted	25/02/1987
82/0071	GIRL GUIDES DISTRICT HQ.	Granted	03/03/1982

### **Relevant Planning Appeals History**

None

### **Parish/Town Council Observations**

**St Anne's on the Sea Town Council** initially commented to support the application stating: *"We support this sustainable contemporary eco-development. We like the solar glazing and grass roof. It accords with the Town Council's emerging Neighbourhood Plan".*

They renewed their support in respect of the scheme currently under consideration stating: *"Replacing an existing community facility which is past its' best, with a modern, DDA compliant facility, much needed for educational, recreational and community use in a sustainable and eco-friendly manner."*

### **Statutory Consultees and Observations of Other Interested Parties**

#### **National Air Traffic Services**

Raise no safeguarding objections to the proposal.

#### **Blackpool Airport**

Comments - No comments received

#### **Lancashire County Council - Highway Authority**

Their comments on the original proposal highlighted that a number of the parking spaces shown were too small to be achievable, but that even if they were correctly drawn the number of spaces provided would not lead to highway safety concerns.

The revised plans have corrected the drawing and so reduced the number of spaces provided by one. They confirm their lack of objection to the revised plans.

### **Regeneration Team (Trees)**

No objections.

*"There are nine trees forming a line that runs parallel to properties on Rodney Avenue which are a mixture with sycamores, horse chestnuts, alders and willows. Of these only two sycamores offer any promise of future amenity, but this has to be offset against the impracticality of their siting: at only a metre from the boundary walls of the houses at 2-14 Rodney Avenue I suspect they will become a nuisance to properties when fully mature. These are trees with 20 metre growth potential, so conflicts between them and properties is very foreseeable.*

*The larger of the horse chestnuts is in the grip of a severe bleeding canker infection; the willow is in decline and showing a sparse canopy. If these trees have a benefit it's probably as screening for those few houses affected but I feel this benefit isn't a sustainable one because in some years' time the trees will pose problems that outweigh those benefits.*

*On balance I see no reason not to agree to tree removals. These aren't TPO candidates, and their merits such as they are don't warrant a layout redesign or retention by planning condition."*

### **United Utilities**

They highlight that a surface water pressurized rising main crosses this site and that they will not permit building over it with an access strip width of 3 metres either side of the centre line of the sewer to be maintained for maintenance or replacement so as to accord with the minimum distances specified in the current issue of "Sewers for Adoption". They also refer to the potential need for a modification of the site layout, or a diversion of the affected public sewer at the applicant's expense, may be necessary to protect the building in the event of failure of the pressurized pipe. They then offer contact details for the applicant to have any further discussions on this point.

### **Regeneration Team (Urban Design)**

They express concern over the position of car parking along the boundary fence of no 65 which will be intrusive and inappropriate and suggest that a buffer landscape treatment would be helpful in this area. They refer to the plans indicating a landscape treatment to the immediate environ of the building only rather than the whole site, and as the application indicates activity such as Netball courts to the rear it would be useful for this landscaping to extend along the whole boundary.

The busiest point is the main entrance and no 10 and 12 do benefit from limited landscape screening. The area appears to be foot ways to their immediate boundary which will impact on noise levels, traffic, visitors etc. and the plans should be amended to show a landscape buffer in this location. Details of the tree species, stock size and ground cover would assist proper consideration of the scheme.

### **Neighbour Observations**

<b>Neighbours notified:</b>	19 May 2015
<b>Site Notice Date:</b>	3 June 2015

**No. Of Responses Received:** 7 responses of objection received

**Nature of comments made:**

- The urban scale and design of the building is out of keeping with the area and will appear incongruous in the area and uniform characteristic landscape.
- The proportion of the building is out of kilter with the surrounding buildings and will be overbearing.
- Increase surface water flooding due to loss of grassed area and increase in building size and hard standing.
- Impact to wildlife.
- Impact to existing trees.
- Properties backing onto site have unrestricted views allowing openness and the proposed building will destroy this with a large featureless wall next to the rear boundaries.
- Loss of light.
- Loss of privacy due to loss of trees, increase in activity and outdoor seating area.
- Increase in noise and disturbance particularly from large groups and functions.
- Building appears more like a hotel.
- Increase in light pollution from external lighting and security lights.
- If asbestos is present in the existing building will it be disposed of correctly.
- Original condition on the site were put in place to safeguard the amenities of the neighbourhood which are now at risk from the increased capacity and facility of the proposal.
- Concerns over the length and intensive building work and impact on neighbouring properties.
- Proposal will de-value the neighbouring properties.
- Many different groups and organisations will be using the building intensifying the usage.
- Outdoor areas used for activities will be lost.
- Previous non-guide groups have been noisy in the past. Will this be a more regular occurrence?
- The Girl Guides could buy some additional land off the Airport to allow more room to develop instead of overdeveloping a narrow plot.
- Building is not simply a replacement building but a huge dominating two-storey building.
- Building does not enhance the surrounding area.
- Properties on Rodney Avenue have rear gardens which are lower than the application site therefore the architects site section drawing is wrong as it does not show this.
- Building is much closer to the neighbouring properties than the existing building.
- Proposal will be in breach of Protocol 1, Article 1 and Article 8 of the Human Rights Act.
- Building could be used 24hrs a day leading to greater disturbance.
- No tree survey has been submitted.

**No. Of Responses Received to amended plans:** 2 responses of objection received

**Nature of comments made:**

- No significant change to the plans.
- Increased use will impact heavily on neighbouring amenity.
- Can't the Girl Guides compromise more to appease the neighbours.
- Why will Scouts also now be using the building.

**Relevant Planning Policy**

**Fylde Borough Local Plan:**

SP01

Development within settlements



CF01	Provision of community facilities
TREC12	Retention of indoor sport & leisure facilities
EP12	Conservation trees & woodland
EP13	Planting of trees, hedgerows and woodland
EP14	Landscaping of new developments
EP27	Noise pollution
EP28	Light pollution
EP30	Development within floodplain's
TR10	Car park design

**Other Relevant Policy:**

NPPF:	National Planning Policy Framework
NPPG:	National Planning Practice Guidance

**Site Constraints**

None

**Environmental Impact Assessment**

This development does not fall within Schedule 1 or 2 of the Town and Country Planning (Environmental Impact Assessment) (England and Wales) Regulations 2011 as amended.

**Comment and Analysis**

The main issues regarding this development are:

The principle of a replacement building  
Design and impact to the character of the area  
Impact to residential amenity  
Public benefit of the proposal  
Trees and landscaping  
Impact to flooding  
Impact to highway safety

**The principle of a replacement building**

The NPPF seeks to support developments that promotes healthy communities and facilitates social interaction. The application site is located within the settlement boundary of St Annes and has been used in its current capacity for over 30 years (including the existing building) and the principle of this community based use on the site is a well-established and acceptable one. Accordingly the principle of retaining this use and upgrading the facilities to provide for that use are acceptable and are encouraged by the NPPF in this regard.

The most relevant policies to apply in the Fylde Borough Local Plan are Policies CF1 and TREC12. Policy CF1 deals with Community Facilities and is supportive of them subject to a series of criteria. Policy TREC12 relates to indoor sport and leisure facilities and protects them from loss and supports their establishment or improvement subject to criteria being met. The main issues raised by the proposal are assessed in the report below.

**Design of building and its impact to the character of the area**

With the principle of the guiding use of the site well-established, the next matter to consider is the impacts of the replacement building on the character of the surrounding area. This is underpinned by guidance in the NPPG which advises that proposed developments should relate well to their surroundings, and their layouts should be considered in relation to adjoining buildings, streets and spaces as well as views, vistas and landmarks into and out of the site. It advises that stand alone buildings can create ill-defined spaces around them if poorly designed. Furthermore it states that the size of individual buildings and their elements should be carefully considered as size and mass will influence the character, functioning and efficiency of an area, with too much building mass appearing oppressive.

Locally these tests are implemented through criteria 3 of Policy CF1 which seeks to ensure that the development is appropriately sited, designed and landscaped and does not prejudice the visual amenities or the character of the area. Criteria 1 and 3 Policy TREC12 seek to ensure that the development is appropriate in terms of scale, siting, space around buildings, materials and design and that areas of open space are not lost.

The appearance of the proposed building is significantly different to the existing building. The existing building has a simple functional appearance whereas the proposed replacement building is of a contemporary design using natural materials to present a building which will appear as an obvious contrast to the inter-war housing on Rodney Avenue and the other general housing styles seen in the surrounding areas. This building style does not strictly comply with the requirement in criteria 1 of Policy TREC12 that the development should be in keeping with the character of the surrounding area. However the design approach is not considered unacceptable as it represents an innovative approach to the site and is clearly for a different land use to those residential properties. Proposing a modern style building will not create a detrimental impact to the surrounding area and will provide a contrast to the inter-war style seen adjacent the site and will help create a sense of individuality which would not have an unacceptable impact on the character of the wider area.

The use of red cedar cladding helps accentuate the contemporary appearance and its use as an external material is considered acceptable. Whilst the use of additional glazing on the north facing elevation would help reduce the massing and intensive use of the Red Cedar cladding natural appearance is nevertheless considered acceptable. One issue with cedar cladding is its tendency to weather, especially in exposed areas. Weathered cedar cladding can alter the appearance of a building to its detriment due to the uneven weathering and change of colour. The reason the red cedar cladding is considered acceptable is due to the sharpness it will create and the overall feeling of a warm natural appearance. This will be dependent on its maintenance and so it would be appropriate to impose a condition to require its maintenance to retain that original finish if the scheme were to be acceptable in other respects.

Whilst the modern design concept is considered acceptable its overall size requires a further assessment and creates a significant impact. The existing building is small scale and is proportionate for the site. The footprint and position on the site allows for it to be set back from the boundaries on all sides other than the airport, but even in that respect there is space for planting to soften its appearance in views from the airport and from the north on Leach Lane. The planting includes well established trees between the building and the Rodney Avenue dwellings that create a harmonious relationship with those properties. These aspects combine to ensure that the site retains a general sense of openness that reflects its position at the edge of the settlement and Greenbelt.

The proposed building is significantly larger than the existing building (*circa* 60% in foot print and 130% in volume) and is notably taller. This increase in size and mass will have a significant impact

on how the building sits within the site and relates to the surrounding area. The overall increase in the foot print, height and bulk of the building is such that it necessitates the removal of the majority of the existing trees and landscaping, and the positioning of the two storey building immediately against the northern site boundary, with these combining to cause a more prominent impact as viewed from off-site. Further, the increased scale of the building generates a larger parking and service area that gives a hard surfaced appearance to the whole of the areas to the front and side of the building. It is considered that this will result in a development that will appear cramped within its setting and within the narrow site itself thereby creating an incongruous feel and appearance. The impact on the street scene will be a change from a subtle soft boundary and a low profile single storey building to one of a two-storey 6.3m high wall with no landscaping in front, and this will result in a form of massing and scale that is considered unacceptable on the very edge of the settlement.

These impacts caused by the scale of the building are considered to be so harmful that it is conflict with the requirement in criteria 1 of Policy TREC12 for development to be in keeping with the character of the locality in terms of scale, siting, and space around the building. It is also contrary to criteria 3 of Policy CF1 that requires development to be appropriately sited and landscaped so as to not prejudice visual amenity and the character of the area. These policies are dated but their requirements accord with paragraphs 61 and 64 of the NPPF and so they remain relevant.

This conclusion reflects the position reached when the application was first presented to Committee in September, and so was an item that was the subject of discussions with the applicant and their agent following that meeting. However they have chosen not to make any modification to address these concerns and it remains the officer position that the scheme is unacceptable for this reason.

#### Impact to residential amenity

Criteria 2 of Policy TREC12 and Criteria 2 of Policy CF1 of the Fylde Borough Local Plan seek to resist development that would create an unacceptable impact to, or prejudice, the amenity of neighbouring residential amenity. The existing building currently sits directly behind three of the properties on Rodney Avenue (No. 2, 4 and 6), with the larger replacement building proposed siting behind No.6, 8, 10, 12, 14 and 16 with a raised outdoor seating area behind No.4 Rodney Avenue. This illustrates the change in impact, and the change in the properties that it will impact most.

Whilst loss of view is not a material planning consideration the size (length and height) and positioning of the replacement building will reduce the sense of openness and rear aspect that a number of the properties on Rodney Avenue currently enjoy. The loss of this will contribute to a feeling of overbearing and dominance to the detriment of the residential amenity of the occupiers of these properties. This is exacerbated by the length of the building being over 48m long at a two storey height, the rear gardens of the Rodney Avenue properties being at a lower ground level, and the loss of the existing intervening trees that will make this building more apparent until any replacements become established. It is therefore concluded that the physical scale of the building will have a harmful impact on neighbouring amenity.

It is also necessary to consider the impact on their amenity from its use. From the submitted details and discussions with the agent involved it is officer understanding that the application proposes a broadening of the use of the site to include a greater variety of groups/organisations beyond simply the Girl Guides, with this intended to provide support to the viability of the project and the future operation of the facility. This in itself is not an issue as the site has long been used as a 'community facility' and there is NPPF support for their beneficial role that these play to society. However there seems to be no clarity available as to the extent of the uses that are intended for the site other than the statements quoted in the proposals section of this report that they will look at

the “*appropriateness of the organisation and where it fits with our ethos*”.

When it was originally granted consent the existing building had conditions placed on it restricting its use to prevent activity beyond 22.30 at night. Over the years these restrictions were eased to allow some overnight stays and were then removed in 2003. Although the removal of the condition was considered acceptable at that time it was based on the use of the existing building which provides a certain level of limited facilities. The existing building consists mainly of the hall/activity room, kitchen, toilets and bunk rooms. The replacement building will consist of a hall, meeting/dining room, kitchen, games room, toilets, plant room and several store/utility rooms on the ground floor and seven bedrooms and laundry on the first floor capable of sleeping up to 28 people.

As such the proposed building provides a greater range and improved quality of facilities which could cater for a much wider scope of groups and organisations providing residential facilities on a much more regular basis and in larger numbers than the occasional and limited use that can currently be experienced. This is highlighted by the indoor activity space of the building (hall/meeting room/games room) being only 25% of the actual overall floor space proposed. This intensification of use will create an increase in impact to the detriment of the neighbouring properties in terms of noise and disturbance at a level not currently experienced.

This intensification of use will also lead to the likelihood of greater activity and use of the outdoor areas, in particular the outdoor seating area. Due to the low height of the boundary wall with the properties on Rodney Avenue, the proximity of the building and surrounding ground to this boundary and the removal of well-established trees there is a far greater risk of a loss of privacy. Although the scheme does propose re-planting it is not considered sufficient to mitigate the resulting impact.

The greater scale of the site and its use will inevitably increase the use of the access. This is positioned immediately adjacent to the side elevation of 65 Leach Lane which is a semi-detached house that has its kitchen and other habitable room windows in very close proximity to the site boundary. The increased level of use of the access and fully hard-surfaced parking area immediately across the boundary from the property will be detrimental to the amenity that they can enjoy in that property.

Other concerns have been expressed about loss of sunlight and the illumination of neighbouring gardens and these are considered to be issues that are acceptable or can be adequately controlled by condition.

The detrimental impacts from the scale of the building and the activity it could support are such that the proposal fails to comply with Criteria 2 of both Policy CF1 and TREC12 of the Fylde Borough Local Plan or paragraph 17 of the NPPF. This is again an issue that was a reason for refusal in the previous officer report, and so was a matter that was discussed between officers and the applicant. However, the building remains largely as previously proposed and all officer queries over the mechanisms for ensuring the use could not harm neighbouring amenity (nature of use, the frequency of use, the duration of use, etc.) were not given sufficient clarity. It would be inappropriate of officers to propose conditions to control an activity in the knowledge that the applicant has indicated that they would not be comfortable with them in the light of their expectations for the building, and have been unable to give certainty over the future operation of the building. Accordingly the officer recommendation remains one of refusal on this basis.

Public benefit of the proposal

It is clear that the proposal would enhance existing facilities, and that this will bring public benefit to the Guiding community and the wider borough. However this public benefit must be weighed against the impact to the amenity of the neighbouring properties. The site as it exists already provides a facility for the Girl Guides group and occasional use by various other community groups and therefore does provide a certain level of public benefit.

The proposed building is also primarily for the use of the Girl Guides whilst also catering for other groups as currently occurs. The building would allow for a better experience for the groups that would use it and it is clear that the building would have a good degree of eco-friendliness which would have some benefit to the public as would the provision of a games room, meeting/dining room and 6 additional beds. However although extra and improved facilities would be provided, this increase in facilities and the increase in public benefit they would provide compared to the increase in size of the building and the potential for greater use of the building against the resulting impact to the amenity of the neighbouring properties is not considered sufficient to out-weigh the harm to the amenity of the neighbouring properties. The public benefit that would be created would not be so great, when taking into account the existing use of the site, that it would justify overriding the concerns set out above having particular regard to Policies CF1 and TREC12 of the Fylde Borough Local Plan or paragraphs 17, 61 and 64 of the NPPF.

#### Trees and landscaping

The proposal includes the felling of 5 trees from the site as well as the removal of existing boundary treatments along the northern boundary and the replanting of new landscaping along the northern and southern boundaries. The Council's Tree Officer has raised no objection to the removal of the trees identified to be felled as they are either in poor health or offer little amenity value. Whilst their loss is considered acceptable the proposed planting scheme is not considered sufficient for a scheme of this type or size. The Urban Design Officer highlighted the lack of an adequate landscape buffer between the site and the residential properties on Rodney Avenue which would help to mitigate the visual impact of the building and noise coming from the use of the site. Furthermore the lack of information on the proposed planting does not allow for a detailed assessment of the suitability of the proposed planting scheme. Policy EP14 of the Fylde Borough Local Plan seeks that suitable provision for landscaping is included within proposed developments. It is not considered that the landscaping scheme for the proposal is currently acceptable, and that this limited landscaping emphasises the previously expressed concerns over the scale of the building on the site.

#### Impact to flooding

The application site does not lie within Flood Zones 2 or 3 for fluvial or tidal flooding as indicated on the Environment Agency (EA) flood map. However the EA's surface water flood map indicates that the site is susceptible in parts to a high level of surface water flooding. Criteria 1, 2 and 3 of Policy EP30 of the Fylde Borough Local Plan seek to restrict development that would lead to an unacceptable risk of flooding.

The submitted Design and Access Statement indicates that a Sustainable Urban Drainage System (SUDS) will be used on the site, but the proposal does not include any details as to how this is to be achieved in terms of provision of ponds, swale's, drainage outfalls, etc. This is clearly an omission in the submission that could have implications for the implementation of a permission were one to be granted, particularly with the presence of the water main running through the site impacting on how the site can be drained.

Whilst a condition could be attached to a consent requiring a scheme to be agreed there are no

assurances that a suitable and effective SUDS scheme can be achieved post decision when taking into account the increase in size and repositioning of the new building and the addition of further hard standing. The proposal is therefore not considered to comply with Criteria 1, 2 and 3 of the Policy EP30 and Criteria 5 of Policy CF1 of the Fylde Borough Local Plan. This alone will not justify the refusal of the application, but with the other issues that do expressed in this report it is appropriate to include this as an additional reason.

#### Impact to highway safety

The development proposes an acceptable level of off street parking and the site has access to good public transport links. County Highways raise no objection to the proposal except for the size of the parking spaces adjacent No.65 Leach Lane. This has now been addressed in the revised site plan received since the September Committee and so no objection to the proposal is raised on this basis.

#### Other matters

Other issues highlighted from the representations made raised concerns over the demolition of the existing building, de-valuing of property, impact to wildlife and inaccuracies on the submitted plans.

The method of demolition of the existing building and disposal of the resulting material is the responsibility of the contractor who should adhere to all relevant legislation and health and safety protocols. The de-valuing of property is not a material planning consideration and therefore forms no part of this assessment. The application site is not located within a Biological Heritage Site or SSSI and it was therefore considered that an ecological assessment was not required. However any wildlife that may be present on the site is protected by the Wildlife Act 1981 which is not overridden by the granting of planning permission.

The submitted plans are to an accurate scale and clearly show the development as proposed. The cross section drawing indicates land levels that are the same across the site and across the properties on Rodney Avenue. Evidence has been submitted that the gardens of the properties on Rodney Avenue are lower than the application site. This has been noted and taken into consideration as part of the assessment. It was not considered necessary to seek an amended plan as site levels can be agreed and confirmed via an appropriate condition.

#### Conclusions

The application relates to 67 Leach Lane which is a single storey building and its curtilage that serves as the base for the local Girl Guides. It is located at the edge of the settlement of St Annes with residential properties around on all sides other than to the north which is the outfield to Blackpool Airport. The site is in the settlement with the airport land being within the green belt.

The application proposes a development that seeks to replace the existing building with a new larger building which is capable of providing greater facilities. The concept of a replacement building and use of the site for community purposes is considered acceptable. However the resulting intensification of use of the site, as a result of the provision of greater facilities and increased use will lead to a far greater impact to the amenity of the neighbouring properties on Rodney Avenue. The increase in noise and disturbance along with a greater loss of privacy all from the increased use of the site will have a detrimental impact on these properties at a level not currently experienced. It is therefore considered that this impact to amenity is unacceptable.

In addition the proposed replacement building is far larger than the existing building and whilst a

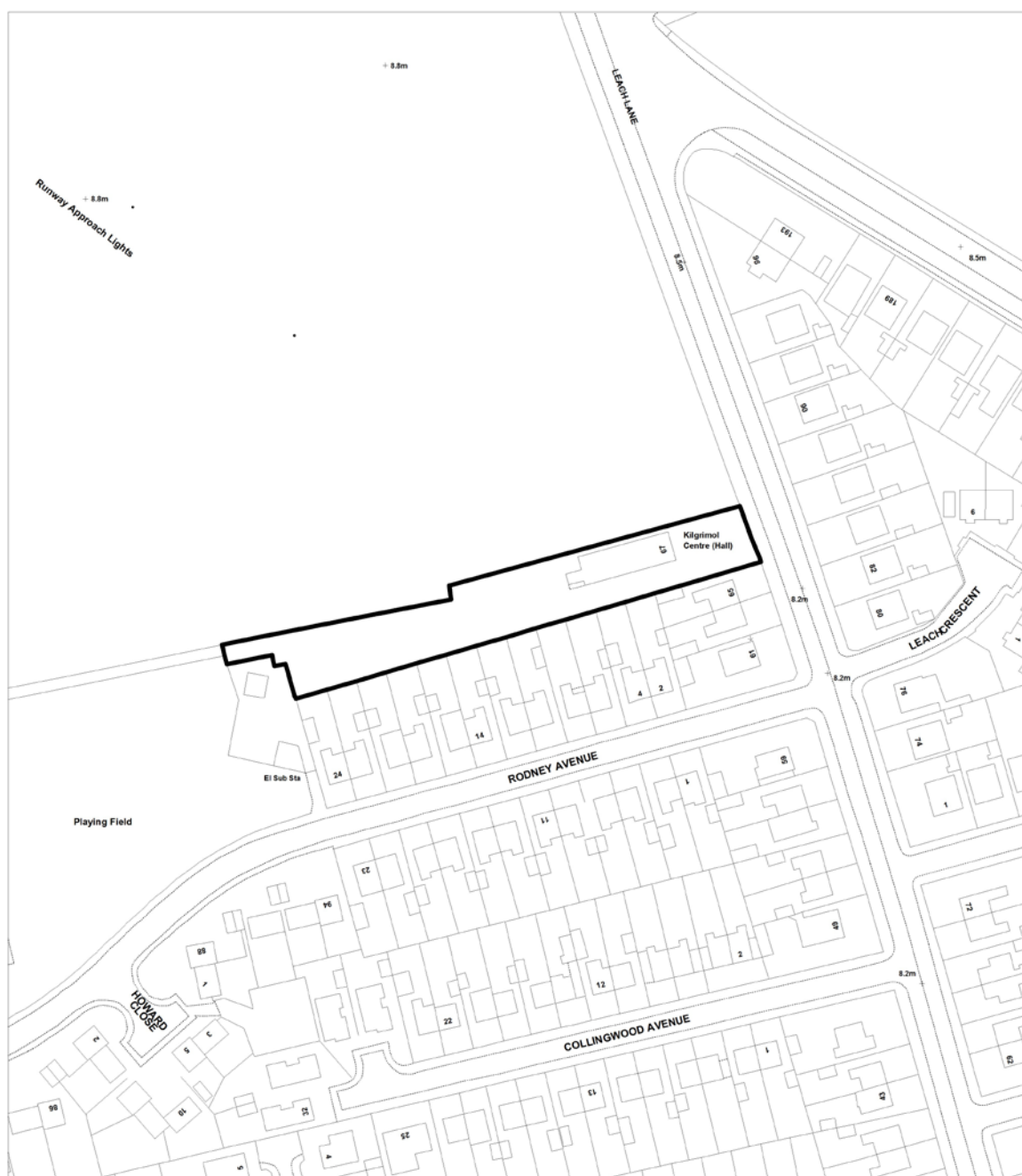
larger replacement building is in principle not unacceptable, the size and position of the building that is proposed in this application is considered to be overly large and will result in a cramped and dominant appearance within the site and the surrounding area. The existing openness of the site will be lost and the lack of any space around to provide meaningful landscaping exacerbates this dominance further. It is therefore considered that the design of the replacement building is unacceptable.

The development of the site will clearly provide enhanced facilities for the girl guides and for other such community groups to use and so will in that respect accord with the requirements of the NPPF to support healthy communities. However these benefits need to be balanced against the appropriateness of the scale of the building, the impact it could have on the character of the area and neighbouring residents and other material planning considerations. In this case there is considered to be harm to a number of these aspects which is to such a degree that it outweighs the benefits of the development and so the proposal is to be recommended for refusal. This is on the basis that it is contrary to paragraphs 17, 61, 64 of the NPPF and Policies CF1, EP30 and TREC12 of the Fylde Borough Local Plan and therefore recommended for refusal.

### **Recommendation**

That Planning Permission be REFUSED for the following reasons:

1. The proposed development would be detrimental to the amenities of adjacent residents of Rodney Avenue (2 to 20 inclusive) by reason of its height, scale and mass. The replacement building would appear visually dominant and overbearing when viewed from properties on Rodney Avenue to the detriment of residential amenity, contrary to the NPPF and Policies CF1 and TREC12 of the adopted Fylde Borough Local Plan.
2. The proposed development would be detrimental to the amenities of adjacent residents of Rodney Avenue (2 to 24 inclusive) and No.65 Leach Lane due to the intensification of the use of the site. It is not considered that intensification of use of the application premises can be justified at the expense of local residential amenity and that the development will lead to an unacceptable increase in levels of noise and disturbance to the properties on Rodney Avenue and No.65 Leach Lane contrary to the NPPF and Policies CF1 and TREC12 of the adopted Fylde Borough Local Plan.
3. The proposed development, by reason of its height, scale, mass and appearance would appear as an obtrusive and incongruous form of development in an area with a high degree of openness to the detriment of the appearance and character of the surrounding area, contrary to the NPPF and Policies CF1 and TREC12 of the adopted Fylde Borough Local plan.
4. The proposed development would constitute inappropriate development in an area at high risk of surface water flooding. Inadequate evidence has been submitted to show that a suitable Sustainable Urban Drainage System can be implemented on the site thereby reducing the risk of surface water flooding to the site and neighbouring properties. The proposal will therefore increase the number of people and properties at risk of flooding, contrary to Policies CF1 and EP30 of the adopted Fylde Borough Local Plan.



Development Services Fylde Council		(c) Crown Copyright and database right (2015). Ordnance Survey (100006084).	
Application No. 5/15/0326	Address Girl Guide HQ, 67 Leach Lane, Lytham St Annes	Grid Ref. E.3324 : N.4305	Scale 0 6 12 18 24 m 



Item Number: 6

Committee Date: 09 December 2015

<b>Application Reference:</b>	15/0501	<b>Type of Application:</b>	Full Planning Permission
<b>Applicant:</b>	NEW NRG 06 Ltd	<b>Agent :</b>	RPS Planning and Development
<b>Location:</b>	NEWFOLD FARM, BROWNS LANE, RIBBY WITH WREA, PRESTON, PR4 3PQ		
<b>Proposal:</b>	DEVELOPMENT OF A SOLAR FARM AND ANCILLARY INFRASTRUCTURE		
<b>Parish:</b>	RIBBY WITH WREA	<b>Area Team:</b>	Area Team 1
<b>Weeks on Hand:</b>	15	<b>Case Officer:</b>	Kieran Birch
<b>Reason for Delay:</b>	Need to determine at Committee		

**Summary of Recommended Decision:** Delegated to Approve

**Summary of Officer Recommendation**

The application proposes the development of a solar farm with associated infrastructure and equipment to generate 5 Mw of power on a 11.02 hectare site comprising agricultural land to which is located in the greenbelt. The site is adjacent to the Kirkham Prison and in general terms is to the south of Kirkham, east of Wrea Green and north of Warton and Freckleton and is midway between each of those settlements.

It is considered that the principle of the development is acceptable given the support for renewable energies in NPPF and that the applicant has satisfied officers that there are no suitable and available sites for the development on brownfield or non-agricultural land. It is possible that the land can continue to be used for grazing during the operation period of the development and biodiversity enhancements can be conditioned in accordance with NPPG. It is not considered that the development will have an unacceptable impact on residential amenity, the highways network or ecology.

Visually it has been assessed that the development would have significant impacts on the site itself and adjacent local landscape character and whilst this landscape is not designated for its special landscape quality it is in the greenbelt. The impact of the development on medium and long range views would not be significant. With the site being located in flat and low lying landscape that is well enclosed by existing built development and hedgerows and native trees the impact of the development will be softened and these visual impacts are not considered to be of over-riding importance, or to create unacceptable harm to the openness of the greenbelt.

Overall, the visual harm to be experienced has to be balanced against the gain of a renewable energy source and rural diversification. NPPF encourages the development of renewable energy and aims to increase the use and supply of renewable energy. This development would generate 5MW of electricity. It also has to be taken into account that the development would be temporary, with its removal after 25 years. Given the wider environmental and community benefits of the proposal and its temporary nature, plus the proposed mitigation planting, it is considered that, on balance, the development gain would outweigh the visual

impact to be experienced to the local landscape and residential properties, and where there is to be visual harm this will not be unacceptable.

Whilst the officer view is that the principle of the development is generally acceptable, there is a need to undertake a Habitats Regulation Assessment to determine whether the development will have an unacceptable impact on wintering birds and their habitat. It is recommended that the decision to determine the application be delegated to the Head of Planning and Regeneration pending the resolution of this matter.

### **Reason for Reporting to Committee**

The application is for a major development and therefore is to be determined by the Development Management Committee.

### **Site Description and Location**

The application site constitutes approximately 11.02 hectares of agricultural grassland located on land to the east of Browns Lane and north of Kirkham Road, located between the settlements of Kirkham to the north and Freckleton to the south. The site is designated as being within the greenbelt under the adopted Fylde Borough Local Plan. To the east of the application site located along Kirkham Road and Lower Lane are a number of residential properties, and to the north east is Kirkham prison. Surrounding the site are agricultural fields, the fields to the south have planning permission for a solar farm of similar scale to that proposed (known as Cooper House Farm under reference 15/0329). Directly to the south of the application site is a public right of way (510 FP10) which transgresses to the south at the western point of the application site. There are 132kv overhead power lines crossing the southern corner of the application site and 11kv power lines crossing diagonally through the site in a north west to south east direction. Beyond the southern boundary a lattice style pylon is positioned. The topography of the site is gently rolling falling from higher ground in the north to low points at the southern end of the site, levels ranging from 22 to 28.5 AOD.

The site consists of two agricultural fields defined by hedgerow with lengths of post and wire fencing. A small woodland is situated to the western site boundary but is not located within the site. The site is accessed via the existing farm access from Browns Lane, which connects to Ribby Road. The existing internal tracks will be upgraded to facilitate construction access and ongoing maintenance. The surrounding landscape is rural fringe in character with a number of scattered farm and residential properties within the surrounding landscape. The closest receptors to the site are New Fold Farm 150m to the east, Windrush Farm 300m to the north west, Hereweare 300m to the south east and Kirkham Prison 300m to the north east.

### **Details of Proposal**

The proposed development is for the installation of photovoltaic panels laid out in rows of arrays running across the field enclosure. The arrays will be mounted on a simple metal framework laid out in 35 rows in an east west orientation spaced approximately 8m apart. The maximum height of the arrays will be 3m above ground level. They will be installed at a gradient of approximately 25 degrees from the horizontal. The panels will be fixed and will not move or track the movement of the sun.

Each of the arrays are connected to two inverter stations which are located within the site, which are then connected to the grid via a substation which is located to the east of the site. The site will also contain a substation with a 2.3m security fencing around the whole site and CCTV camera supports at a height of 2.5m. The dimension of the buildings are;

- 1 Inverter stations measuring 3.45m (h) x 2.56m (w) x 6.96 (l).
- 1 no. DNO and substation measuring 3.45m (h) 6.96m (l) x 2.56m (w)

No artificial lighting is proposed at the site. It is proposed to screen views of the arrays by planting native hedgerows and trees to the northern boundary, general infilling of existing hedgerows with trees added, planning around the pond to the south of the site. Ecological mitigation is also proposed

The proposed development comprises a free standing 'static' 5MW solar PV farm, with all the power exported to the National Grid. The applicant states that the development will provide power for the equivalent of approximately 1041 homes annually. It is intended that the development would operate for a period of 25 years after which the site will be de-commissioned and returned back to agricultural use. Over the course of the 25 years the applicants state that this will save potentially 1451 tonnes of carbon dioxide emissions annually. It is proposed that sheep grazing will continue around the arrays during the operational period.

The site would be accessed directly from Browns Lane using the existing field access point. Access for the construction vehicles would be via this access with a temporary construction compound proposed within the site to be used during the construction period that would be completely removed from the site following completion. Tree protection measures will be carried out.

The application has been accompanied by supporting documents as follows:

- Planning statement
- Heritage assessment
- Statement of community involvement
- Agricultural assessment
- Arboricultural Survey and Impact assessment
- Site selection report
- Statement of community involvement
- Traffic Management Plan
- Ecological appraisal
- Habitat management plan
- Landscape and Visual appraisal
- Flood risk assessment

#### **Relevant Planning History**

Application No.	Development	Decision	Date
11/0756	PROPOSED WIND TURBINE WITH 18M HUB HEIGHT	Refused	01/06/2012
94/0863	PORTAL FRAMED SHEET CLAD NEW HAY STORE/YOUNG STOCK BUILDING	Granted	27/01/1995

## **Relevant Planning Appeals History**

None

## **Parish/Town Council Observations**

The site is entirely within the Ribby-with-Wrea Parish, but is adjacent or close to the boundary with Kirkham Town, Bryning with Warton Parish and Freckleton Parish. Accordingly views were sought from all four given the scale of the proposal and these are reported below:

### **Ribby with Wrea Parish Council**

*"After consideration of the above planning application at the parish council meeting of 14th October 2015, the council would like to propose APPROVAL with consideration to the following points :-*

- 1. Limitation on times of access to Browns Lane as this is a single track lane and traffic will be an issue*
- 2. Proper signage off Ribby Road due to the 'hidden' location of the entrance to Browns Lane*
- 3. Initial inspection of the surface of the roads with a view to repairs to damage due to HGV's – Browns Lane is recently re-surfaced."*

### **Freckleton Parish Council**

*"The Parish Council is against this due to the size of the project and the impact and loss of local agricultural land."*

### **Bryning with Warton Parish Council**

*"The Parish Council have no objection to the application but have concerns about traffic during the construction phase due to the access point at this location and existing travel problems on Ribby Road particularly at certain peak times of the day. Larger construction/delivery HGV's should be restricted to 'off peak' timing for arrival and departure to minimise traffic flow problems."*

### **Kirkham Town Council**

*"This Council supports renewables but too much could put food production at risk."*

## **Statutory Consultees and Observations of Other Interested Parties**

### **Blackpool Airport**

No comments received.

### **Ministry of Defence - Safeguarding**

No objections.

### **BAe Systems**

*I can confirm that BAE Systems supports the response submitted to you by the MOD, our Safeguarding Authority.*

### **Electricity North West**

No comments received.

### **Fylde Bird Club**

No comments received.

**National Air Traffic Services**

No safeguarding objection to the proposal.

**Lancashire County Council Rights of Way**

No comments received.

**Environment Agency**

The proposal is not a development where the Environment Agency would comment.

**Regeneration Team (Landscape and Urban Design)**

No comments received but application considered and verbally discussed with officer. Formal written views will be reported to members in late observations.

**Regeneration Team (Trees)**

*Proposal has no direct impacts of trees but I would only reinforce the Urban Design Officer's observation regarding the importance of hedgerow retention and continued management, since these would increase in functional significance by providing visual screening to the site post development and provide a physical and visual link to the historic usage of this area of countryside. The pattern with PV array application seems to be that the applicants always demonstrate this intention to retain hedges anyway.*

*There's a tranche of woodland known as Lower Wood south west of the proposal site that would have only a marginal effect on the photovoltaics by moderate shading but which I'd like to ensure is retained and not put under pressure by the development in the future. It isn't ancient woodland, not being shown on the 1845 OS layer, and is presumable a planted rather than naturally-occurring site, but has value for the landscape as well as for biodiversity. The revised layout takes account of this influence, but I think the Council should protect Lower Wood with a tree preservation order. It forms part of a mosaic of small scale woodlands scattered across these fields, culminating at the north with those large wooded areas around Ribby Hall.*

*Otherwise, since the drawing indicates no proximate construction activities or excavation the trees' rooting areas, I offer no objections.*

**Lancashire County Council - Highway Authority**

*"The principle of the development is acceptable in highway terms as it will have limited impact on the local highway network. The developer has provided a Construction Traffic Management Plan which is considered acceptable.*

*The junction of Browns Lane with Ribby Road limits vehicle movements, particularly HGV's. The developer has produced vehicle tracking plans to show that the vehicles that require access to the development site can negotiate the turns, however in doing so require the full width of the highway. The sightlines for vehicles emerging from Browns Lane onto Ribby Road are restricted and are below the desirable distances.*

*Given that there will be only occasional vehicle movements associated with the development once operational the existing junction is not seen a significant highway safety issue. During the construction period the risk is significantly higher. To address this concern mitigation should be provided and given the relatively short period of construction I would suggest that this is done by erecting temporary traffic signs warning*

*of the presence of construction and turning traffic.”*

They confirm a lack of objection and then suggest conditions in relation cleaning of construction traffic wheels, the temporary traffic signs being in place in accordance with a scheme to be submitted in writing to the LPA and that it is carried out in accordance with the construction traffic management plan.

**Lancashire County Archaeology Service**

*Thank you for consulting on the above planning application. We have looked at the application documents, including the heritage statement by RPS (Ref JAC19419, dated August 2015), and compared them with the Historic Environment Record.*

*We agree with the conclusions of the Heritage Statement that there is no significant impact on any heritage assets and that the potential for as-yet unknown buried remains is low. Given the low level of ground intervention required for this type of development we do not consider that further formal archaeological work is necessary.*

**Environmental Protection (Pollution)**

No objections to the development subject to conditions relating to hours of construction, noise assessment and glint and glare assessment being submitted.

**The Ramblers Association**

No comments received.

**Natural England**

Natural England have commented that the site is in close proximity to European SPA sites and SSSI. They state that further information is required about Wintering Birds to determine whether the likelihood of significant effects can be ruled out. The birds for which sites are designated may also rely on areas outside of the site boundary. Where essential ecological functions, such as foraging, occurs beyond a site boundary, then the area within this is termed functionally linked land, or known as functional habitat. As the presence of this land is essential in meeting a species' needs, damage or deterioration of this habitat could impact upon the designated population. It is advised that the potential for offsite impacts needs to be considered in assessing what, if any, potential impacts the proposal may have on designated sites.

*We note that surveys from the Cooper House Farm solar application (15/0329) have been used to inform this application. Section 4.1.3 of the Ecological Appraisal Report by RPS (August 2015), states “Late winter bird surveys completed for land immediately to the south of the proposed solar park in 2014. The survey area included a 600m buffer around the site covered the majority of the land within the proposed Newfold solar park. No geese or swans were identified feeding at the site or in the surrounding area and it was concluded that the adjoining solar park development would not cause harm to any of the important bird populations associated with the SPA.” Natural England advised the planning authority that there was insufficient survey effort to determine if Likely Significant Effect (LSE) could be ruled out. Please find our formal comments to Cooper House Farm (154848) attached to this response., In our response to Cooper House Farm we advised that further surveys were required to cover autumn passage, winter (i.e. October, November, December and January) and spring passage.*

*Section 4.1.5 states “Although the 2014 bird survey of the adjacent site only covered the*

*late winter period (and the areas of bird activity will change over the winter as the flocks target the best available food resource) the Fylde Bird Club records also indicate that the immediate area in which the application site is located is not a resource of importance for either geese or swans.” Natural England is aware that the data from Fylde Bird Club (whilst very useful) cannot be solely relied upon to rule out LSE. The data held by Fylde Bird Club is not necessarily based upon systemic monitoring and as such must be used with caution, which is why appropriate surveys are recommended to support the data search.*

#### *Level of survey effort*

*We recommend that vantage point surveys are undertaken of the site and surrounding fields to provide an overview of bird usage of a site specifically in relation to potential disturbance and displacement. Surveys should be completed September to November for autumn passage, October to March for wintering and from March to May for spring passage. We would expect to see a minimum of 2 survey per month for the wintering surveys at different tide states – taking into account dawn and dusk to account for birds flying to and from High Tide roosts. For autumn and spring passage we would expect to see weekly visits. For breeding birds surveys, we would expect to see survey data following common bird census/ Breeding Bird Survey methodologies between March and July.*

*Natural England recommend this further information is submitted so the Local Planning Authority can fully assess the implications of the development on the designated site prior to determination.*

#### *In Combination*

*When your authority undertakes the necessary Habitats Regulations Assessment consideration also needs to be given to the in combination effects with other plans and projects (if it can be determined that the project would not result in likely significant effect alone). Natural England is aware of an increasing amount of solar farm developments together with applications for significant housing development (development theme not exclusive) that could have an in combination effect in terms of SPA bird displacement.*

*The following need to be considered:*

- *The incomplete or non-implemented parts of plans or projects that have already commenced;*
- *Plans or projects given consent or given effect but not yet started.*
- *Plans or projects currently subject to an application for consent or proposed to be given effect;*
- *Projects that are the subject of an outstanding appeal;*
  - a) *Ongoing plans or projects that are the subject of regular review.*
  - b) *Any draft plans being prepared by any public body;*
  - c) *Any proposed plans or projects published for consultation prior to the application*

*Your Authority should consider work being carried out in relation to the Fylde Draft Local Plan. The Habitats Regulations Assessment (HRA) of the Local Plan has highlighted potential impacts on the Ribble and Alt Estuaries Special Protection Area (SPA) and Ramsar site, including loss of habitat and increased disturbance to pink footed geese associated with the SPA and Ramsar. As the Local Plan is still emerging there are no mitigation measures to deal with these effects at present and therefore all development*

*management consultations relating to proposed allocations in the draft Fylde Plan should refer to the HRA of the Plan and consider potential effects on pink footed geese as a result of in-combination effects from increased housing. Any necessary mitigation measures to ensure no adverse effect on the Ribble and Alt Estuaries, either alone and in-combination, will need to be agreed before planning permission is granted.*

*Natural England recommends that any information gaps should be met by the formal submission of information, so that the project as a whole, i.e. as submitted with all information and measures to protect the European site, can be screened to check whether the likelihood of significant effects can be ruled out.*

#### Cumulative effects

*Given the number of solar farm applications within the Fylde, it will be important to assess the cumulative loss of land associated with these applications. Cumulative and in-combination are two separate assessments. Cumulative is a change to the baseline. For example if there was 500ha of land prior to the development and 150ha of that was being lost to a development, then this loss needs to be assessed. The in-combination is an assessment of the project against all plans and projects that have the potential to act in-combination.*

#### SSSI – Further information required

*Our concerns regarding the potential impacts upon the above mentioned SSSIs coincide with our concerns regarding the potential impacts upon the European site as detailed above.*

*Should the application change, or if the applicant submits further information relating to the impact of this proposal on the SSSI, Natural England will be happy to consider it. If your Authority is minded to grant consent for this application contrary to the advice relating to the SSSI contained in this letter, we refer you to Section 28I (6) of the Wildlife and Countryside Act 1981 (as amended), specifically the duty placed upon your Authority, requiring that your Authority;*

- d) Provide notice to Natural England of the permission, and of its terms, the notice to include a statement of how (if at all) your authority has taken account of Natural England's advice, and*
- e) Shall not grant a permission which would allow the operations to start before the end of a period of 21 days beginning with the date of that notice.*

Subsequent to the receipt of these comments a shadow HRA has been submitted and Natural England will comment on this as soon as possible, hopefully in time for consideration at the Committee meeting.

#### Other interested parties

The **Community Association for the Protection of Wrea Green (CAPOW)** have commented;

No objections mainly due to the classification of the land (all [agricultural grade] 3B) and the intention to graze sheep around the panels we do have some observations;

- f) Provided that the occupiers of Newfold Farm and the residents/staff at Kirkham Prison and particularly Copper House Farm (150m), who are the closest residents, are not disturbed by*



the constant buzzing from the 2 or 3 inverters, we see no reason to object to this application.

- g) Over the 12 week construction period there will be 117 large vehicles turning into/from the narrow Browns Lane from/into busy Ribby Road close to an unsighted bend coming from the Ribby Hall direction. On top of this, 90 workers trips daily are denoted. Given the distances, we do NOT believe that walking to the site is a reasonable option, nor is the use of public transport. We consider that particular care will be required to avoid accidents and undoubtedly there will be some disruption to through traffic over the construction period. We do not consider that signposting will be sufficient. It is of some concern that there is a statement that there could be changes to the construction programme but how is not specified. (para 2.3 in the Traffic Management Plan). LCC Highways will, no doubt, comment on the viability of the access/egress and linked road safety issues.
- Within the Ecology Appraisal document, page 13 para 3.2.22 is incomplete and paras 3.2.23 and 24 are missing. It is unclear if these are important but the applicants seem to be taking a responsible attitude to Ecology.
  - We are working on the basis that additional surface water flows into Wrea Brook, which is required to take additional flows from developments in Wrea Green, will be minimal.

### **Neighbour Observations**

**Neighbours notified:** 28 August 2015  
**Site Notice Date:** 10 September 2015  
**Press Notice Date:** 17 September 2015

**No. Of Responses Received:** One

**Nature of comments made:** Comments neither supporting or objecting to the proposal but commenting on the access to the development;

*"My comments relate to the recently resurfaced Browns Lane. The lane is an un adopted road and was repaired and resurfaced in April 2015 at a cost of £60,000 which was spread across all the frontagers on the Lane. The lane is not capable of being used by large articulated vehicles as it is only approx 3 metres wide and contains a number of 90 degree bends which result in the rear wheels of large vehicles going off the road into the grass verges and causing damage. In the last two months there has been a considerable amount of large vehicular traffic involved in the conversion of two farm buildings into two dwellings ,Planning application 15/0144 relates. The site is now levelled and ready for new building work to commence which will again involve more large vehicles delivering building materials. The contractors did employ a mechanical road sweeper which was used on a number of occasions to clean the surface of the Lane. My concern is that now even more large HGV's will be transiting the Lane and increasing the potential for damage of the lanes recently applied new surfaces and grass verges / drainage ditches. I note on the Ribby with Wrea Parish Council letter dated 15th October 2015 that they say "an initial inspection of the surface of the road with a view to repairs to damage due to HGV's should be undertaken" I would further add to this that the grass verges and drainage ditches should also be inspected and then restored should they be damaged. The use of a mechanical road sweeper would again be useful in conjunction with the proposed wheel wash facility that has been proposed."*

### **Relevant Planning Policy**

#### **Fylde Borough Local Plan:**

SP02	Development in countryside areas
EP10	Protection of important landscape and habitat features
EP11	Building design & landscape character

EP14	Landscaping of new developments
EP12	Conservation trees & woodland
EP19	Protected species
EP22	Protection of agricultural land
SP09	Diversification of rural economy

**Other Relevant Policy:**

NPPF:	National Planning Policy Framework
NPPG:	National Planning Practice Guidance

**Site Constraints**

Within Green Belt

**Environmental Impact Assessment**

The development is of a type listed within Schedule 2 of the Town and Country Planning (Environmental Impact Assessment) (England and Wales) Regulations 2011 as amended. Officers have screened the development for any potential environmental impact and concluded that the application need not be accompanied by a formal Environmental Statement.

**Comment and Analysis**

The main issues to be considered when determining this application are:

Principle of the development/Renewable Energy/Loss of agricultural land/alternative site searches  
 Visual impact/Impact on landscape setting/greenbelt  
 Ecological issues.  
 Flooding and drainage  
 Highways issues  
 Other issues

**Principle of the development/Renewable Energy/Loss of agricultural land/alternative site searches**

The proposed development is outlined in the description of proposals section above and as a result of the amendments to the scheme would generate 5MW of electricity from solar energy, which is a renewable source. NPPF supports the increase in the use and supply of renewable and low carbon energy and requires local planning authorities to recognise the responsibility on all communities to contribute to energy generation from renewable or low carbon sources. In paragraph 98 of NPPF, Local Planning Authorities are advised to approve an application if its impacts are or can be made acceptable. NPPF states 'local planning authorities should: not require applicants for energy development to demonstrate the overall need for renewable or low carbon energy' and there are no available local energy targets, therefore the scale of energy production proposed cannot be limited.

The site falls on agricultural land that is designated as countryside. Policy SP02 of the Fylde Borough Local Plan, allows development in the countryside for a limited number of exceptions stating;

In countryside areas, development will not be permitted except where proposals properly fall within one of the following categories:-

1. *that essentially required for the purposes of agriculture, horticulture or forestry; or other*

- uses appropriate to a rural area, including those provided for in other policies of the plan which would help to diversify the rural economy and which accord with policy SP9;*
- 2. the rehabilitation and re-use of permanent and substantial buildings which are structurally sound, in line with policies SP5 and SP6;*
  - 3. the re-use, refurbishment or redevelopment of large developed sites in line with policy SP7;*
  - 4. minor extensions to existing residential and other buildings.*
  - 5. development essentially needed for the continuation of an existing enterprise, facility or operation, of a type and scale which would not harm the character of the surrounding countryside*

It states that uses appropriate for a rural area should be permitted and therefore what needs to be considered is whether the development of the countryside for a solar farm is appropriate. There are no policies within the adopted Local Plan that refer specifically to solar farms but policy CL3 – Renewable and Low Carbon Energy Generation of the emerging Local Plan states that there is potential for small and medium sized renewable energy developments but these will be required to produce evidence to the satisfaction of the LPA that consider the following;

- a) The cumulative impact of the renewable and / or low carbon development within Fylde and across the boundary in Blackpool, Wyre and Preston*
- b) Singular or cumulative impacts on landscape and townscape character and value;*
- c) Impact on local residents (including noise, odour and visual amenity, such as flicker noise and shadow flicker);*
- d) Ecological impact on mammals and birds on protected sites and on the migratory routes and functionally linked sites*
- e) Impacts on land resources, including agricultural land and areas of deep peat which are now seen as a carbon store;*
- f) That the proposal for renewable and low carbon energy would not harm the significance of heritage assets and their settings;*
- g) Community, economic and environmental benefits of the proposal;*
- h) Impacts on aviation and defence navigation systems and communications, particularly Blackpool Airport, Warton Aerodrome and MOD Radio Inskip; and*
- i) Impacts on highway safety and capacity from movements associated with the development.*

This policy therefore considers the above issues need to be satisfied in order to be acceptable, and all are considered in the relevant sections of this report. The site is on agricultural land in the open countryside and the NPPF requires the intrinsic character and beauty of the countryside to be respected. Furthermore the site is located in the greenbelt so the impact of the development on this also needs to be assessed. The NPPG requires that local planning authorities encourage the effective use of land by focussing large scale solar farms on previously developed and non-agricultural land, provided that it is not of a high environmental value; where a proposal involves greenfield land, whether i) the proposed use of any agricultural land has been shown to be necessary and poorer quality land has been used in preference to higher quality land: and ii) the proposal allows for continued agricultural use where applicable and/or encourages biodiversity improvements around arrays.

#### Alternative site search

For a scheme to be acceptable in principle when assessed against local and national policy it has to be demonstrated that it is necessary for this development to be provided in the countryside, and that it cannot be sited on previously developed and non-agricultural land. Solar farms need relatively

flat land that is free of buildings or landscape features that would cause significant overshadowing of the arrays and to that end open fields are perfect for them. Also important is the proximity to a National Grid substation that has the capacity to accommodate the connection. In this application the application site is in close proximity to the substation. The applicant has submitted an alternative site search which considers the district of Fylde and which outlines that there are no significantly better sites having regard to the relevant policy, physical, environmental, economic and viability considerations. To be in accordance with NPPG the site search should demonstrate that there are no previously developed and non-agricultural land that can be used for the development. The discussion of scale should be the starting point for the search.

The submitted document states that the key drivers to site selection within the study area are the availability of Grid Capacity and the ability to deliver a viable connection, which immediately reduces the site search area. These two factors therefore define a search area from the available grid connection to approximately 2km. Therefore within the identified search area a site selection process has been undertaken based on a sieve mapping or “matrix” approach. While occasionally “designated” sites may be suitable this high level and general initial sieving approach would rule out various areas within the District. Thus sites with statutory environmental and ecological designations (including Areas of Outstanding Natural Beauty, SNCIs, SAMs, Areas of High Archaeological Potential) were initially excluded from further assessment and would only be reconsidered if no other, “non designated” sites, could be found. This approach provided the applicant with an understanding of the scope of land within which a solar farm could be potentially located. Within the refined search area consideration was also given to the availability of “previously developed land”, agricultural land quality and visual context alongside approaching potential landowners.

There is no guidance in the NPPG with regard to a reasonable search area, however the North West Economic Strategy sets a regional target of 8.5% of electricity to come from renewable sources. There is no reason why Fylde cannot in principle accommodate some form of renewable energy and it is therefore reasonable for developers to consider the Fylde for renewable developments. This approach has been accepted at planning appeals in other parts of the country, with it being found ‘onerous and impractical’ to prevent renewable developments in a specific area as it would require an applicant to assess every location within the district to prove that there was no better site. With regard to the PDL it was found that there was no land capable of accommodating the scheme or being more deliverable and with regard to roof space none were considered capable of generating a comparable MW output, and because of the sites consisting of a number of smaller buildings it would not be economically viable. Therefore the sites were all found to be unacceptable due to issues such as availability, viability and distance to grid infrastructure. Moving to greenfield sites the application site however was found to be available and could viably be connected to the grid.

#### Loss of agricultural land

The majority of Fylde borough is grade 2 (47.5%) and grade 3 (33.9%) agricultural land, with the remainder being non-agricultural or urban. However, this data is based on reconnaissance surveys and it is accepted that the results of detailed site surveys will find specific site conditions. The application has been submitted with an Agricultural Land Quality Report of the land subject to the application. The survey was carried out using standard surveying procedures with 14 samples taken from across the site and an assessment made of the characteristics of the soil, with laboratory analysis undertaken. The whole of the site was found to Grade 3B which is classed as moderate agricultural land, the development would therefore not be using Best and Most Versatile Land which the NPPF states should be avoided.

The submitted assessment also details that it is intended to continue the agricultural use of the land throughout the duration of the solar farm, through the grazing of sheep on the land, thus providing a dual use of the site for agricultural and solar energy production. As such the land would not be completely lost from productive agriculture. Biodiversity enhancements are proposed, such as native hedge and tree planting and wildflower sowing. This is compliant with NPPF, which has a requirement that 'the proposal allows for continued agricultural use where applicable and/or encourages biodiversity improvements around arrays'. The grazing of small animals on the land is considered to be a viable proposition (see BRE Agricultural Practice Guidance for Solar Farms). This could be conditioned to be implemented through the submission of a grazing management plan, to ensure the continuation of access to the land for the farmer and its continued use for agriculture. The land will also not be irreversibly developed and will be brought back into agricultural use after 25 years.

#### Principle of the development - summary

Solar farms have to be accommodated in locations where the technology is viable, i.e. sites that are large enough, relatively flat and not overshadowed, therefore making the countryside a suitable location for the technology. However, National policy aims to direct such development to previously developed and non-agricultural land before the consideration of greenfield sites, through a sequential test approach.

As the applicant has demonstrated that there are no suitable sites for a viable solar farm on previously developed land or non-agricultural land in the area, the development is considered to be acceptable in principle in this location. The applicant has also demonstrated that the proposal would use poorer quality agricultural land in preference to higher quality and would allow for the continued agricultural use of the land and biodiversity improvements around arrays. The site is considered to be in a sustainable location for the use proposed, being accessible during the construction period and for maintenance. Overall, the proposal is considered to provide a source of renewable energy in a sustainable location and making the most effective use of land in accordance with NPPF and NPPG. Any application for renewable energy would be assessed on its own merits as to its acceptability in terms of specific impacts, such as visual and neighbouring amenity. These are assessed in the following sections of this report for this planning application.

NPPG states 'that solar farms are normally temporary structures and planning conditions can be used to ensure that the installations are removed when no longer in use and the land is restored to its previous use.' It is proposed that the development would be in place for 25 years, then the land be restored back to its current agricultural use. A condition can be added that no development commences until a de-commissioning method statement has been submitted and approved by the council. The statement shall include the timing for decommissioning of all, or part of the solar farm if it ceases to be operational (or upon expiry of the time period of the permission), along with the measures, and a timetable for their completion, to secure the removal of the panels, fencing and equipment, and restoration of the site, including how resources would be secured for decommissioning and restoration at a later date. This condition would ensure the sites restoration to agricultural land.

Where development of agricultural land is shown to be necessary, national guidance explains that areas of poorer quality land should be used in preference to that of high quality. The NPPG says that where a proposal involves greenfield land, factors to consider include whether the use of agricultural land has been shown to be necessary and poorer quality land has been used in preference to higher quality land and, where applicable, the proposal allows for continued agricultural use. It is considered that the proposal does this and is therefore acceptable in principle.

### **Visual impact/Impact on landscape setting/greenbelt**

The development of solar farms in rural locations have the potential to have a detrimental impact on the character and appearance of an area. The NPPG (2014) states 'the deployment of large-scale solar farms can have a negative impact on the rural environment, particularly in undulating landscapes. However, the visual impact of a well-planned and well-screened solar farm can be properly addressed within the landscape if planned sensitively'. The particular factors advised by NPPG to be considered include the proposal's visual impact, effect on the landscape of glint and glare, the need for security measures such as light and fencing and the impact on heritage assets. Also, the potential to mitigate landscape and visual impacts needs to be considered.

The NPPF states that the intrinsic character and beauty of the countryside should be recognised. The site is not in an area designated for its landscape quality (AONB for example) however it is within the greenbelt and the proposal needs to be considered against this designation. The site falls within National Character Area 32 Lancashire and Amounderness Plain (2011). The landscape is described as a relatively flat and gently rolling plain broken by isolated hills, and a large scale agricultural landscape with a patchwork of arable fields and blocks of wind sculptured mixed woodland. More detailed descriptions of landscape character types and landscape character areas are provided in the Lancashire Landscape Strategy. The development lies within the Coastal Plain (15), which is described as gently undulating or flat lowland farmland. The development is located within the Fylde landscape character area (15d), which the Lancashire Landscape Strategy describes as comprising gently undulating farmland. 'The field size is large and field boundaries are low clipped hawthorn, although hedgerow loss is extensive. Blocks of woodland are characteristic, frequently planted for shelter and/or shooting and views of the Bowland Fells are frequent between blocks. There are many man-made elements; electricity pylons, communication masts and road traffic are all highly visible in the flat landscape. In addition, views of Blackpool Tower, the Pleasure Beach rides and industry outside Blackpool are visible on a clear day'. Within the Fylde Borough Green Infrastructure Strategy the site is within the Fylde Coastal Plain and described as 'predominately lowland agricultural plain characterised by large arable fields whose generally poor drainage results in ponds that provide important wildlife habitats. Shelter belts of trees and estate woodland and modern societal infrastructure such as telecommunication masts, electricity pylons, roads and rail tracks are all highly visible in the Boroughs flat landscape'.

The application site itself consists of 11.02 hectares of agricultural farm land, there is a pond directly south of the site, the sites boundaries are formed by low hedgerows and trees. Directly to the west of the site is Lower Wood which is a group of trees that will remain unaffected by the proposals and the Tree Officer states will be subject to a Tree Preservation Order. In terms of topography the site is gently rolling falling from higher ground in the north to low points at the southern end of the site, levels ranging from 22 to 28.5 AOD. The site sits in with the Fylde landscape character of undulating large agricultural fields surrounded by key landscape elements of large enclosed irregular shaped fields, with hedges, trees and ditches.

The site can be viewed from few points in the surrounding area because of its location away from any significant highways, Kirkham Road is approximately 250m away and the little used Browns Lane approximately 240m away. There will be views from the PROW to the south but because of the relatively low nature of the site and the surrounding landscape longer views of the site from elevated positions are more common but these are often foreshortened by the presence of building and hedges alongside roads. For example the site will not be visible from Ribby Hall. The proposal will introduce 3m high solar panels laid out in arrays, access tracks two substations inverters and 2.3m open mesh fencing into this area of countryside in the Fylde landscape character area that is

currently undeveloped and open and allocated as greenbelt. The site comprises open fields divided by boundary hedgerows and post and rail fence. The current field pattern would be retained with the retention of existing hedgerows, new hedgerow and tree planting is proposed around the site and particularly to the eastern boundary of the site and the north east corner. The 2.2 m fencing proposed is considered to be acceptable in appearance, however, at 2.2m high would not be of an appearance entirely typical of this rural area. This however would be on the inside of the site with hedgerow and tree planting on the outside. The other buildings proposed would have a visual impact in a similar way to the solar panels being relatively low in height and set well back into the site.

In order to mitigate the visual impact of the development the application proposes native hedgerows planted and maintained adjacent to the site boundaries, as well as the planting of native tree species around the boundary of the site. The buildings within the site will not be specifically screened. If this mitigation of the development were to be found acceptable would have to be provided and retained through a planning condition, which would include provision of suitable plant species. The appraisal of landscape and visual effects submitted with the application assesses the visual impact of the proposal on the landscape character of the area. The submitted zone of theoretical visibility indicates that the greatest impact will be within the immediate surroundings of the site, with distant views limited due to intervening buildings and vegetation.

#### Visual impact/Character of area

Whilst the site is located in the greenbelt it is not considered that the site constitutes open landscape of intrinsic character and beauty that the NPPF states is one of its core planning principles that should be taken account of when determining planning applications. The site is characterised by low lying landscape, with hedgerows forming the boundary and a group of trees. It is not considered that the proposed development would alter these existing key characteristics and features as it would sit within this landscape pattern, and as it is not of an excessive scale the proposed mitigation landscaping will result in it not having a significant impact on the landscape character. The landscaping plan submitted proposes acceptable principles with native hedgerows and trees within the hedgerows, however it is offices opinion that an increased amount of trees will be required to mitigate the development proposals.

In terms of direct visual impacts the impact will be felt closest to the site. Whilst the mitigation proposed will reduce the impact there will still be a significant impact directly adjacent to it from elevated positions from Browns Lane. The impact on the site and immediate locality will be considerable and will have an adverse effect on the landscape character of the site itself. Long terms views of the site would however be limited by screening provided by trees to the west and south which would reduce the visual impact of the development, and the site would be set back from the road to the east where hedgerows form the boundary and additional trees and hedgerows are proposed which result in the site not being visible from this location.

Landform and intervening vegetation means that the site is only visible from the public highways immediately adjacent to the site and not farther afield. Views would be limited to glimpsed ones through (existing) field gateways or areas of high ground where views maybe seen above the hedgerows edging the highways. The impact on the existing public right of way that runs to the south of the site will result in varying views of the application site, but with the mitigation proposed this will be reduced, furthermore this PROW does not lead anywhere and is a dead end due to Kirkham Prison to the east. The LVIA shows that the visibility of the site from medium range views would be limited and in some cases fully screened by intervening buildings and planting. The existing pylons that run in the area already upon the views of the site from all directions. The growth of a

new native hedgerow along the northern boundary of the site would further restrict visibility over time from more elevated positions. The impact on medium views is therefore considered acceptable. The visibility of the site from long range views which are classed as being from more than 2km would be zero due to interlying woodland, hedgerow and built development, combined with a relatively flat landform. The impact on long range views is therefore considered acceptable.

The assessment indicates some views of the development from private dwellings will be achieved. The shelterbelt woodland at Newfold Farm would partially screen views from Hill Farm which would not have any key views of the development. The site would not be visible from Ribby Hall due to the high level of foreground screening provided by the vegetation that surrounds the leisure park. Foreground screening would prevent any changes to views from Fairfield Farm and Cooper House Farm. The development would not have any change to views from any of the residential properties that make up Hall Cross as views are limited by other buildings and vegetation. Other dwellings with views of the site will be restricted by intervening dwellings and tree and hedgerow cover and because of the low lying nature of the site. It is considered that whilst the development would be able to be viewed from some dwellings that it would not have an unacceptable impact

#### Impact on greenbelt

Adopted local plan policy SP3 Development in the greenbelt seeks to restrict development in the greenbelt only in very special circumstances and when the proposal preserves the openness of the greenbelt and does not injure the visual amenities of the green belt. With regard to development in the greenbelt section 9 of the NPPF – protecting greenbelt land states that the fundamental aim of Green Belt policy is to prevent urban sprawl by keeping land permanently open, with its essential characteristic their openness and permanence. Paragraph 80 states that the five reasons for including land within greenbelt are;

- a) to check the unrestricted sprawl of large built-up areas;
- b) to prevent neighbouring towns merging into one another;
- c) to assist in safeguarding the countryside from encroachment;
- d) to preserve the setting and special character of historic towns; and to assist in urban regeneration, by encouraging the recycling of derelict and other urban land.”

In relation to this application paragraph 91 is most relevant stating; “When located in the Green Belt, elements of many renewable energy projects will comprise inappropriate development. In such cases developers will need to demonstrate very special circumstances if projects are to proceed. Such very special circumstances may include the wider environmental benefits associated with increased production of energy from renewable sources”.

Therefore it is necessary to consider the very special circumstances that the development propose demonstrate this development is acceptable. It is stated that these may include the wider environmental benefits associated with increased production of energy from renewable sources and that is clearly in this applications favour, and the preceding parts of this report have stated that the impact of the development on the character of the area and the visual impact of the development from surrounding viewpoints is considered acceptable. The fundamental aim of greenbelt is to keep land permanently open with its essential characteristic its openness and permanence, this proposal will result in the introduction of a built form into an area in the greenbelt that is currently open and therefore it can be argued that it will have an impact upon its openness.

However due the levels of the proposed panels and associated buildings, the lack of impact on the character of the area as a whole, the minimal visual intrusion and the fact that the development is



only temporary it is not considered that the scheme would have the same impact on the openness of the greenbelt as a large agricultural building for example would have in this location. This area of the greenbelt in particular is not completely open with pylons crossing the site and a number of dwellings and a prison located within it all around the site. The development would also have no effect on bringing two settlements closer together. It is therefore considered that whilst there will be some harm to the greenbelt the positive elements of the scheme including renewable energy regeneration, farm diversification, biodiversity enhancements, landscape enhancements and educational resource outweigh this harm.

#### Cumulative visual effects

The fields directly to the south of the application site has previously been granted permission, this application site was known as Cooper House Farm (15/0329). The visual impact of this application was considered to be acceptable, and whilst commencement of development at that site has not started yet the visual impact of the two sites combined if both are developed needs to be considered.

With that application being located to the south it will be more visible from the closest highway of Kirkham Road, however the development of this site will not result in any difference to that view, as this proposal would not be visible. Cumulative landscape effects can be direct or indirect, with impacts on visual amenity experienced when more than one development is viewed at the same time (intervisibility) or in succession along a route (sequentially). Because of the proximity of the sites the two developments would appear as a single larger development. Both would be sited in the same landscape character area. The submitted assessment report states that the proposed development would have a small cumulative change to the local landscape character and this would result in a minor cumulative effect because of the increase in the amount of land to be given over to the solar farm as a single entity. The statement also states that due to the close proximity of the two schemes they would only be seen as single development and so all visibility of the cumulative schemes would be limited to intervisibility due to the fact that sequential views would include both schemes at the same time. It states that the application site would be seen in the same view as the Cooper House scheme for close range visual receptors to the North West at Hill Farm and on the local footpath which would result in a negligible impact. For the footpath that passes between the two sites and to the west of the two schemes the proposal would extend the amount of solar farm visible and would have a moderate cumulative effect. It is considered by officers that the greatest impact will be on this section of the PROW but given it a section that does not lead anywhere the impact is considered acceptable. The visual impact of the two sites, both of which will include native tree and hedgerow planting is therefore considered acceptable.

#### Summary

From this consideration of the visual impacts of the development, it can be concluded that there would be significant visual impacts from the development to the site itself and immediate views, but the effect on medium range and long range views would be minimal due to the existing screening, proposed screening and the topography of the site. There would also be visual impacts to some residential properties but mitigation planting would reduce the impact over time to some degree, but not remove it completely. It is not considered that the development would have a significant visual impact on the wider area constituting only approximately 11.02 hectares.

The visual impacts of the proposal are required to be balanced against the acceptability of this renewable energy scheme in principle. In terms of the local landscape, this is not designated because of special landscape quality but is located within the greenbelt. It is not considered that the

visual harm to the greenbelt outweighs the benefits of the scheme. The scheme is well set back from the highway network and intermittent hedgerows and trees means that it will not be visible. The PROW adjacent to the south of the site would experience some views of the site and the one to the south at Cooper House but as the hedgerows grow this would be limited, and given that it is a relatively short stretch of path it is not considered that the change of outlook would harm the view to a degree that could warrant refusal of the application. Some users may view this experience as negative, with a view of modern development over an expanse of currently open countryside, so it has to be considered that there would be some harm to the visual amenity of the PROW, however the fact that it leads to a dead end means that usage of it will be low. There would be harm to the visual amenity of residents in properties that are close to the site with windows facing it. This impact would not be to all of the windows of these properties, therefore, the occupants would have other rural views and the impact would be reduced as mitigation planting grows. The effects of the development on the character and appearance of the landscape during the lifetime of the solar farm is not considered to be harmful to the extent where it would be weighed against the contribution of the scheme to the national strategy on low carbon energy. It is officer's opinion that the scale of harm in this location is minor and as such that it would be outweighed by the wider benefits of renewable energy provision.

## **Ecological issues**

### Wintering Birds

The application has been submitted with an ecological appraisal of the site which included site surveys and desk studies and considers the use of the site by Wintering birds due to the site being 3.6 km from the Ribble and Alt SPA and SSSI. Natural England's initial response stated that further information was required as the application does not include information that the requirements of Regulations 61 and 62 of the Habitats Regulations have been considered by Fylde, i.e. there is no Habitat Regulations Assessment. They advise that there is currently not enough information to determine whether the likelihood of significant effects can be ruled out. They recommend that vantage point surveys are undertaken at the site and that consideration needs to be given to the in-combination effects with other plans and projects as Natural England are aware of an increasing amount of solar farm developments together with applications for housing development that could have an in combination effect in terms of SPA bird displacement.

The applicants has sought to address these issues by submitting a standalone shadow Habitats Regulation Assessment (HRS). This document uses site surveys, desk studies and Fylde Bird Club records. It states that with regard to qualifying species associated with the SPAs that since virtually none of the associated species have been recorded within or in proximity to the application site the proposed development cannot be expected to have any disturbance or displacement effects upon these species either alone or in combination with other plans or projects. It states that for the few species that are recorded in the vicinity of the site that the abundance of them was so low in comparison to that in the areas of their core distribution that the habitats associated with the site were considered to be of low value to them. What is more, those records may not even have been of birds located within the proposed development site, a suggestion which is supported by the absence of such species from the field surveys conducted for both this and the adjacent Coopers House Farm Solar Park site. The HRA submitted for the Cooper House Farm site had similar findings and has been accepted by Natural England. The HRA concludes that there will be no likely significant effect in relation to disturbance and displacement for the SPA sites and that an appropriate assessment is not required. Natural England's comments on this are still awaited and therefore the granting of this application would be subject to their acceptance of this HRA.

### Protected species

The Ecological appraisal of the site found that the majority of the site comprises intensively managed agricultural habitats of low ecological value. The hedgerows have value as wildlife corridors and provide nesting habitat for birds and foraging and commuting routes for bats. It states that the minimum 5m standoff will help maintain the hedgerows and woodland edge creating separation working area and field boundary. Mature trees located within the hedgerows and scattered across the site will be retained and measures implemented to ensure that the appropriate root protection zones are excluded from the working area to avoid damaging the health of retained trees and shrubs. With regard to bats it was found that there were no buildings or features within trees within the site with the potential to be used by roosting bats. Nesting birds will use the hedgerows, as these will be retained and protected there will be no impact on these. The development will prevent skylark from using the fields but the surrounding area contains a large amount of similar habitat that will remain available for these birds. Great Crested Newt surveys were undertaken and were found to not be present in the pond within the site, however the protection of this feature and its immediate context will ensure that its potential for breeding newts will be retained. There are records of newts in the wider pondscape.

### Mitigation

Once construction is completed the development will have no impact on ecology or protected species, the grassland around the arrays will be maintained as it is at the moment and the habitat available to species such as bats and GCN's will remain. It is considered necessary that a habitat management plan and method statement should be submitted prior to commencement of development. The ecological assessment proposes the following mitigation;

- Vegetation clearance undertaken outside of bird nesting season.
- Protection and management of trees, hedgerows and ponds.
- Planting of native hedgerows and trees.
- Planting of improved grassland within the site.
- Increase in native wildflower species.
- No night time or artificial light working.

Details of this mitigation will have to be secured via planning condition to ensure that the works take place concurrently with the sites development.

### Trees

The Tree Officer is satisfied the development would not have an impact on existing significant trees and therefore there are no tree issues with the proposal. He proposes to place a Tree Preservation Order on the adjacent woodland to ensure its protection. A condition is required to ensure that existing trees around the site are protected during development.

### **Flooding and drainage**

The Environment Agency have no comments to make due to the size of the site and its location. A flood risk assessment has been submitted with the application. This report outlines that the development will result in a 0.07% increase in low permeability cover on site result in a negligible increase in surface water run off. The FRA recommends SuDs type measures to promote infiltration of water flow and avoidance of concentrated surface runoff from the panel rows including:

- Where construction has resulted in soil compaction, the areas between panel rows should be ploughed and then re-seeded with a vegetation cover suitable for grazing by sheep.
- All developed areas of the Site with slopes of ~5% to maintain a vegetation cover along the

leading edge of the panel rows to prevent soil erosion by runoff.

- Any existing field or tile drainage system to be restored where affected by construction.

Whilst it is considered that the photovoltaic panels will not result in a material increase in surface water run-off flow rates. The FRA states the above mitigation will be used and therefore it is appropriate to condition that the development proceeds in accordance with that mitigation.

### **Highways issues**

The application is supported with a Construction Traffic Management Plan which has been considered by LCC Highways. The plan states that construction is anticipated to last three months and that construction traffic will be routed from the M55 junction 3 via the A585, the site access will then be signed along Ribby Road and Browns Lane from the A585/A583 roundabout.

An examination of existing traffic has found that the impact of the construction traffic would be negligible against existing levels. It construction states that deliveries will vary in amount per day during the construction period with an average of two deliveries per day over the 12 week period. LCC have commented that the development will have limited impact on the local highway network, and that the submitted Construction Traffic Management Plan is acceptable. They state that the junction of Browns Lane with Ribby Road limits HGV vehicle movements and that the vehicle tracking plans submitted show that the vehicles that require access to the development site can negotiate the turns, however in doing so require the full width of the highway but that given that there will only be occasional vehicle movements associated with the development once operational the existing junction is not seen as a significant highway safety, but that during the construction period the risk is significantly higher. LCC state that to address this concern mitigation should be provided and that given the relatively short period of construction they would suggest that this is done by erecting temporary traffic signs warning of the presence of construction and turning traffic. They confirm that there are no highway objections to the proposal and suggest conditions are placed on any permission that require the wheels of construction vehicles to be cleaned, temporary traffic signing works to be agreed and in place and the development is constructed in accordance Construction Traffic Management Plan.

### **Other issues**

#### Residential amenity

Some residents surrounding the site will be able to see the development and the proposals visual impact is considered above. In terms of other potential impacts from noise and glint and glare the Council's Environmental Health Officer has considered the submitted information in relation to noise from transformers and has commented that he has no objections subject to a noise assessment being submitted to the LPA together with any mitigation measures should the assessment find that levels may be 'significant'. It may be necessary to enclose the units similar to electricity substations to prevent noise escape. He also requests that a glint and glare study be carried out and the results forwarded to the LPA authority for consideration. A glint and glare assessment has been submitted and it is not considered that the development will have an unacceptable impact on neighbours because of the angle of the solar panels in relation to the dwellings windows. The impact will be of low significance with solar reflections occasionally observed in the evenings by dwellings to the east of the site, with light from the sun shining more directly into affected windows.

#### Archaeology

The application was submitted with a Heritage desk based assessment. LCC Archaeology have considered this and consider it appropriate and because of the depth and type of foundation do not consider further investigation appropriate or necessary.

### **Conclusions**

The application proposes the development of a solar farm, with associated infrastructure and equipment on agricultural land west of Kirkham Road and east of Brown's Lane. It is considered that the principle of the development is acceptable in light of the support for renewable energies in NPPF and that the development has been assessed to pass the test that there are no suitable sites for the development on brownfield or non-agricultural land. It is viable that the land can continue to be used for grazing during the operation period of the development and biodiversity enhancements can be conditioned. This is in accordance with NPPG.

There would not be an unacceptable impact on residential amenity in terms of light, overlooking or noise and disturbance. With the mitigation measures proposed in the ecological survey, the development is capable of being accommodated without adverse effect on ecology and enhancement measures could benefit biodiversity. Existing trees and hedgerows can be retained and protected in conjunction with the development. The application would not have an unacceptable flood risk either on site or in the surroundings. It is not considered the development will create any unacceptable traffic generation or risk to highway safety.

Visually, it has been assessed that the development would have significant impacts on the site and adjacent local landscape character. This landscape is not designated for its special landscape quality but it is in the greenbelt. It is not considered that there would be a significant visual impact on the wider area. Based on this, it is not considered that there would be unacceptable landscape harm that would result from the proposal and because of the low lying nature of the area and that the site will be well enclosed with the proposed mitigation it is not considered the impact on the greenbelt is significant enough to warrant refusal of the application. There would be some harm to the visual amenity of the residents in the properties that are can view the site, with their views changed from that of open fields to views of a solar farm. However these views are restricted by existing landscaping and infrastructure, and these properties would have other windows not facing the development and mitigation would reduce this impact over time.

Overall, the visual harm to be experienced has to be balanced against the gain of a renewable energy source and rural diversification. NPPF encourages the development of renewable energy and aims to increase the use and supply of renewable energy. This development would generate 5MW of electricity. It also has to be taken into account that the development would be temporary, with its removal after 25 years. Given the wider environmental and community benefits of the proposal and its temporary nature, plus the proposed mitigation planting, it is considered on balance that the development gain would outweigh the visual impact to be experienced to the local landscape and residential properties, and where there is to be visual harm this will not be unacceptable.

### **Recommendation**

That authority be delegated to the Head of Planning and Regeneration to GRANT planning permission subject to an acceptable Habitat Regulation Assessment being undertaken, and then also be subject to the following conditions (or any amendment to the wording of these conditions or additional conditions that the Head of Planning and Regeneration believes is necessary to make otherwise unacceptable development acceptable):

1. The development must be begun not later than the expiration of three years beginning with 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.

2. The development shall be carried out, except where modified by the conditions to this permission, in accordance with the following plans:

- JPW0614-NF-002 Site Location Plan
- JPW0614-NF-001 Application Boundary Plan
- JKK8632 Rev A (1 to 2) Topographical Survey
- PV06 Newfold RP4 3PQ Rev 2 Site Layout Plan
- OXF8977 Drawing 5 Landscape Proposals Plan
- Plan MK-UK25 Mounting System Details
- 081214-DNOC-SEP-20150116-r00 Substation Enclosure Plan
- INV-UK -02/04 Inverter/Transformer Housing Details
- 11.1\_02.001 Fence
- 10.A\_01.001 Compound Area
- 10.B\_02.001

Reason: For the avoidance of doubt and so that the local planning authority shall be satisfied as to the details.

3. The development permitted by this planning permission shall only be carried out in accordance with the approved Flood Risk Assessment (RPS dated August 2015) to limit the surface water run-off generated by the site to the greenfield rate. The mitigation measures shall be fully implemented prior to occupation and subsequently in accordance with a phasing arrangement to be agreed in writing with the local planning authority.

Reason; To prevent flooding by ensuring the satisfactory storage of/disposal of surface water from the site.

4. No part of the development shall be commenced until details setting out the means by which the wheels of vehicles may be cleaned before leaving the site during the construction phase have been submitted to and approved by the Local Planning Authority and such wheel washing facility shall be operated in accordance with the approved details throughout the construction phase of the solar farm.

Reason: To avoid the possibility of the public highway being affected by the deposit of mud and/or loose materials thus creating a potential hazard to road users.

5. No part of the development shall be commenced until all the temporary traffic signing / signalling works have been implemented in accordance with a scheme which shall be submitted to and approved by the Local Planning Authority in consultation with the Highway Authority. These works shall be retained throughout the development.

Reason: To enable all construction traffic to enter and leave the premises in a safe manner without causing a hazard to other road users.

6. The development hereby approved shall be carried out in accordance with the Construction Traffic Management Plan by RPS dated August 2017 unless agreed in writing with the Local Planning Authority.

Reason: In order to satisfy the Local Planning Authority and Highway Authority that the construction traffic does not have an adverse impact on road safety.

7. A tree protection scheme for all trees and retained hedges on the site shall be submitted to and approved in writing by the local planning authority prior to the commencement of development. No work of any kind shall take place until the protective fences are erected around the retained trees in the position and to the specification agreed by the local planning authority. Such fencing shall be retained throughout the development where work of any kind is undertaken in proximity to trees and hedging.

Reason: In the interests of protecting wildlife and biodiversity and to comply with the provisions of the Wildlife & Countryside Act 1981 and the National Planning Policy Framework.

8. No development shall take place until there has been submitted to and approved in writing by the local planning authority a fully detailed scheme for habitat creation and management, including details of amphibian protection. The scheme shall include details of mitigation and compensation measures, the management of public access, and on-going monitoring regimes. The development shall be phased, implemented, and managed in accordance with the approved scheme for habitat creation and management.

Reason: In order to secure adequate compensatory and mitigation habitat and species and to protect existing biodiversity.

9. No development shall take place until there has been submitted to and approved in writing by the local planning authority a scheme of programmed landscaping for the area of development. The scheme shall include details of: all existing trees and hedgerows and those that are to be retained, together with measures for their protection during the course of the development; all planting and seeding including the proposed hedgerows, native trees and wild flower mix; hard surfacing and the materials to be used for the internal access roads; and, means of enclosure and shall follow the principles shown on landscaping plan OXF8977 drawing number 5 with an increase in tree planting on the sites boundaries.

All landscape works shall be carried out in accordance with the approved programme and details. Any trees or plants which within a period of 5 years commencing with the date of their planting die, are removed or become seriously damaged or diseased shall be replaced in the next planting season with others of similar size and species.

Reason: To ensure a satisfactory form of development and to enhance the visual amenities of the locality, and in order to comply with saved Policy EP14 of the Fylde Borough Local Plan.

10. This permission shall be for a period of 25 years from the date of first export of electricity following which the use hereby permitted shall cease and the site reinstated back to its previous agricultural use in accordance with a scheme of work to be submitted as part of a Decommissioning Method Statement under condition 11 below. The date when electricity from the development is first exported to the local electricity grid network shall be notified to the LPA in writing within 28 days

of its occurrence.

Reason: To ensure that the landscape impact of the development exists only for the lifetime of the development.

11. If the solar farm ceases to operate for a continuous period of 12 months at any time during its lifetime, and in any event at least 6 months prior to the final decommissioning of the solar farm at the end of the planning permission, a Decommissioning Method Statement shall be submitted to and approved in writing by the Local Planning Authority. The Method Statement shall include a programme of works to demonstrate that the solar panels, transformer and substation buildings, tracks, associated infrastructure, fencing and any other ancillary equipment will be removed from site, and how the site shall be restored back to its former agricultural use and a timescale for these works and site restoration. The approved Decommissioning Method Statement and its programme of works shall be fully implemented within 12 months of date of its agreement by the Local Planning Authority.

Reason: In the interests of the amenity of the area and to ensure that the landscape impact of the development exists only for the lifetime of the development.

12. Construction and decommissioning works shall only take place between the following hours:-  
08.00 and 18.00 hours Monday to Friday and between 08.00 and 13.00 hours on Saturdays, with no site work on Sundays or bank and public holidays.

Reason: To safeguard the amenities of the occupiers of adjoining residential properties.

13. Prior to the commencement of development a grazing management plan shall be submitted to the Local Planning Authority for approval in writing. The development shall be carried out in accordance with the approved plan, which shall contain details of how the land will be made available, managed and retained for grazing livestock throughout the operation of the solar farm hereby approved.

Reason: To ensure that the land remains in agricultural use.

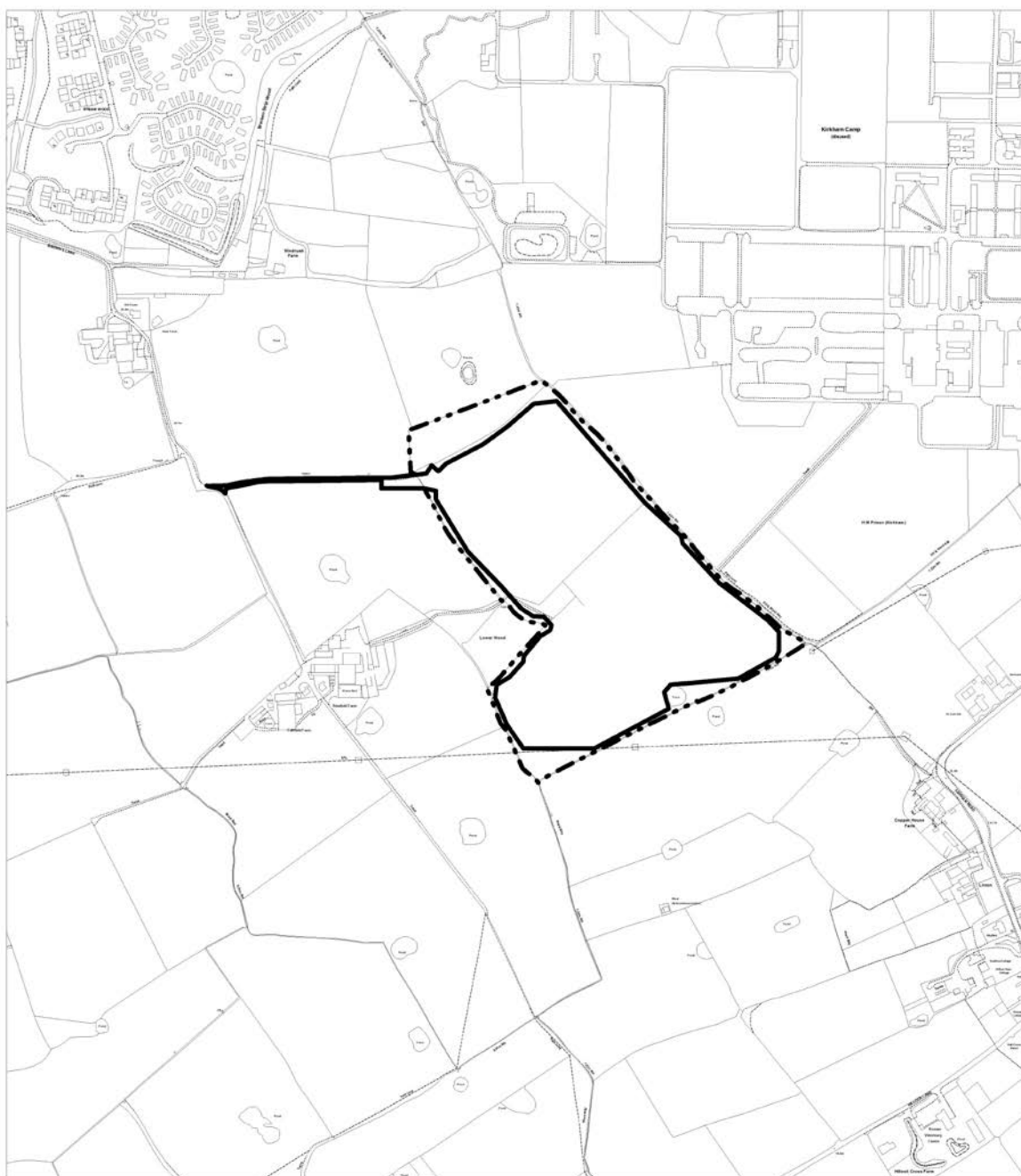
14. Prior to the commencement of development the applicant shall carry out a noise assessment in accordance with BS4142:2014 for fixed plant with reference to the nearest residential property. The result of the assessment shall be submitted to the Local Authority for approval together with any mitigation measures should the assessment suggest that noise levels may be "significant". If found acceptable by the Local Planning Authority the mitigation proposed shall be incorporated into the development and thereafter maintained.

Reason: To safeguard the amenities of the occupiers of adjoining residential properties.

15. Within a month of construction of the development hereby approved the proposed temporary site compound shown on drawing 10.A\_01.001 Compound Area shall be removed in its entirety and the land reinstated as grassland.

Reason: To minimise intrusion into the rural character of the area and openness of the greenbelt





Development Services Fylde Council		(c) Crown Copyright and database right (2015). Ordnance Survey (100006084).	
Application No. 5/15/0501	Address Newfold Farm, Browns Lane, Wrea Green	Grid Ref. E.3418 : N.4308	Scale 0 25 50 75 100 m 

**Item Number:** 7

**Committee Date:** 09 December 2015

<b>Application Reference:</b>	15/0679	<b>Type of Application:</b>	Full Planning Permission
<b>Applicant:</b>	Renewable Source Ltd	<b>Agent :</b>	C+A Group Ltd
<b>Location:</b>	OAKFIELD FARM, STATION ROAD, NEWTON WITH CLIFTON, PRESTON, PR4 0YH		
<b>Proposal:</b>	PV SOLAR FARM EXTENSION WITH ASSOCIATED INFRASTRUCTURE, 1NO INVERTOR STATION FENCING, POLE MOUNTED SECURITY CAMERAS AND ACCESS OFF DEEPPDALE LANE		
<b>Parish:</b>	NEWTON WITH TREALES	<b>Area Team:</b>	Area Team 2
<b>Weeks on Hand:</b>	10	<b>Case Officer:</b>	Kieran Birch
<b>Reason for Delay:</b>	Not applicable		

**Summary of Recommended Decision:** Grant

**Summary of Officer Recommendation**

The application proposes the development of a solar farm, with associated infrastructure and equipment on agricultural land south of Deepdale Lane, Clifton. It is considered that the principle of the development is acceptable in light of the support for renewable energies in NPPF and that the development has been assessed to pass the test that there are no suitable sites for the development on brownfield or non-agricultural land. It is viable that the land can continue to be used for grazing during the operation period of the development and biodiversity enhancements can be conditioned. This is in accordance with NPPG. It is not considered that the development will have an unacceptable impact on residential amenity, the highways network or ecology.

Visually, it has been assessed that the development would have significant impacts on the site itself and adjacent local landscape character, however, this landscape is not designated for its special landscape quality. The impact of the development on medium and long range views would not be significant. The site is well enclosed by existing built development and trees and with the provision of a hedgerow to the eastern boundary views from this direction would be softened.

Overall, the visual harm to be experienced has to be balanced against the gain of a renewable energy source and rural diversification. NPPF encourages the development of renewable energy and aims to increase the use and supply of renewable energy. This development would generate 1.73MW of electricity and when combined with the adjacent approved site this would be 6.73MW of electricity. It also has to be taken into account that the development would be temporary, with its removal after 25 years. Given the wider environmental and community benefits of the proposal and its temporary nature, plus the proposed mitigation tree belt and hedgerow planting, it is considered that, on balance, the development gain would outweigh the visual impact to be experienced to the local landscape and residential properties, and where there is to be visual harm this will not be unacceptable.

### **Reason for Reporting to Committee**

The application is for a major development and therefore has to be determined by the Development Management Committee.

### **Site Description and Location**

The application site comprises approximately 4.8 hectares of agricultural grassland located on land directly to the south of Deepdale Lane and the Springfield's Fuels Ltd plant and contained by Clifton Lane further to the west and field boundaries or open ground to the east. The site is located between the settlement of Clifton and a designated employment area to the north. The site is designated as countryside under the adopted Local Plan. There is a Grade II listed building 'Clifton Windmill' (The Windmill Tavern) which is located to the North West of the site.

The site is made up of a field with a hedgerows running from north to south to the east and further to the west. The site is currently used for grazing. The boundary to the east is open, the northern boundary is made up of hedgerow and to the south and west open fields. The land is Grade 3b so is not BMV as defined in the National Planning Policy Framework. There are no public rights of way through the site, 33 Kv power lines cross the southern portion of the site in a south east to north west direction and there is a substation located to the west of the site which is accessible and the agreed Point of Connection (POC) for the proposed development. The nearest residential dwellings are those on the Meadow Close development to the south west of the site. In terms of topography the site is low lying and gently slopes from north to south between 21m AOD to 15m AOD. The landscape character of the wider area is mixed, there are low lying and undulating fields within which hedgerow and hedge trees and small strips of woodland are prevalent to the east and west, the rural settlement of Clifton to the south west and the Springfield's development which is a large employment site in the open countryside which has a significant impact upon the character of the area.

### **Details of Proposal**

The proposed development is for the installation of photovoltaic panels laid out in rows of arrays running across the field enclosure. The panels are set back from the boundary of each field by at least 10m in order to provide for access around the edge of each field and to ensure the continuing health of existing trees and hedgerows. The arrays will be mounted on a simple metal framework. The maximum height of the arrays will be 2.2m above ground level and will be installed at a gradient of approximately 25 degrees from the horizontal, facing south. The panels will be fixed and will not move or track the movement of the sun.

Each of the arrays are connected an inverter stations which is located centrally within the site, this building measures 2.5m x 6.9m. No artificial lighting is proposed at the site. It is proposed to screen views of the arrays by planting hedgerows and native tree belts around the site.

The proposed development comprises a free standing 'static' 1.73MW solar PV farm, with all the power exported to the National Grid. It is intended that the development would operate for a period of 25 years after which the site will be de-commissioned and returned back to agricultural use. It is proposed that sheep grazing will continue around the arrays during the operational period.

The site would be accessed from the north off Deepdale Lane, using an existing access point. Access for the construction vehicles would be from this road with a temporary construction compound proposed adjacent to the site access. The application has been accompanied by supporting

documents as follows:

- Planning design and access statement
- Heritage desk based assessment
- Statement of community involvement
- Agricultural assessment
- Alternative site search
- Construction Traffic Management Plan
- Ecological survey
- Landscape and Visual appraisal
- Flood risk assessment
- Glint and glare assessment
- Noise assessment

The application site is located directly adjacent to a 5 MW solar farm set over 11.7 hectares of agricultural grassland to the west which was granted planning permission by members through application 14/0811.

#### **Relevant Planning History**

Application No.	Development	Decision	Date
14/0811	PROPOSED INSTALLATION AND OPERATION OF A SOLAR FARM AND ASSOCIATED INFRASTRUCTURE INCLUDING PHOTOVOLTAIC PANELS, MOUNTING FRAMES, 5 INVERTER STATIONS, 1 SWITCHGEAR STRUCTURE, 1 OPERATOR BUILDING, DEER PROOF FENCING AND POLE MOUNTED SECURITY CAMERAS, WITH ACCESS PROPOSED OFF DEEPPDALE LANE.	Granted	02/04/2015

#### **Relevant Planning Appeals History**

None

#### **Parish/Town Council Observations**

**Newton with Clifton Parish Council** notified on 05 October 2015 and comment:

*“The Council recommends that the proposed development is granted planning permission subject to the following conditions;*

- *The developer and Lancashire County Council highways agree and implement a scheme of highway improvements, incorporating an enhanced visibility splay at the crossroads junction of Church Lane/Clifton Lane/Deepdale Lane/ Station Road in the interests of highway safety*
- *The proposed deployment of CCTV equipment is to comply fully with the Surveillance Camera Code of Practice to ensure that the privacy of owners and/or occupiers of neighbouring property is not adversely affected”*

## **Statutory Consultees and Observations of Other Interested Parties**

### **National Grid**

No objections to the development based on the developer entering a Deed of Consent with National Grid for any cables and access routes that need to cross the high pressure pipeline and that protection is installed over the pipeline where access routes are required.

### **HM Inspector of Health & Safety**

No objections.

### **Blackpool Airport**

No comments received.

### **Lancashire County Council Rights of Way**

No comments received.

### **Environment Agency**

The application is not a development that the Environment Agency comment on.

### **Regeneration Team (Landscape and Urban Design)**

No objections to the development and the proposed landscaping is acceptable.

### **Lancashire County Council - Highway Authority**

He submitted planning statement indicates that construction traffic will access the proposed extension of the solar farm from the previously approved access off Deepdate Lane (14/0811) in addition a separate access is proposed for smaller vehicles to be able to access the site for long term maintenance.

They raise no objections but request conditions relating to both access points being paved for 5m from the highway boundary to prevent loose surface materials entering the highway, facilities for cleaning the wheels of construction vehicles, off site highways works (access and signing) implementation and the development being carried out in accordance with the construction traffic management plan.

### **Lancashire County Archaeology Service**

Thank you for your consultation on the above planning application. We have looked at the application documents, particularly the Archaeology Desk-based Assessment (Crestwood Environmental, September 2015). We would agree with the conclusions reached in that assessment and do not consider that any further archaeological works are necessary as part of this development scheme.

### **Environmental Protection (Pollution)**

No objections to the proposal with regard to impact on residential properties through noise or glint and glare.

### **The Ramblers Association**

As no PROW are affected have no objections to what is proposed. Development is out of sight of PROW's and will be screened from roads by trees and bushes. Raises general concerns about visual impact of solar farms.

### **Natural England**

They initially commented on the application stating that they required further information with regard to impacts on the SPA and SSSI. Subsequently a Shadow Habitats Regulation Assessment was submitted with information regarding birds from Fylde Bird Club, including their records for the tetrad (Clifton Marsh SD43Q).

Natural England have confirmed that based on the additional information they agree that this development will not result in Likely Significant Affect alone or in-combination on the Ribble and Alt estuaries European site. This is because the information from Fylde Bird Club (p33) states that the site is readily visible from the road and is in a geographic area which pink footed geese have started using recently. Paul Eliis states that his members are interested in documenting these new sites and therefore if this field was utilised by this species (or presumably other species), it would have been recorded. Natural England therefore advises that this development will have no effect on the Ribble and Alt SPA/ Ramsar site and therefore cannot act in combination with other developments.

### **United Utilities - Water**

No comments received.

### **Electricity North West**

No comments received.

### **Lancashire CC Flood Risk Management Team**

No objections to the proposed development subject to the inclusion of conditions relating to an appropriate surface water drainage scheme being submitted, no occupation of the development until SuDS is agreed, the submission of a surface water lifetime management and maintenance plan and a construction phase surface water management plan.

### **Fylde Bird Club**

No comments received.

### **Neighbour Observations**

**Neighbours notified:** 05 October 2015

**Site Notice Date:** 09 October 2015

**Press Notice Date:** 15 October 2015

**No. Of Responses Received:** None.

### **Relevant Planning Policy**

#### **Fylde Borough Local Plan:**

SP02	Development in countryside areas
EP10	Protection of important landscape and habitat features
EP11	Building design & landscape character
EP12	Conservation trees & woodland
EP14	Landscaping of new developments
EP19	Protected species
EP22	Protection of agricultural land
SP09	Diversification of rural economy

## **Other Relevant Policy:**

### **NPPF:**

#### **National Planning Policy Framework**

Section 10 – Meeting the challenge of climate change, flooding and coastal change  
To help increase the use and supply of renewable and low carbon energy, local planning authorities should recognise the responsibility on all communities to contribute to energy generation from renewable or low carbon sources.

Paragraph 98. When determining planning applications, local planning authorities should: not require applicants for energy development to demonstrate the overall need for renewable or low carbon energy and even recognise that even small-scale projects provide a valuable contribution to cutting greenhouse gas emissions; and approve the application if its impacts are (or can be made) acceptable. Once suitable areas for renewable and low carbon energy have been identified in plans, local planning authorities should also expect subsequent applications for commercial scale projects outside these areas to demonstrate that the proposed location meets the criteria used in identifying suitable areas.

Section 11 - Conserving and enhancing the natural environment.

The planning system should contribute to and enhance the natural and local environment by: protecting and enhancing valued landscapes, geological conservation interests and soils...minimising impacts on biodiversity and providing net gains in biodiversity where possible...Encourage the effective use of land by re-using land that has been previously developed (brownfield land), provided it is not of high environmental value.

Paragraph 112. Local planning authorities should take into account the economic and other benefits of the best and most versatile agricultural land. Where significant development of agricultural land is demonstrated to be necessary, local planning authorities should seek to use areas of poorer quality land in preference to that of higher quality.

Paragraph 115. Great weight should be given to conserving landscape and scenic beauty in National Parks, the Broads and Areas of Outstanding Natural Beauty, which have the highest status of protection in relation to landscape and scenic beauty.

### **NPPG:**

#### **National Planning Practice Guidance**

Renewable and low carbon energy

The National Planning Policy Framework explains that all communities have a responsibility to help increase the use and supply of green energy, but this does not mean that the need for renewable energy automatically overrides environmental protections and the planning concerns of local communities.

The deployment of large-scale solar farms can have a negative impact on the rural environment, particularly in undulating landscapes. However, the visual impact of a well-planned and well-screened solar farm can be properly addressed within the landscape if planned sensitively. Particular factors a local planning authority will need to consider include: encouraging the effective use of land by focussing large scale solar farms on previously developed and non-agricultural land, provided that it is not of a high environmental value; where a proposal involves greenfield land, whether i) the proposed use of any agricultural land has been shown to be necessary and poorer quality land has been used in preference to higher quality land: and ii) the proposal

allows for continued agricultural use where applicable and/or encourages biodiversity improvements around arrays; that solar farms are normally temporary structures and planning conditions can be used to ensure that the installations are removed when no longer in use and the land is restored to its previous use; the proposal's visual impact, the effect on landscape of glint and glare; the need for, and impact of, security measures such as lights and fencing; great care should be taken to ensure heritage assets are conserved in a manner appropriate to their significance, including the impact of proposals on views important to their setting; the potential to mitigate landscape and visual impacts through, for example, screening with native hedges; the energy generating potential, which can vary for a number of reasons including, latitude and aspect. In the case of ground-mounted solar panels it should be noted that with effective screening and appropriate land topography the area of a zone of visual influence could be zero.

Cumulative landscape impacts and cumulative visual impacts are best considered separately. The cumulative landscape impacts are the effects of a proposed development on the fabric, character and quality of the landscape; it is concerned with the degree to which a proposed renewable energy development will become a significant or defining characteristic of the landscape. Cumulative visual impacts concern the degree to which proposed renewable energy development will become a feature in particular views (or sequences of views), and the impact this has upon the people experiencing those views. Cumulative visual impacts may arise where two or more of the same type of renewable energy development will be visible from the same point, or will be visible shortly after each other along the same journey. Hence, it should not be assumed that, just because no other sites will be visible from the proposed development site, the proposal will not create any cumulative impacts. In identifying impacts on landscape, considerations include: direct and indirect effects, cumulative impacts and temporary and permanent impacts. When assessing the significance of impacts a number of criteria should be considered including the sensitivity of the landscape and visual resource and the magnitude or size of the predicted change. Some landscapes may be more sensitive to certain types of change than others and it should not be assumed that a landscape character area deemed sensitive to one type of change cannot accommodate another type of change. In assessing the impact on visual amenity, factors to consider include: establishing the area in which a proposed development may be visible, identifying key viewpoints, the people who experience the views and the nature of the views. The English Heritage website provides information on undertaking historic landscape characterisation and how this relates to landscape character assessment.

#### **Department of Energy and Climate Change UK Solar PV Strategy Part 2.**

While large-scale solar farms provide opportunities for greater generation, they can have a negative impact on the rural environment if not well-planned and well-screened. There can also be problems where local communities see no benefit but consider that they bear amenity issues. The Solar Trade Association has developed a statement of "10 Commitments" for solar farm developers (see box) which seeks to ensure that the impact of large-scale solar farms on communities, visual impact and long-term land use are minimised. In addition, the National Solar Centre is publishing two best practice guides on the development of large-scale solar farms. The first of these is on the factors that developers should consider in the design and installation of large-scale solar farms. The second is a guide to enhancing the biodiversity benefits from ground-mounted solar PV. When well-managed, solar farms could be beneficial



for wildlife. However, in certain locations they could be damaging for biodiversity and ecosystems. The Solar Trade Association and National Solar Centre (NSC) are working with The National Trust, RSPB, the Bumblebee Conservation Trust and others on best practice guidance for optimising biodiversity on solar farm developments. This guidance will be available shortly on the NSC website. The Solar PV Roadmap set out as one of its four principles that support for solar PV should ensure proposals are appropriately sited, give proper weight to environmental considerations such as landscape and visual impact, heritage and local amenity, and provide opportunities for local communities to influence decisions that affect them and gain some form of community benefit. The National Planning Policy Framework emphasises the importance of valuing ecosystem services using tools developed by Natural England and the Environment Agency. It also stresses the importance of creating and managing specific environmentally beneficial features and undertaking mitigation or offsetting if damaging development is permitted.

Solar farm developers, builders or tenants who are members of the Solar Trade Association will comply with the following best practice guidance:

- We will focus on non-agricultural land or land which is of lower agricultural quality.
- We will be sensitive to nationally and locally protected landscapes and nature conservation areas, and we welcome opportunities to enhance the ecological value of the land.
- We will minimise visual impact where possible and maintain appropriate screening throughout the lifetime of the project managed through a Land Management and/or Ecology plan.
- We will engage with the community in advance of submitting a planning application.
- We will encourage land diversification by proposing continued agricultural use or incorporating biodiversity measures within our projects.
- We will do as much buying and employing locally as possible.
- We will act considerately during construction, and demonstrate 'solar stewardship' of the land for the lifetime of the project.
- We will seek the support of the local community and listen to their views and suggestions.
- We commit to using the solar farm as an educational opportunity, where appropriate.
- The end of the project life we will return the land to its former use.

#### **BRE National Solar Centre Biodiversity Guidance for Solar Developments**

Guidance on how biodiversity can be supported on solar farms. Best practice in solar farm development seeks to optimise biodiversity enhancements, but it is recognised that a number of wider constraints exist, including legal or lease conditions, or planning considerations such as visual or heritage issues.

#### **BRE Agricultural Good Practice Guidance for Solar Farms**

Describes experience and principles of good practice to date for the management of small livestock in solar farms established on agricultural land.

#### **Site Constraints**

Pipelines

Within countryside area

## **Environmental Impact Assessment**

This development does not fall within Schedule 1 or 2 of the Town and Country Planning (Environmental Impact Assessment) (England and Wales) Regulations 2011 as amended.

## **Comment and Analysis**

The main issues to be considered when determining this application are:

Principle of the development/Renewable Energy/Loss of agricultural land/alternative site search

Visual impact/Impact on character of the area/cumulative impact

Flooding and drainage

Ecology/trees

Other issues

### **Principle of the development/Renewable Energy/Loss of agricultural land/alternative site search**

The proposed development is as outlined in the description of proposal section above and constitutes a 1.73MW solar farm on a 4.8 hectares site directly adjacent to a 5 MW solar farm set over 11.7 hectares of agricultural grassland to the west which was granted planning permission by members but where construction has not been commenced (14/0811). That scheme was granted planning as it was found to be acceptable in principle as it accorded with local and national policies, the loss of the agricultural land was found to be acceptable as it was not best and most versatile land (Grade 3B), and the visual impact was considered to be acceptable. This application constitutes an extension to that approved site by the same applicant, increasing its size to effectively make a 6.73 MW site.

The NPPF supports the increase in the use and supply of renewable and low carbon energy and requires local planning authorities to recognise the responsibility on all communities to contribute to energy generation from renewable or low carbon sources. In paragraph 98 of NPPF, Local Planning Authorities are advised to approve an application if its impacts, are or can be made, acceptable. NPPF states '*local planning authorities should: not require applicants for energy development to demonstrate the overall need for renewable or low carbon energy*' and there are no available local energy targets, therefore the scale of energy production proposed cannot be limited.

The site is located in the open countryside and therefore Policy SP02 of the Adopted Local Plan applies, this policy prevents development with certain exceptions including those appropriate for a rural area, and therefore it needs to be considered whether a solar farm is an appropriate development. In the case of the adjacent site it was considered appropriate. There are no policies within the adopted Local Plan that refer specifically to solar farms but policy CL3 – Renewable and Low Carbon Energy Generation of the emerging Local Plan states that there is potential for small and medium sized renewable energy developments but these will be required to produce evidence to the satisfaction of the LPA that consider the following;

- a) The cumulative impact of the renewable and / or low carbon development within Fylde and across the boundary in Blackpool, Wyre and Preston
- b) Singular or cumulative impacts on landscape and townscape character and value;
- c) Impact on local residents (including noise, odour and visual amenity, such as flicker noise and shadow flicker);
- d) Ecological impact on mammals and birds on protected sites and on the migratory routes and

- functionally linked sites
- e) Impacts on land resources, including agricultural land and areas of deep peat which are now seen as a carbon store;
- f) That the proposal for renewable and low carbon energy would not harm the significance of heritage assets and their settings;
- g) Community, economic and environmental benefits of the proposal;
- h) Impacts on aviation and defence navigation systems and communications, particularly Blackpool Airport, Warton Aerodrome and MOD Radio Inskip; and
- i) Impacts on highway safety and capacity from movements associated with the development.

This policy therefore considers the above issues need to be satisfied in order to be acceptable, and all are considered in the relevant sections of this report. The site is on agricultural land in the open countryside and the NPPF requires the intrinsic character and beauty of the countryside to be respected. The NPPG requires local planning to encourage the effective use of land by focussing large scale solar farms on previously developed and non-agricultural land, provided that it is not of a high environmental value; where a proposal involves greenfield land, whether i) the proposed use of any agricultural land has been shown to be necessary and poorer quality land has been used in preference to higher quality land: and ii) the proposal allows for continued agricultural use where applicable and/or encourages biodiversity improvements around arrays.

#### Alternative site search

The adjacent site was found to be acceptable with the applicant providing a search of sites including brownfield land within a 3km radius of the substation that it is proposed to connect too, including Springfield's where it is not possible to secure rooftop solar panels. Sites within the 3km radius were all found to be unacceptable due to issues such as availability and viability. The application site however was found to be available and could viably be connected to the grid. This application effectively increases the size of the site and therefore it can be considered that in principle there are no 'better' alternative sites available.

#### Loss of agricultural land

The application has been submitted with an agricultural land classification assessment which determines that the land is Grade 3B which is not best and most versatile and which is the same as the adjacent approved site. Grade 3b is moderate quality land. Other areas of Grade 3 agricultural land in the search area have been assessed to be unsuitable for the proposal due to site constraints such as flood risk, grid connection and steep ground and Fylde has only small amounts of grade 4 land. The development would use Grade 3b land, therefore it has been assessed that the development would be utilising the poorest quality agricultural land available in Fylde (47.5% is grade 2) that is capable of delivering the development. The application states that the solar farm would operate a dual use with the existing agricultural activity of grazing sheep, which is common throughout the UK and as such the land would not be completely lost from productive agriculture.

Biodiversity enhancements are proposed, such as native hedge and tree planting and wildflower sowing. This is compliant with NPPF, which has a requirement that 'the proposal allows for continued agricultural use where applicable and/or encourages biodiversity improvements around arrays'. The grazing of small animals on the land is considered to be a viable proposition (see BRE Agricultural Practice Guidance for Solar Farms). This could be conditioned to be implemented through the submission of a grazing management plan, to ensure the continuation of access to the land for the farmer and its continued use for agriculture. The land will also not be irreversibly developed and will be brought back into agricultural use after 25 years.

### Principle of the development - summary

Solar farms have to be accommodated in locations where the technology is viable, i.e. sites that are large enough, relatively flat and not overshadowed, therefore making the countryside a suitable location for the technology. However, National policy aims to direct such development to previously developed and non-agricultural land before the consideration of greenfield sites, through a sequential test approach. As the applicant has demonstrated that there are no suitable sites for a viable solar farm on previously developed land or non-agricultural land in the area, the development is considered to be acceptable in principle in this countryside location. The applicant has also demonstrated that the proposal would use poorer quality agricultural land in preference to higher quality and would allow for the continued agricultural use of the land and biodiversity improvements around arrays. The site is considered to be in a sustainable location for the use proposed, being accessible during the construction period and for maintenance. Overall, the proposal is considered to provide a source of renewable energy in a sustainable location and making the most effective use of land in accordance with NPPF and NPPG. Any application for renewable energy would be assessed on its own merits as to its acceptability in terms of specific impacts, such as visual and neighbouring amenity. These are assessed in the following sections of this report for this planning application.

NPPG states '*that solar farms are normally temporary structures and planning conditions can be used to ensure that the installations are removed when no longer in use and the land is restored to its previous use.*' It is proposed that the development would be in place for 25 years, then the land be restored back to its current agricultural use. A condition can be added that no development commences until a decommissioning method statement has been submitted and approved by the council. The statement shall include the timing for decommissioning of all, or part of the solar farm if it ceases to be operational (or upon expiry of the time period of the permission), along with the measures, and a timetable for their completion, to secure the removal of the panels, fencing and equipment, and restoration of the site, including how resources would be secured for decommissioning and restoration at a later date. This condition would ensure the sites restoration to agricultural land.

Whilst the NPPG and NPPF both seek to ensure the safeguarding of the best and most versatile agricultural land neither places a bar on its use. Paragraph 112 of the Framework says that the economic and other benefits of the best and most versatile agricultural land should be taken into account and where development of agricultural land is shown to be necessary, areas of poorer quality land should be used in preference to that of high quality. The NPPG says that where a proposal involves greenfield land, factors to consider include whether the use of agricultural land has been shown to be necessary and poorer quality land has been used in preference to higher quality land and, where applicable, the proposal allows for continued agricultural use. It is considered that the proposal does this and is therefore acceptable in principle.

### **Visual impact/Impact on character of the area**

Whilst the principle of the development has been accepted in this location the development can only be supported if it has an acceptable visual impact. Clearly this site will be an extension of an existing approved application and therefore it is appropriate to consider the visual impact of the combined area. The development of solar farms in rural locations has the potential to have a detrimental impact on the character and appearance of an area. The NPPG (2014) states '*the deployment of large-scale solar farms can have a negative impact on the rural environment, particularly in undulating landscapes. However, the visual impact of a well-planned and well-screened solar farm can be properly addressed within the landscape if planned sensitively.*' The

particular factors advised by NPPG to be considered include the proposal's visual impact, effect on the landscape of glint and glare, the need for security measures such as light and fencing and the impact on heritage assets. Also, the potential to mitigate landscape and visual impacts needs to be considered.

The NPPF states that the intrinsic character and beauty of the countryside should be recognised. The site is not in an area designated for its landscape quality (AONB for example). The site falls within National Character Area 32 Lancashire and Amounderness Plain (2011). The landscape is described as a relatively flat and gently rolling plain broken by isolated hills, and a large scale agricultural landscape with a patchwork of arable fields and blocks of wind sculptured mixed woodland. More detailed descriptions of landscape character types and landscape character areas are provided in the Lancashire Landscape Strategy.

The development lies within the Coastal Plain (15), which is described as gently undulating or flat lowland farmland. The development is located within the Fylde landscape character area (15d), which the Lancashire Landscape Strategy describes as comprising gently undulating farmland. *'The field size is large and field boundaries are low clipped hawthorn, although hedgerow loss is extensive. Blocks of woodland are characteristic, frequently planted for shelter and/or shooting and views of the Bowland Fells are frequent between blocks. There are many man-made elements; electricity pylons, communication masts and road traffic are all highly visible in the flat landscape. In addition, views of Blackpool Tower, the Pleasure Beach rides and industry outside Blackpool are visible on a clear day'*. Within the Fylde Borough Green Infrastructure Strategy the site is within the Fylde Coastal Plain and described as 'predominately lowland agricultural plain characterised by large arable fields whose generally poor drainage results in ponds that provide important wildlife habitats. Shelter belts of trees and estate woodland and modern societal infrastructure such as telecommunication masts, electricity pylons, roads and railtracks are all highly visible in the Boroughs flat landscape'.

The application site itself consists of 4.8 hectares of agricultural farm land, there are two ponds within the site. The fields are improved grasslands, currently grazed by cattle. To the north of the site Deepdale road is flanked by a mature hedgerow and tree belt with a gated field access point. The eastern boundary of the site and further to the west are defined by mature clipped native hedgerows and the southern boundary by a post and rail fence. High voltage power lines pass close to the southern end of the site with a lattice tower pylon located approximately 80m from the site boundary. To the north of the site opposite Deepdale Lane is the Westinghouse nuclear fuel production installation. The site is relatively flat gently sloping from north to south between 21m AOD to 15m AOD. The site is located directly adjacent to a 11.3 hectare site, which also consists of agricultural grassland, with no ponds located within this site, with two hedgerows traversing the site from north south and trees and hedgerows around its periphery which has approval for a solar farm. Surrounding the site are medium scale fields with native hedgerows of varying condition. In addition to the woodland belt to the north of the Site, there is significant mature woodland cover flanking Clifton Lane to the west that lies adjacent to the consented Solar Farm Site.

The proposal will introduce 2.2m solar arrays laid out in rows facing south, an access track and an inverter building which would measure 2.5m in width and 6.9m in length into this area of countryside in the Fylde landscape character area, that is currently undeveloped and open. The current field pattern will be retained with new hedgerow and tree belt planting around the site. The 2m deer fencing proposed is considered to be agricultural in appearance with post and netting, however, at 2m high would not be of an appearance entirely typical of this rural area.

In order to mitigation the visual impact of the development the application proposes setting back

the development from the highway native hedgerows planted and maintained adjacent to the site boundaries. The buildings within the site will not be specifically screened. This mitigation if the development were to be found acceptable would have to be provided and retained through a planning condition, which would include provision of suitable plant species. The application has been submitted with a landscaping plan which shows landscaping for the application site. It shows a proposed woodland belt planting to the north west of the application site to infill an isolated field area and reinforce screening from Deepdale lane. On the eastern boundary the existing hedgerow will be retained and managed to maintain growth with a section of woodland planting adjacent to it. To the south a new mixed native hedgerow will be formed to make a field boundary and will be maintained at 3m height. The hedgerow will be extended to link with the existing north-south hedgerow to the west. To the west there is no landscaping proposed as this is where the approved solar farm is located. The Councils landscape officer has no objections to the proposal and states that the proposed landscaping is appropriate.

It has been accompanied by a Landscape and Visual Impact Assessment which identifies that this would be seen as a single development contained by existing hedgerows and tree belts to the north, east and west and a new hedgerow along the southern boundary. The LVIA assesses the visual impact of the proposal from eight different viewpoints around the site. These are summarised in the below table;

<b>RVP No.</b>	<b>Location</b>	<b>Distance to Site</b>	<b>Reason for selection.</b>
1	View southeastwards from northwest corner of field near the Site (no public access)	c.30m	Whilst not a public access point the viewpoint indicates the relationship of the site with the surrounding landscape
2	View southwards from Deepdale Lane, opposite site entrance	c.10m	View opposite proposed access point into the Site
3	View southwestwards from Deepdale Lane approaching the Site	c.200m	View from main vehicular approach to the Site
4	View southeastwards near crossroads on Clifton Lane	c.350m	Direct view of the northwestern margins of the Site across the consented solar farm
5	View northwards from Ash Court, Clifton	c.200m	View towards the Site near some of the closest dwellings
6	View northwards from Ash Lane	c.300m	View over the top of the roadside hedgerow on the approach to Clifton village
7	View northwestwards from hedge gap on Ash Lane	c.150m	One of the few gaps in hedgerows along Ash Lane
8	View westwards from Lea Lane	c.500m	Oblique view from elevated land towards the Site

The LVIA finds that the site has a medium to low value landscape character in the locality. It concludes;

*“The Site and Study Area comprises medium to large scale fields with no prominent landscape features. There are few public rights of way in the local landscape, although National Cycle route 62 passes along Deepdale Lane adjacent to the northern boundary of the Site with views typically screened by the boundary hedgerow and tree belt. There would be some restricted private views from a small number dwellings at the end of Ash Court, on the eastern edge of Clifton. The southern edge of the development would initially be visible, resulting in non-Notable effects, reducing further over time with the growth of boundary hedgerow planting. In relation to the proposed development of 30 No. residential units off Ash Lane, should these units be consented and constructed, then views of the proposed solar farm from the existing dwellings on Ash Court would effectively be screened. There is limited potential for public views towards the Site, with visibility restricted to close range*

*glimpses of parts of the Site, predominantly from field access points or where there are gaps in roadside hedgerows. Other receptors in the locality and further afield are generally well screened and/or filtered by interlying vegetation and development. The objectives of the mitigation are to reinforce the landscape features within the site such that they better relate to the wider character and to address any potentially adverse impacts on landscape character or visual amenity. The planting of new native species hedgerow along the southern boundary and gapping up of the eastern boundary is proposed and once established the hedge would be brought into regular agricultural management and maintained to a height of c.3m. Overall, the proposed scheme would result in Notable effects upon the existing landscape character at a Site level, extending to the east and south to cover agricultural land, where there is no public access. The Notable effects would be limited to a Site level and over time would reduce following the growth of the proposed southern boundary hedgerow. A small number of receptors, including road users on Ash Lane and limited parts of Clifton Lane and Deepdale Lane would experience a limited effect at Year 1; however these would not be at a Notable level and would reduce over time with the growth of the proposed mitigation hedgerow planting. In conjunction with the published Landscape Character Assessment and Crestwood's own site character assessment, this LVIA has taken account of the pattern of woodland, trees, field boundaries and other landscape features and determined how the scheme can be implemented without unacceptable harm to this character. In conclusion it is therefore assessed that the landscape in the vicinity of the site and surrounding area has the capacity to accommodate the scale of development proposed with no Notable effects on surrounding visual amenity and effects on landscape character that would only be Notable at a Site level, extending to the immediate farmland to the south and east where there is no public access. Landscape and Visual effects resulting from solar developments are fully reversible. If the decision is taken to remove the panels at the end of the 25 year operational life, the panels would be dismantled, removed and the site returned to full agricultural use."*

#### Visual impact/Character of area

It is considered that the site is an agricultural field used for grazing located adjacent to the settlement and a large employment area. It is not considered that the site constitutes open landscape of intrinsic character and beauty, that the NPPF states is one of its core planning principles that should be taken account of when determining planning applications. The wider landscape is greatly impacted upon by the employment site to the north and the site itself is relatively well contained with existing landscaping to the east and south. Therefore although the site sits within a rural landscape it is impacted upon by existing features, including the employment site and power lines.

The impact of the development will be felt closest to the site to the east. Whilst the mitigation proposed will reduce the impact there will still be a significant impact. The impact on the site and immediate locality will be considerable and will have an adverse effect on the landscape character of the site itself and adjoining field. The existing screening provided by the trees to the west and south would reduce the visual impact of the development, and the site would be set back from the road to the north where hedgerows and trees form the boundary. The site will be viewed as one larger site with the adjacent farm, so the views from the west, north and south will be similar to those experienced if only the larger approved farm was implemented. The views of the site from the north from Deepdale Lane will be fleeting with the existing hedgerow screening much of the development. There will be some views of elements of the wider site from the northern end of Clifton Lane. . Visibility from the surrounding road network including Church Lane is typically fully restricted by intervening development and/or vegetation cover. Views from Ash Lane to the southeast and east of the Site would be predominantly restricted by roadside hedgerows. The growth of the native hedgerow and treebelt along the boundary of the Site would further restrict visibility over time.

Visibility of the Proposed Development further east, including Lea Lane would be fully restricted by multiple layers of field boundary planting. The impact on medium views is therefore considered acceptable. The LVIA shows that the visibility of the site from long range views which are classed as being from more than 1.5km would be zero due to interlying woodland, hedgerow and built development, combined with a relatively flat landform. The impact on long range views is therefore considered acceptable. The LVIA indicates some views of the development from private dwellings may be achieved. The private views to the eastern margins of the Site are predominantly obtained from several dwellings to the south with views partially restricted by intervening dwellings and tree and hedgerow cover. It is predicted that there is the potential for filtered upper floor views of the Site in winter from the isolated dwelling of Westwynde. It is considered that whilst the development would be able to be viewed from some dwellings that it would not have an unacceptable impact

### Summary

From this consideration of the visual impacts of the development, it can be concluded that there would be significant visual impacts from the development to the site itself and immediate views, but the effect on medium range and long range views would be minimal due to the existing screening, proposed screening and the topography of the site. There would also be visual impacts to the closest residential houses with windows facing the site. Mitigation planting would reduce the impact over time to some degree, however, would not remove it completely. It is not considered that the development would have a significant visual impact on the wider area.

These visual impacts of the proposal are required to be balanced against the acceptability of this renewable energy scheme in principle. In terms of the local landscape, this is not designated because of special landscape quality. The users of highways will have a different visual experience than at present along certain routes, to the east of the site however it is considered that this would be a feature of journey rather than being for its entirety. Some users may view this experience as negative, with a view of modern development over an expanse of currently open countryside, so it has to be considered that there would be some harm to the visual amenity of the highways. There would be harm to the visual amenity of residents in properties that are close to the site with windows facing it. This impact would not be to all of the windows of these properties, therefore, the occupants would have other rural views and the impact would be reduced as mitigation planting grows. The effects of the development on the character and appearance of the landscape during the lifetime of the solar farm is not considered to be harmful to the extent where it would be weighed against the contribution of the scheme to the national strategy on low carbon energy. It is officer's opinion that the scale of harm in this location is minor and as such that it would be outweighed by the wider benefits of renewable energy provision.

### **Ecology**

#### Wintering Birds

The application has been submitted with a phase 1 Habitats and Protected Species and Sites Assessment. Natural England considered this information and initially stated that further information was required as the application does not include information to demonstrate that the requirements of Regulations 61 and 62 of the Habitats Regulations have been considered by Fylde, i.e. there is no HRA. Natural England advice was that there is currently not enough information to determine whether the likelihood of significant effects can be ruled out.

Subsequently a Shadow Habitats Regulation Assessment was submitted with information regarding birds from Fylde Bird Club, including their records for the tetrad (Clifton Marsh SD43Q). These



records show that for species that are part of the SPA citation there are records of only two bird species during the breeding season, and there is 1 record of a single ruff in 2004 for the entire tetrad. Breeding ruff in the UK are a very rare bird, with the current known breeding populations being found only in East Anglia. The State of Lancashire's Birds records that 'The last proven breeding record in Lancashire was on the south Ribble marshes in 2002'. Therefore, based upon the rareness of the two species and the scarcity of records from the tetrad or proposed solar PV site, there is no reasonably foreseeable likelihood that either species breeds at the site. The single species that is an Article 4.2 Qualifying Feature during the breeding season is the Lesser black-backed gull and there are two records of the species from the tetrad. 6 birds were recorded from 'Clifton' in July 2008 and 140 birds were recorded at 'Clifton Marsh' in April 2009. Clifton Marsh is clearly to the south of the proposed site and the single record of 6 birds, even if it was within the site and was for breeding, is well below the threshold to be of any significance for this species in relation to the SPA.

Natural England have commented on this additional information and confirm;

*Based on the further information provided in the Shadow HRA (Annex A to the Phase 1 Habitats and Protected Species and Sites Assessment by Simply Ecology Limited, September 2015 (Updated November) Natural England agree that this development will not result in Likely Significant Affect alone or in-combination on the Ribble and Alt estuaries European site. This is because the information from Fylde Bird Club (p33) states that the site is readily visible from the road and is in a geographic area which pink footed geese have started using recently. Paul Eliis states that his members are interested in documenting these new sites and therefore if this field was utilised by this species (or presumably other species), it would have been recorded. Natural England therefore advises that this development will have no effect on the Ribble and Alt SPA/ Ramsar site and therefore cannot act in combination with other developments.*

There are therefore no issues with Wintering Birds or impact on the European site.

### Protected Species

The phase 1 habitat survey includes surveys of badgers, birds, bats and reptiles, and found that the site consists of agricultural semi-improved grassland, hedgerows and ditches, trees and two ponds. The site Plans show that any trees with possible bat roosting potential are being retained. No direct impacts upon any bat roosts will therefore occur. Also, all hedgerows on the site will be unaffected. This means that valuable linear habitat will not be adversely affected. The other habitat on the site, the grassland, is also going to be retained once the solar arrays have been installed and the site will carry on being sheep grazed. Overall, therefore, there is no reasonably foreseeable likelihood that bats will be adversely affected. A survey of the trees found no signs of bat roosts, but one tree with moderate potential for bats. There were no badger sets found at the site. With regard to great crested newts (GCNs) the two ponds on the site were found not optimal for newts to breed in, this was because: one had no emergent vegetation, giving little opportunity for the newts to lay eggs, and the other was almost dried out and heavily dominated with vegetation, once again, yielding unfavourable conditions for breeding newts.

The main observation about the site area is that it is covered in heavily and regularly grazed permanent pasture which is very short over-winter and is allowed to grow before sheep are put out each spring. This habitat could provide possibilities for great crested newts in terms of foraging habitat during the summer although site inspection at this time shows that the ground cover is not optimum. The working area does not contain tussocks or dense vegetation or accumulations of vegetation which could provide newt hibernation sites. Due to the overall distance to ponds and the

nature of the habitat management, the site is judged to have low or at best intermediate value as a habitat for great crested newts during the summer. The hedges on the site are potentially suitable for active and over-wintering newts, but there are no other areas with hibernation potential in the site. Over-winter, the value of the site for GCN is nil across the entire site. However given the wider pondscape surrounding the site and the records of GCNs within 1km of the site it is clear therefore that the Clifton area supports populations of this legally protected species across a wide area where suitable conditions exist. Due consideration therefore must be given to the possible presence of great crested newts within the working area. The two ponds on site were found to have limited potential for great crested newts however, their possible presence cannot be entirely ruled out. Similarly, amphibians such as other newt species, toads and frogs may also be present. The land around the pond is most likely to be of use to these amphibians during their terrestrial foraging in the active season. However, if this period is avoided, then the grassland on the site is not suitable for resting amphibians and no obvious sites where they could remain is apparent. If works are to take place over-winter then there is considered to be no likelihood of any impacts arising to individual animals. This ensures there is no reasonably foreseeable likelihood of impacts upon GCN.

### Mitigation

Once construction is completed the development will have no impact on ecology or protected species, the grassland around the arrays will be maintained as it is at the moment and the habitat available to species such as bats and GCN's will remain. It is also proposed to create amphibian refuges around the ponds to create additional habitat. To avoid impacts on GCNs during construction and to avoid the need for a license from Natural England a number of recommended working methods are included in the submitted report;

- a) Between October 2015 and commencement of construction works at the site it is essential that continued grazing management takes place. Reason: This will ensure that the site does not become suitable for hibernating GCN.
- b) It is absolutely fundamental that all construction works must occur over-winter. This should form the basis of a planning condition. It is considered that there is no risk that great crested newts could be present above ground across the entire working area.
- c) No solar arrays must be placed within 5m of the ponds within the site. This will ensure that no impacts upon individual newts can possibly arise. This area must be fenced off with post and wire fencing during the construction period to ensure no site traffic can enter the area.
- d) Construction is due to last 16 weeks. To further minimise risk, ALL excavation and site restoration works must take place during the winter when the majority of newts are torpid. ALL construction works at the site (including removal of site compound and all ground restoration) must be completed between 1st November 2015 and 29th February 2016. This should form the basis of a planning condition. Reason: This will ensure that the excavation is completed and the ground made good when the potential for newts to be present within the site is at its lowest
- e) The Appointed Ecologist will carry out a final visual inspection of the site immediately prior to works commencing. As long as no GCN are found, construction (including all vehicle access and tracking routes, inverter station, cables routes etc) must then commence immediately after the Appointed Ecologist has completed the site search.
- f) All use of machinery and tracking routes on-site must be kept to the absolute minimum to ensure as little habitat removal as possible takes place. This will minimise the scale of site restoration.
- g) The over-winter working period will mean that construction materials can be stored within the PV site as no GCN will be moving above ground. Nonetheless, to further reduce perceived risk the site compound/storage location will be on short pasture site, set away from the nearest ponds. Reason: To ensure that no potential newt resting sites are created, the disturbance of

which, if occupied by great crested newts, would constitute an offence.

- h) All construction site staff must be fully briefed to make them aware of the potential presence of great crested newts within the working area. If great crested newts are found during the course of the works, the Appointed Ecologist must be contacted immediately and work ceased until further advice to ensure legal compliance can be given. Reason: To ensure no offences under the Wildlife and Countryside Act (1981 as amended) or under The Conservation of Habitats and Species Regulations 2010 (as amended) are committed.
- i) Once construction is completed it is recommended that any excess arisings are created into hibernacula adjacent to the ponds on or near to the site. Reason: This will benefit amphibian populations in the mid to long-term. Maintaining the biodiversity of the site will ensure compliance with the Local Authority's statutory duty to conserve and enhance biodiversity under The Natural Environment and Rural Communities Act 2006.
- j) It is essential that some form of annual management occurs throughout the life of the scheme to ensure that the grasslands and hedgerows isolated by security fences can be enhanced for wildlife. Gateways in the security fencing will be necessary so that annual hedge and grass cutting can take place. Reason: In the absence of management it is possible that scrub development around the pond could reduce overall suitability for amphibians. Annual grass cutting management will enhance the grassland adjacent to the pond. Maintaining the biodiversity of the site will ensure compliance with the Local Authority's statutory duty to conserve and enhance biodiversity under The Natural Environment and Rural Communities Act 2006.

#### Ecology summary

Officers have assessed the submitted report and its findings in relation to the type and amount of development proposed and the sites location using Natural England and LCC guidance notes. It is considered that the ecological survey submitted as part of the application is proportionate to the value of the site and the potential impacts of the development. Therefore the impact of the development on the ecology of the site has been appropriately considered by the applicants. There are not considered to be any refusal reasons on nature conservation grounds. However precautions are recommended to protect local nature conservation interests. It is therefore considered necessary that a comprehensive Environmental Construction Method Statement should be prepared giving details of measures to ensure the protection the retained habitats and species (particularly amphibians) on the site during the construction period, details of protection to trees and hedgerows during construction, protection of nesting birds, lighting and biodiversity enhancements. To conclude whilst the development will have a potential impact on protected species and habitat this impact given the mitigation proposed and required by condition this impact is considered acceptable.

#### **Flooding and drainage**

The Flood Risk Assessment (ICBR0059) submitted in support of this application indicates that the natural drainage of the site will remain largely unchanged as a result of the development proposal, due to a very small increase in impermeable area. The site will remain as a largely greenfield site and surface water will drain to existing watercourses. The FRA (ICBR0059) indicates that the natural flow paths and the existing drainage channels and watercourses will be retained where possible. Because of the size of the site the development is not one that the Environment Agency will comment on, however on the adjacent larger site they commented that the site would be safe and that it would not be at unacceptable risk of flooding. LCC as the lead local flood authority did not comment on the previous scheme as they were not in place at that time. With regard to this application they have no objections but request a number of conditions to ensure that there is no

increased surface water run-off. There are therefore no flooding or drainage issues with the application.

### **Highways**

The application proposes to access the site during construction from the approved construction access for the adjoining solar farm approved through application 14/0811. Following construction a separate access is required specifically for the application site due to OFGEM/FIT regulations. This would be utilised by smaller vehicles for operation/maintenance access. The application includes a Construction Traffic Management Plan (CTMP) by VTC (Highway and Transportation Consultancy) dated 25 September 2015 which includes details of the routing which is to be via Lodge Lane – Clifton Lane – Deepdale Lane. This document states that the first phase of construction to be undertaken will be site preparation and preconstruction work as follows:

- construction of the highway access point onto Deepdale Lane
- install gates and any security fencing at the construction compound,
- construct internal access tracks,
- laying foundations for the sub-station,
- digging trenches for power and communication cables.

The second phase of construction will consist of the installation of foundations, mounting systems, modules and electrical system components. The construction of the sub-station will also be carried out during phase 2. It states that all site activities will be carried out between 0800 – 1700 hrs Monday to Friday, with working hours reduced in the winter during the shorter hours of daylight. There will be no abnormal loads required to deliver the materials and components to the site and the daily number of daily HGV construction will vary during the construction period but the average number is approximately 5 a day. Temporary warning signs will be erected on Deepdale Lane on each side of the proposed access to the site with temporary direction signs for construction and non-construction traffic erected. LCC Highways have confirmed they have no objections and request conditions that the development is constructed in accordance with the CTMP and that both accesses are paved 5m from the highway, wheel cleaning facilities are made available and no development shall be commenced until all the highway works (access and signing) are constructed in accordance with a scheme to be submitted to the LPA. There are therefore no highways issues with the application.

The Parish Council have requested junction improvements be imposed as a requirement of this permission. With the limited level of vehicle movements associated with this application, and the lack of any reference to such works being required by the highway authority, it is not considered that these can be supported as a requirement of this decision.

### **Residential amenity**

The Councils Environmental Protection Officer has considered the Noise assessment and the Glint and Glare assessments submitted with application and confirms that he has no objections to the proposal.

### **Conclusions**

The application proposes the development of a solar farm, with associated infrastructure and equipment on agricultural land south of Deepdale lane, Clifton. It is considered that the principle of the development is acceptable in light of the support for renewable energies in NPPF and that the development has been assessed to pass the test that there are no suitable sites for the development

on brownfield or non-agricultural land. It is viable that the land can continue to be used for grazing during the operation period of the development and biodiversity enhancements can be conditioned. This is in accordance with NPPG.

There would not be an unacceptable impact on residential amenity in terms of light, overlooking or noise and disturbance. With the mitigation measures proposed in the ecological survey, the development is capable of being accommodated without adverse effect on ecology and enhancement measures could benefit biodiversity. Existing trees, ponds and hedgerows can be retained and protected in conjunction with the development. The application would not have an unacceptable flood risk either on site or in the surroundings. Lancashire County Council Highways have advised that the development can proceed without unacceptable traffic generation or risk to highway safety.

Visually, it has been assessed that the development would have significant impacts on the site and adjacent local landscape character. This landscape is not designated for its special landscape quality. It is not considered that there would be a significant visual impact on the wider area even when combined with the adjacent larger site, with it being viewed as one solar farm. Based on this, it is not considered that there would be unacceptable landscape harm that would result from the proposal. There would be harm to the visual amenity of the residents in the properties that are close to the site and overlook it, with their views changed from that of open fields to views of a solar farm. However these views are restricted by existing landscaping and infrastructure, and these properties would have other windows not facing the development and mitigation would reduce this impact over time.

Overall, the visual harm to be experienced has to be balanced against the gain of a renewable energy source and rural diversification. NPPF encourages the development of renewable energy and aims to increase the use and supply of renewable energy. This development would generate 1.73MW of electricity, 6.73MW when combined with the adjacent site to form one solar farm. It also has to be taken into account that the development would be temporary, with its removal after 25 years. Given the wider environmental and community benefits of the proposal and its temporary nature, plus the proposed mitigation planting, it is considered on balance that the development gain would outweigh the visual impact to be experienced to the local landscape and residential properties, and where there is to be visual harm this will not be unacceptable.

### **Recommendation**

Planning permission be GRANTED subject to the following conditions (or any amendment to the wording of these conditions or additional conditions that the Head of Planning & Regeneration believes is necessary to make otherwise unacceptable development acceptable):

1. The development hereby permitted must be begun not later than the expiration of 3 years commencing upon the date of this permission, and where applicable should be undertaken in strict accordance with the plan(s) comprising all aspects of the approved development accompanying the decision notice.

This standard time limit is required to be imposed pursuant to Section 51 of the Planning and Compulsory Purchase Act 2004, while compliance with approved plans is required to ensure the approved standard of development is achieved.

2. Before both access points on to Deepdale Lane are used for vehicular purposes in relation to the development hereby approved, that part of the access extending from the highway boundary for a minimum distance of 5m into the site shall be appropriately paved in tarmacadam, concrete, block

pavements, or other approved materials.

Reason: To prevent loose surface material from being carried on to the public highway thus causing a potential source of danger to other road users.

3. Before the use of the site hereby permitted is brought into operation facilities shall be provided within the site by which means the wheels of vehicles may be cleaned before leaving the site.

Reason: To avoid the possibility of the public highway being affected by the deposit of mud and/or loose materials thus creating a potential hazard to road users.

4. No part of the development shall be commenced until all the highway works (access and signing) have been constructed in accordance with a scheme which shall be submitted to and approved by the Local Planning Authority in consultation with the Highway Authority.

Reason: To enable all construction traffic to enter and leave the premises in a safe manner without causing a hazard to other road users.

5. The development shall be carried out in line with the details provided within the submitted Construction Traffic Management Plan by VTC (Highway and Transportation Consultancy) dated 25 September 2015 unless otherwise agreed in writing with the Local Planning Authority in consultation with the Highway Authority.

Reason: In the interests of highway safety.

6. No development shall commence until details of the design, based on sustainable drainage principles, and implementation of an appropriate surface water sustainable drainage scheme have been submitted to and approved in writing by the local planning authority.

Those details shall include, as a minimum:

- Information about the lifetime of the development, design storm period and intensity (1 in 30 & 1 in 100 year +30% allowance for climate change), discharge rates and volumes (both pre and post development), temporary storage facilities, the methods employed to delay and control surface water discharged from the site, and the measures taken to prevent flooding and pollution of the receiving groundwater and/or surface waters, including watercourses, and details of floor levels in AOD;
- The drainage strategy should demonstrate that the surface water run-off must not exceed the pre-development greenfield runoff rate. The scheme shall subsequently be implemented in accordance with the approved details before the development is completed.
- Any works required off-site to ensure adequate discharge of surface water without causing flooding or pollution (which should include refurbishment of existing culverts and headwalls or removal of unused culverts where relevant);
- Flood water exceedance routes, both on and off site;
- A timetable for implementation, including phasing as applicable;
- Evidence of an assessment of the site conditions to include site investigation and test results

to confirm infiltrations rates;

- Details of water quality controls, where applicable.

The scheme shall be implemented in accordance with the approved details prior to first occupation of any of the approved dwellings, or completion of the development, whichever is the sooner.

Thereafter the drainage system shall be retained, managed and maintained in accordance with the approved details.

Reason: To ensure that the proposed development can be adequately drained, that there is no flood risk on or off the site resulting from the proposed development, and to ensure that water quality is not detrimentally impacted by the development proposal

7. No development hereby permitted shall be occupied until the sustainable drainage scheme for the site has been completed in accordance with the submitted details. The sustainable drainage scheme shall be managed and maintained thereafter in accordance with the agreed management and maintenance plan.

Reason: To ensure that the drainage for the proposed development can be adequately maintained, and to ensure that there is no flood risk on- or off-the site resulting from the proposed development or resulting from inadequate the maintenance of the sustainable drainage system.

8. No development shall commence until details of an appropriate management and maintenance plan for the sustainable drainage system for the lifetime of the development have been submitted which, as a minimum, shall include:

- a. the arrangements for adoption by an appropriate public body or statutory undertaker, management and maintenance by a Residents' Management Company
- b. arrangements concerning appropriate funding mechanisms for its on-going maintenance of all elements of the sustainable drainage system (including mechanical components) and will include elements such as:
  - on-going inspections relating to performance and asset condition assessments
  - operation costs for regular maintenance, remedial works and irregular maintenance caused by less sustainable limited life assets or any other arrangements to secure the operation of the surface water drainage scheme throughout its lifetime;
  - means of access for maintenance and easements where applicable.

The plan shall be implemented in accordance with the approved details prior to first occupation of any of the approved dwellings, or completion of the development, whichever is the sooner.

Thereafter the sustainable drainage system shall be managed and maintained in accordance with the approved details.

Reason: To ensure that appropriate and sufficient funding and maintenance mechanisms are put in place for the lifetime of the development, to reduce the flood risk to the development as a result of inadequate maintenance, and to identify the responsible organisation/body/company/undertaker for the sustainable drainage system.

9. No development shall commence until details of how surface water and pollution prevention will be managed during each construction phase have been submitted to and approved in writing by the local planning authority.

Those details shall include, as a minimum:

- a) Details of how the proposed site access, temporary compound area (including any offices, toilets, canteen and storage), temporary parking area, area for construction and delivery vehicles, staff car park, and any hardstanding areas will be drained
- b) The drainage strategy should demonstrate that the surface water run-off must not exceed the pre-development greenfield runoff rate (which is required to be calculated).
- c) Any works required off-site to ensure adequate discharge of surface water without causing flooding or pollution;
- d) Flood water exceedance routes, where required, both on and off site;
- e) A timetable for implementation, including phasing as applicable;
- f) Evidence of an assessment of the site conditions to include site investigation and test results to confirm infiltrations rates;
- g) Details of water quality controls, where applicable.

Reason: To ensure that the construction phase(s) of development does not pose an undue flood risk on site or elsewhere, and to ensure that any pollution arising from the development as a result of the construction works does not adversely impact on existing or proposed ecological or geomorphic condition of water bodies

10. This permission shall be for a period of 25 years from the date of this permission, by which date the use hereby permitted shall cease and the site reinstated back to its previous agricultural use in accordance with a scheme of work required to be submitted as part of Decommissioning Method Statement under condition 11 below.

Reason: To ensure that the landscape impact of the development exists only for the lifetime of the development.

11. If the solar farm ceases to operate for a continuous period of 12 months at any time during its lifetime, and in any event at least 6 months prior to the final decommissioning of the solar farm at the end of the planning permission, a Decommissioning Method Statement shall be submitted to and approved in writing by the Local Planning Authority. The Method Statement shall include a programme of works to demonstrate that the solar panels, transformer and substation buildings, tracks, associated infrastructure, fencing and any other ancillary equipment will be removed from site, and how the site shall be restored back to its former agricultural use and a timescale for these works and site restoration. The approved Decommissioning Method Statement and its programme of works shall be fully implemented within 12 months of date of its agreement by the Local Planning Authority.

Reason: In the interests of the amenity of the area and to ensure that the landscape impact of the development exists only for the lifetime of the development.

12. Construction and decommissioning works shall only take place between the following hours:-  
08.00 and 18.00 hours Monday to Friday and between 08.00 and 13.00 hours on Saturdays, with



no site work on Sundays or bank and public holidays.

Reason: To safeguard the amenities of the occupiers of adjoining residential properties.

13. Prior to the commencement of development a grazing management plan shall be submitted to the Local Planning Authority for approval in writing. The development shall be carried out in accordance with the approved plan, which shall contain details of how the land will be made available, managed and retained for grazing livestock throughout the operation of the solar farm hereby approved.

Reason: To ensure that the land remains in agricultural use.

14. A tree protection scheme for all trees and retained hedges on the site shall be submitted to and approved in writing by the local planning authority prior to the commencement of development. No work of any kind shall take place until the protective fences are erected around the retained trees in the position and to the specification agreed by the local planning authority. Such fencing shall be retained throughout the development where work of any kind is undertaken in proximity to trees and hedging.

Reason: In the interests of protecting wildlife and biodiversity and to comply with the provisions of the Wildlife & Countryside Act 1981 and the National Planning Policy Framework.

15. No development shall take place until there has been submitted to and approved in writing by the local planning authority a fully detailed scheme for habitat creation and management, including details of amphibian protection during construction. The scheme shall include details of mitigation and compensation measures, the management of public access, and on-going monitoring regimes, and follow the principles established in section 6 of the Ecological Assessment of the Proposed Development Site, by Simply Ecology, dated September 2015 (updated November). The development shall be phased, implemented, and managed in accordance with the approved scheme for habitat creation and management.

Reason: In order to secure adequate compensatory and mitigation habitat and species and to protect existing biodiversity

16. No development shall take place until there has been submitted to and approved in writing by the local planning authority a scheme of programmed landscaping for the area of development. The scheme shall include details of: all existing trees and hedgerows and those that are to be retained, together with measures for their protection during the course of the development; all planting and seeding including the proposed hedgerows; hard surfacing and the materials to be used for the internal access roads; and, means of enclosure and shall follow the principles established on the proposed landscape and tree protection plan 1529-2 LS02. All landscape works shall be carried out in accordance with the approved programme and details. Any trees or plants which within a period of 5 years commencing with the date of their planting die, are removed or become seriously damaged or diseased shall be replaced in the next planting season with others of similar size and species.

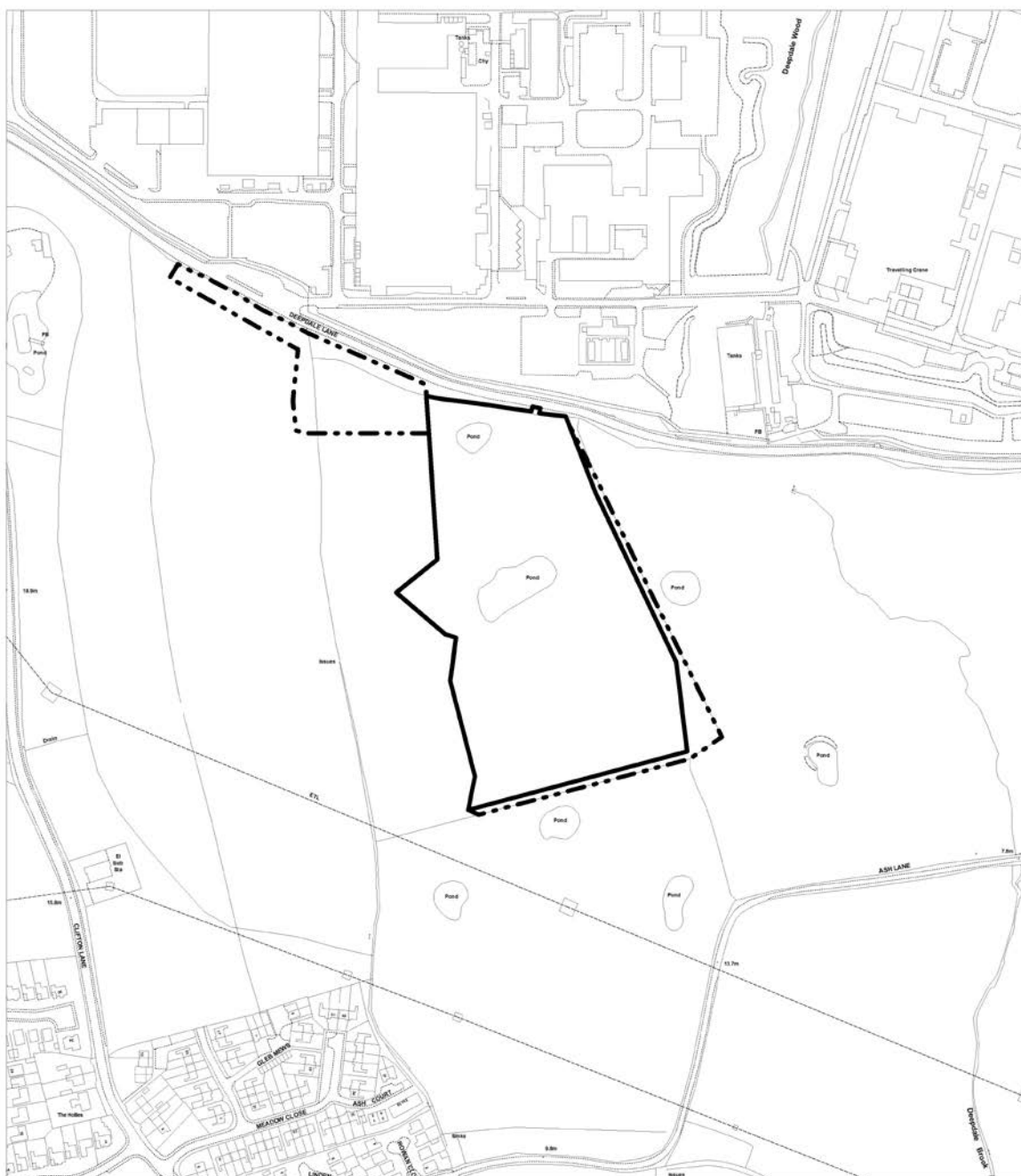
Reason: To ensure a satisfactory form of development and to enhance the visual amenities of the locality, and in order to comply with saved Policy EP14 of the Fylde Borough Local Plan.

17. The development shall be carried out, except where modified by the conditions to this permission,

in accordance with the Planning Application received by the Local Planning Authority on 29 September 2015, including the following plans:

- Location Plan 8664-LO1 (REV D)
- Proposed site layout plan MS 15025
- Proposed landscaping plan 1529-2 LS02
- Road plan 10.B\_02.001
- Fence detail GRNSS1028-D-01
- CCTV GRNSS1028-E-01
- Invertor INV-UK-02/04
- Solar array elevations MS-UK15

Reason: For the avoidance of doubt and so that the local planning authority shall be satisfied as to the details.



Development Services Fylde Council		(c) Crown Copyright and database right (2015). Ordnance Survey (100006084).	
Application No. 5/15/0679	Address Oakfield Farm, Station Road, Clifton	Grid Ref. E.3469 : N.4308	Scale 0 20 40 60 80 m 

<b>Application Reference:</b>	15/0685	<b>Type of Application:</b>	Full Planning Permission
<b>Applicant:</b>	Mr Threlfall	<b>Agent :</b>	Eastham Design Associates Ltd
<b>Location:</b>	21 LYTHAM ROAD, FRECKLETON, PRESTON, PR4 1AA		
<b>Proposal:</b>	PROPOSED CONVERSION OF EXISTING DETACHED SINGLE STOREY OUTBUILDING TO REAR INTO A DWELLING, INCLUDING ELEVATION CHANGES, RAISING OF ROOF HEIGHT AND EXTENSION TO REAR		
<b>Parish:</b>	FRECKLETON EAST	<b>Area Team:</b>	Area Team 1
<b>Weeks on Hand:</b>	9	<b>Case Officer:</b>	Alan Pinder
<b>Reason for Delay:</b>	Need to determine at Committee		

**Summary of Recommended Decision:** Grant

**Summary of Officer Recommendation**

The application site is a brick garage / outbuilding located to the rear of the site which is a semi-detached building in use at ground floor as a Dog Grooming Parlour and at first floor as a flat. The application seeks planning permission for the extension and conversion of the building to a one bedroomed dwelling.

The proposed external works to facilitate the conversion are minor in their impact and given that the site is in a sustainable location with good access to all essential local community facilities the proposal is considered to accord with the aims of policy HL2 of the Fylde Borough local Plan and members are requested to approve the development.

**Reason for Reporting to Committee**

The owner of the premises is a serving Member (Councillor Threlfall) and therefore the application falls outside of the scope of the delegation scheme. Furthermore the Parish Council have objected to the proposal which is at odds with the officer recommendation for approval, hence this also requires Committee consideration.

**Site Description and Location**

This application relates to a disused brick built outbuilding located to the rear of 21 Lytham Road, Freckleton. The main property consists of a dog grooming parlour at ground floor and a residential flat at first floor. No.21 is neighboured on both sides by other commercial premises which have similar residential arrangements at first floor. Dwellings are located to the rear of No.21.

**Details of Proposal**

Planning permission is sought for the conversion of a single storey detached outbuilding located to the rear of 21 Lytham Road to a single dwelling. External works would be required to the building to facilitate the proposed change of use and these would be in the form of the following:

- Increasing the ridge height of the main roof by 0.2 metres and replace the existing cement sheet covering with grey tiles
- Construction of an extension to the southern (rear) elevation
- Replacement of existing double garage doors on north (front) elevation with a window
- Blocking up of existing external doorways on west side elevation and amendment to window positions on this elevation.

#### **Relevant Planning History**

<b>Application No.</b>	<b>Development</b>	<b>Decision</b>	<b>Date</b>
11/0119	CHANGE OF USE FROM DRY CLEANERS (USE CLASS A1) TO DOG GROOMING STUDIO (SUI GENERIS)	Granted	15/06/2011
10/0513	PROPOSED FIRST FLOOR REAR EXTENSION AND STAIRS TO REAR	Granted	01/09/2010

#### **Relevant Planning Appeals History**

None

#### **Parish/Town Council Observations**

**Freckleton Parish Council** notified on 06 October 2015 and comment:

*“The Parish Council is against this application due to safety concerns due to poor access and access across a parking layby. Also concerns over emergency services access.”*

#### **Statutory Consultees and Observations of Other Interested Parties**

##### **BAe Systems**

No objections

##### **Ministry of Defence - Safeguarding**

No safeguarding objections

##### **Lancashire County Council - Highway Authority**

*I can confirm that there are no highway objections to this proposal.*

*The existing site consists of a storage building which has an existing access to Lytham Road. Whilst documentation submitted with the application indicates that the storage building is redundant it could be brought back into use at any time.*

*The proposal to convert the building into a dwelling is likely to lead to an increase in pedestrian and vehicle movements. The level of movements associated with the proposal will have little impact on the highway network.*

*A potential source of concern on this development is the access arrangements. The access joins Lytham Road at the back of a lay-by / parking bay and as such there is a concern that vehicles parked in the lay-by could impede access and egress. Lytham Road is subject to a 20mph speed limit and there are no recorded injury accidents in the vicinity of the site in the last 5 years.*

*Whilst there is a concern over the access there is no evidence to suggest that the proposed change of use would have a detrimental impact on highway safety.*

### **Neighbour Observations**

**Neighbours notified:** 06 October 2015  
**No. Of Responses Received:** Three letters of objection from neighbours living opposite to the front of the site  
**Nature of comments made:** Objections raised to the proposal on the following grounds:

- There is no parking available for future residents and so the existing level of on street parking would be further exacerbated to the detriment of existing neighbouring residents
- There is no parking available for workers during the construction period of the development
- Would the dwelling be safe for use by a disabled person as only one access is shown?
- Is the use as a dwelling compatible with the dog grooming parlour/dog day care?

### **Relevant Planning Policy**

#### **Fylde Borough Local Plan:**

SP01	Development within settlements
HL02	Development control criteria for new housing proposals

#### **Other Relevant Policy:**

NPPF:	National Planning Policy Framework
NPPG:	National Planning Practice Guidance

### **Site Constraints**

### **Environmental Impact Assessment**

This development does not fall within Schedule 1 or 2 of the Town and Country Planning (Environmental Impact Assessment) (England and Wales) Regulations 2011 as amended.

### **Comment and Analysis**

#### **Principle of Development**

The site is located within the settlement of Freckleton and within a largely residential area. As such the principle of establishing a residential use is acceptable subject to normal planning criteria as are explored in the criteria of Policy HL2 of the Local Plan. The key issues are examined in this report below.

#### **Scale, Design & Appearance in the Streetscene.**

The proposal is for a one bedroom dwelling, which given the restrictive nature of the site is considered to be an appropriate scale for this location. The finished design would be not dissimilar to that of the existing building albeit with the addition of the extension to the southern end and other elevational changes. Given the building's siting to the rear curtilage of No.21 and the level of boundary treatments around it would have no material impact on the appearance of the wider street scene.

### Relationship to Neighbours

The ground floor neighbouring properties to either side of No.21 are both in commercial use with residential accommodation above, as is No.21 itself. The relationship of the proposed dwelling to these commercial premises is such that the amenity of its future occupiers would not be greater affected than the amenity of the occupiers of the first floor residences. The first floor flat above No.21 does currently have shared use of the rear garden area, and the proposal would reduce the amount of garden available for the flat occupiers, however there would still remain a sufficient amount of garden to serve the reasonable needs of the first floor and outbuilding residents.

With regard to potential overlooking and overshadowing the dwelling would be single storey only, with no upper windows, and even with the amended roof is not of a height that would cause overshadowing of neighbouring rear gardens.

### Access and Parking

Objections have been submitted by three neighbouring residents on the grounds that there is insufficient parking for future occupiers and as such the development would lead to further on street parking and further exacerbation of the existing parking problems for nearby residents.

LCC Highways have been consulted on the application and whilst they acknowledge that the access and parking arrangements are less than ideal they point out that the speed limit is 20 mph and there is no record of any injury incidents within the last 5 years. Furthermore the existing building is a garage that could still be accessed by vehicles should the conversion not be carried out. On this basis they have opined that the level of movements associated with the proposal would have little impact on the highway network and have raised no objections. Your officers believe that these comments are valid.

It should also be noted that the site is in a sustainable location with easy access to public transport (main bus route), shops, schools, and other essential community facilities, and under such circumstances it is not considered that a refusal of permission on the grounds of inadequate parking would be defensible at appeal.

### Other matters

One neighbour has raised a concern that should the dwelling be occupied by a disabled person the single access into the dwelling may not be safe in the event of a fire. Whilst means of escape fall under the scope of building regulations and are not an issue for planning consideration it is noted that the scheme as proposed does appear to accord with Approved Document B of the Building Regulations 2000 subject to the windows being of an opening design. However this issue would be examined further under the inspection regime of Building Control.

The neighbour has also questioned the compatibility of the dwelling with the dog related business at No.21. It was noted during the site visit that a dog day care operation is based in a small indoor area to the rear of the dog grooming parlour and is of a scale as to be considered an ancillary use to the grooming and makes no use of the external garden area. With this in mind there is no reason to consider that the use of the dwelling would be incompatible with the dog day care activity inside the dog parlour.

### Conclusions

The proposed conversion of the outbuilding to residential use will result in the establishment of a small property in a back garden location. However, the location is a sustainably located site and with the council's on-going inability to demonstrate its five year supply of housing it is considered

that the benefits of the provision of a dwelling in this accessible village centre location outweigh any concerns over the size and location of this dwelling. Accordingly the proposal complies with Policy HL2 of the Fylde Borough Local Plan and members are recommended to support the application.

However, it has come to light that one of the neighbouring properties was missed off the list of those to be sent a neighbour notification letter as is required by legislation. This letter has now been sent, but the time available for them to make comment on the application has not expired and so it would be unlawful of the council to make a decision on the application at this time. To allow progress it is suggested that members delegate authority to the Head of Planning and Regeneration to issue the decision on the conclusion of the consultation period available to this neighbour, and the consideration of any issues raised by them.

### **Recommendation**

That the authority to GRANT Planning Permission be delegated to the Head of Planning and Regeneration on the conclusion of the consultation period, and the consideration of any further issues raised, and that this decision be subject to the following conditions:

1. The development must be begun not later than the expiration of three years beginning with 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.

2. The external materials to be used in the development hereby approved shall accord entirely with those indicated on the approved plans; any modification shall thereafter be agreed with the Local Planning Authority in writing prior to any substitution of the agreed materials.

In the interests of visual amenity.

3. Notwithstanding the provisions of Schedule 2, Part 1, Classes A, B, C, D and E of the Town and Country Planning (General Permitted Development) (England) Order 2015, or any equivalent Order following the revocation and re-enactment thereof (with or without modification), the dwelling hereby approved shall not be altered or extended, and no buildings or structures shall be erected within its curtilage.

Reason: In order to prevent overdevelopment of the site, to ensure that satisfactory provision of outdoor amenity space for the dwellinghouse is maintained and to safeguard the amenities of the occupiers of adjacent dwellings in accordance with the requirements of Fylde Borough Local Plan policy HL2.

4. This consent relates to the following details:

#### Approved plans:

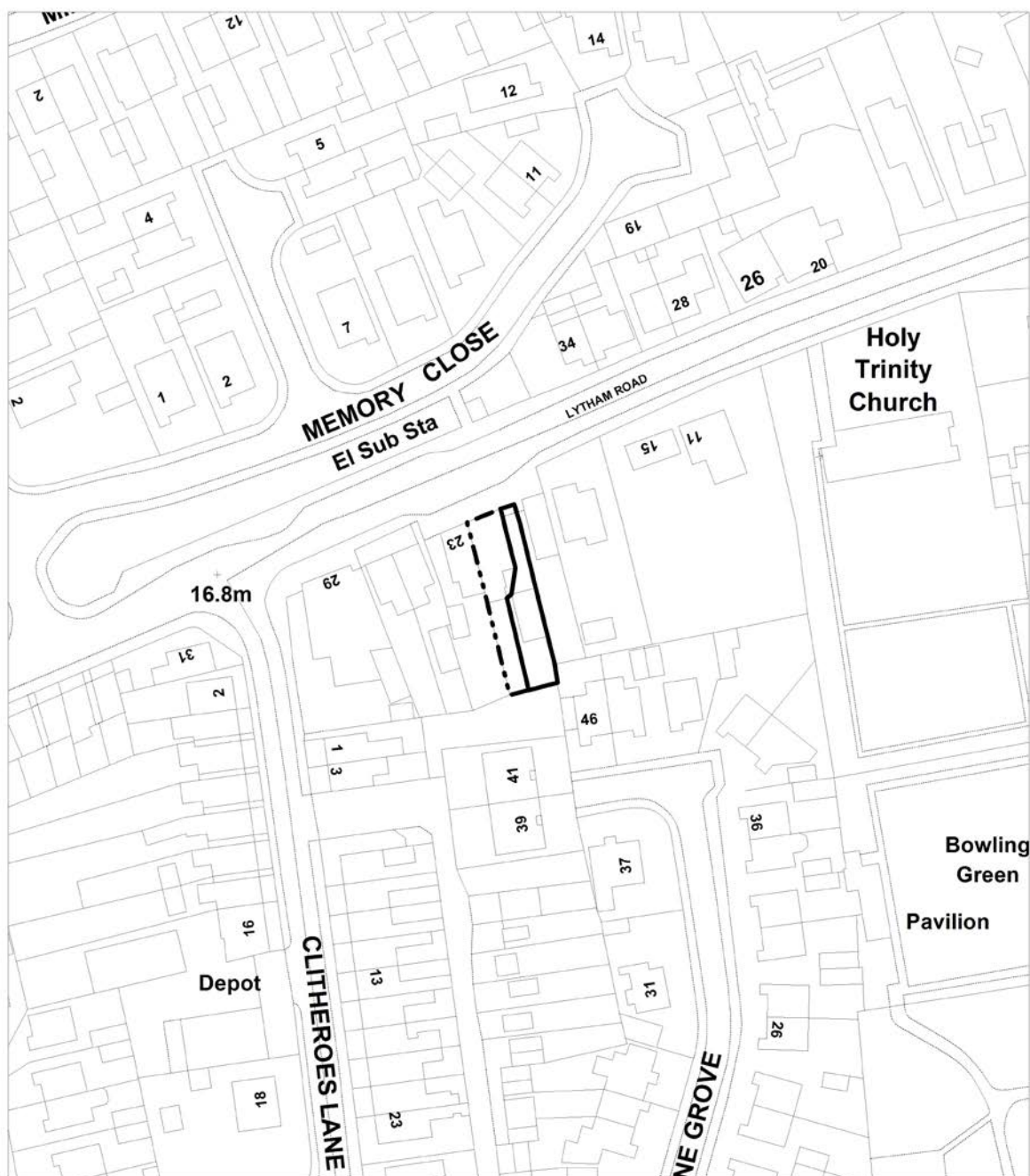
1. Location Plan - scale 1:1250
2. Plan views and elevations (existing and proposed) - Dwg No. 1090-15-01 Rev B, dated September 2015

#### Supporting Reports:

- Planning supporting statement - Project No. 1090-15, dated 23 September 2015

Reason: For the avoidance of doubt and as agreed with the applicant / agent.





Development Services Fylde Council		(c) Crown Copyright and database right (2015). Ordnance Survey (100006084).	
Application No. 5/15/0685	Address 21 Lytham Road, Freckleton	Grid Ref. E.3428 : N.4289	Scale 0 5 10 15 20 m

**Item Number:** 9

**Committee Date:** 09 December 2015

<b>Application Reference:</b>	15/0695	<b>Type of Application:</b>	Householder Planning Application
<b>Applicant:</b>	Mr Law	<b>Agent :</b>	DMH Architectural Services
<b>Location:</b>	12 ASTLEY CRESCENT, FRECKLETON, PRESTON, PR4 1RE		
<b>Proposal:</b>	SINGLE STOREY REAR EXTENSION AND SIDE EXTENSION TO PROVIDE RESIDENTIAL ANNEX		
<b>Parish:</b>	CLIFTON	<b>Area Team:</b>	Area Team 1
<b>Weeks on Hand:</b>	9	<b>Case Officer:</b>	Alan Pinder
<b>Reason for Delay:</b>	Need to determine at Committee		

**Summary of Recommended Decision:** Grant

**Summary of Officer Recommendation**

The application property is a semidetached dormer bungalow style dwelling located in an area of similar styled properties within the settlement of Freckleton. The application proposes a large single storey side and rear extension to form a residential annex to the dwelling to enable its current occupiers to remain in the property whilst also providing a home for their son and his young family.

Whilst the extension would represent a large addition to the existing property the design and location in the corner of the cul-de-sac ensures that it would not have an unduly unacceptable impact on the visual amenity of the area or on the amenity of neighbouring residents. The annex is to be conditioned to remain as an extension to the single dwelling unit at the site and the development is considered to accord with Policy HL5 of the Fylde Borough Local Plan.

**Reason for Reporting to Committee**

The application is subject of an objection from the Parish Council and so as the officer recommendation is to grant planning permission it is necessary for the decision to be made by the Development Management Committee.

**Site Description and Location**

The application site is a semi-detached bungalow dwelling located within a predominantly residential area of Freckleton. The vernacular of the area is one of bungalow dwellings.

**Details of Proposal**

Planning permission is sought for the construction of a single storey side/rear extension to the property. The extension would extend 2.76 metres beyond the main rear elevation and approximately 9.3 metres from the side elevation. The side element of the extension would have a

dual pitched roof and an angled gable end. The rear element would be flat roofed with a lantern rooflight.

The proposed external materials are to match those of the existing dwelling. The extension is intended to provide additional annexe accommodation with the plans indicating an additional kitchen, bathroom, sitting room, bedroom and garden room. The extension has an external door to the front and a connecting internal door to the existing dwelling.

### **Relevant Planning History**

None to report.

### **Relevant Planning Appeals History**

None to report.

### **Parish/Town Council Observations**

**Freckleton Parish Council** notified on 12 October 2015 and state:

*"The Parish Council is against this application due to the excessive size, it looks unsightly and the applicant did not seek pre-planning advice. If he had the layout may have been more acceptable."*

### **Statutory Consultees and Observations of Other Interested Parties**

#### **BAe Systems**

No objections

#### **Ministry of Defence - Safeguarding**

No safeguarding objections

### **Neighbour Observations**

**Neighbours notified:** 12 October 2015

**No. Of Responses Received:** None

### **Relevant Planning Policy**

#### **Fylde Borough Local Plan:**

SP01	Development within settlements
HL05	House extensions

#### **Other Relevant Policy:**

NPPF:	National Planning Policy Framework
NPPG:	National 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) (England and Wales) Regulations 2011 as amended.

## **Comment and Analysis**

Whilst the proposal provides additional living accommodation at the property it is submitted as a householder extension as that accommodation remains part of the existing dwelling at the site. The issues to consider in the determination of this application are therefore those contained in the criteria of policy HL5 of the Fylde Borough Local Plan for assessing house extensions.

The parish council have objected to this proposal on the basis of its 'excessive size' and 'unsightly appearance'. Whilst it is acknowledged the extension would represent a large addition to the property there is no policy objection to such an increase provided that its visual impact is not unacceptably detrimental within the wider character of the area or to the amenity of neighbouring properties. In this case the visual impact on the public domain would be greatly mitigated by the angled juxtaposition of the neighbouring property (and its large detached garage) and the generous setback of the extension from the front elevation. Hence when considered within the wider context of its local environment the proposed extension is considered to be acceptable in terms of scale. The extension has a low single storey roof that is well below the roof height of the existing dwelling and so presents as a modestly scaled extension from the street.

With regard to neighbour amenity the only properties potentially affected by the proposal are the neighbouring properties, No's 10 and 14 Astley Crescent. The rear extension projects 2.76 metres along the boundary with the adjoining No.10 but this falls well within the guidance provided in the Council's adopted SPD on house extensions and this relationship is acceptable.

With regard to No.14 the siting of the extension relative to this property, together with the large intervening garage of No.10, are such that the extension would not have a detrimental impact on this neighbouring property.

Finally whilst the extension would result in the loss of the existing detached garage there would remain sufficient off road parking to meet the reasonable needs of the residents. Garden area and vehicular access would not be unduly prejudiced by the proposal.

## **Conclusions**

The proposed extension is considered to accord with the aims of policy HL5 of the local plan and the application is recommended for approval subject to conditions relating to its construction in appropriate materials and that it remains as a residential annex.

## **Recommendation**

That Planning Permission be GRANTED subject to the following conditions:

1. The development must be begun not later than the expiration of three years beginning with 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.

2. This consent relates to the following details:

Approved plans:

- Location Plan - Dwg No. T/O-1177 LAW
- Proposed Elevations - Dwg No. 2015-T/O-1179-07C
- Proposed Plans - Dwg No. 2015-T/O-1179-06C

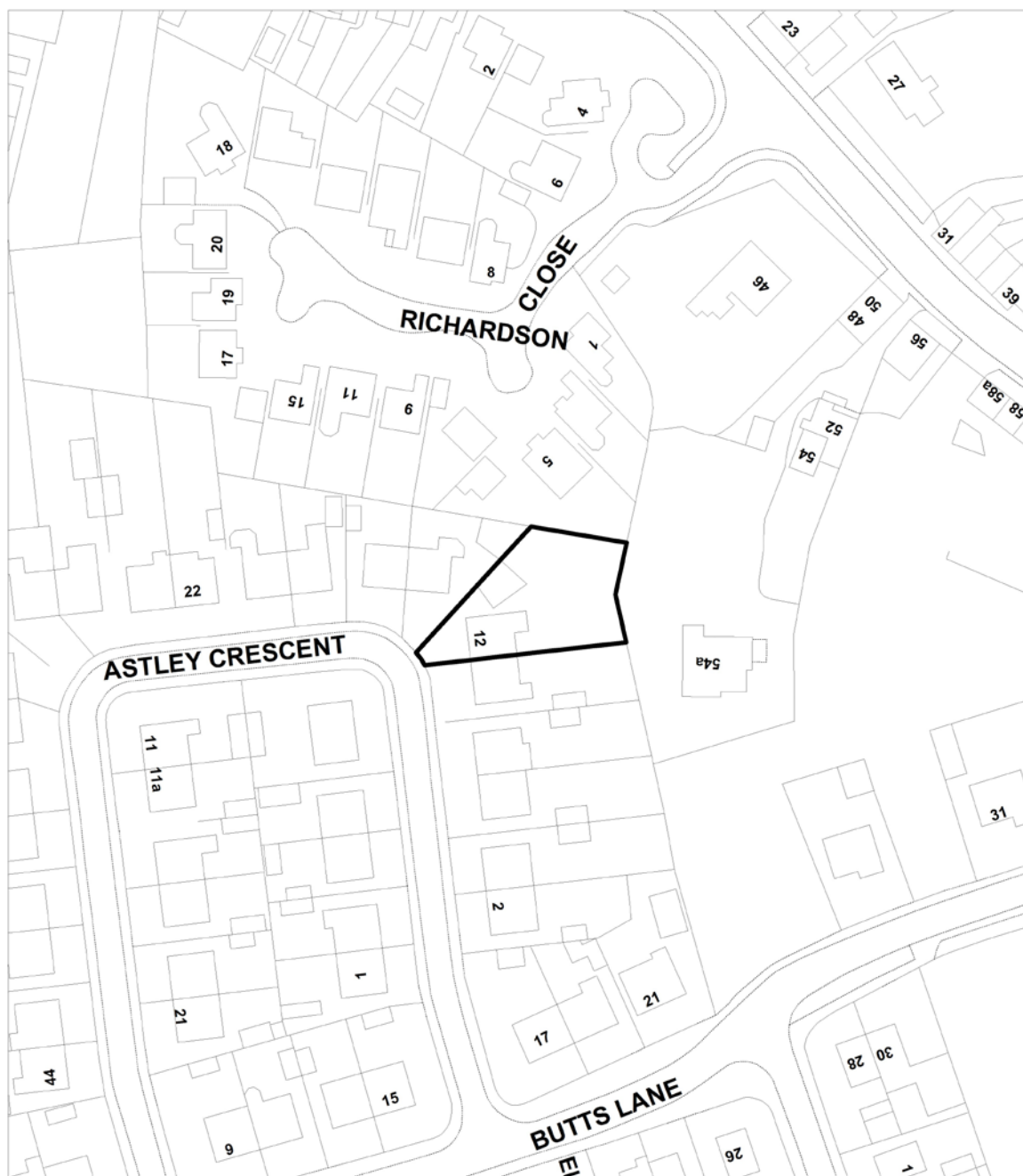
Reason: For the avoidance of doubt and as agreed with the applicant / agent.

3. The materials of construction and/or finish in respect of the extension hereby approved shall match those of the existing building entirely to the satisfaction of the Local Planning Authority.

To ensure visual harmony in respect of the overall development.

4. The extension hereby approved shall only be occupied as part of an extended family unit at the application property and shall not be sold off or sublet as a separate unit of accommodation.

The sub-division of an existing residential unit could be injurious to the amenities of adjacent residential property owners, while there may be additional development implications which require further consideration by the Local Planning Authority.



Development Services Fylde Council		(c) Crown Copyright and database right (2015). Ordnance Survey (100006084).	
Application No. 5/15/0695	Address 12 Astley Crescent, Freckleton	Grid Ref. E.3431 : N.4288	Scale 0 5 10 15 20 m

**Item Number:** 10

**Committee Date:** 09 December 2015

<b>Application Reference:</b>	15/0784	<b>Type of Application:</b>	Listed Building Consent
<b>Applicant:</b>	Fylde Borough Council	<b>Agent :</b>	
<b>Location:</b>	WAR MEMORIAL AND GARDEN, MARKET SQUARE, LYTHAM ST ANNES		
<b>Proposal:</b>	LISTED BUILDING CONSENT TO FIX EXISTING PLAQUES INTO PLACE USING GALVANISED STEEL BORDERS.		
<b>Parish:</b>	CLIFTON	<b>Area Team:</b>	Area Team 1
<b>Weeks on Hand:</b>	4	<b>Case Officer:</b>	Mrs C Kitching
<b>Reason for Delay:</b>	Not applicable		

**Summary of Recommended Decision:** Delegated to Approve

**Summary of Officer Recommendation**

The application relates to the War Memorial located in Market Square, Lytham. This is a Grade II listed structure and in council ownership, hence the need for this application to be determined by Committee.

The proposal is for Listed Building Consent to replace the existing screw fixings on the marble name plaques on the Memorial with a steel border around each plaque. The proposal is considered not to diminish the historic importance of the Memorial whilst providing a more secure method of attaching the plaques. Accordingly it is recommended that Listed Building Consent be granted. However as the consultation period is on-going it is appropriate that the authority to grant this Consent be delegated to the Head of Planning and Regeneration on conclusion of that consultation and the consideration of any responses received.

**Reason for Reporting to Committee**

The application site is in council ownership and so the decision on the application is to be made by the Development Management Committee.

**Site Description and Location**

The application relates to the war memorial at Market Square, Lytham which is situated within the memorial gardens and Lytham Conservation Area and is a statutory listed building (grade 2) for its historical value. The Listing Entry is as follows:

*First World War cenotaph. c.1920 - 1925. White Portland stone. Rectangular in plan and approx. 5 metres high, with a plain base and tall slightly tapered pier with featured superstructure; names inscribed in columns.*

### **Details of Proposal**

Listed Building Consent is sought for an alteration to the war memorial. It is proposed to add a narrow galvanised metal frame to surround the granite plaques attached to each of the four sides to the Memorial and each contain a list of names. The existing screw fixings through holes in the plaque are failing and the proposed frame is intended to provide a more secure fixing for the plaques. The frame is to have a visible width of 3cm and will be galvanised powder coated mild steel in a dark grey colour.

### **Relevant Planning History**

<b>Application No.</b>	<b>Development</b>	<b>Decision</b>	<b>Date</b>
94/0527	LISTED BUILDING CONSENT FOR RENOVATION/RESTORATION & NEWLY INSCRIBED GRANITE PANELS.	Granted	26/09/1994

### **Relevant Planning Appeals History**

None

### **Parish/Town Council Observations**

Not in parished area.

### **Statutory Consultees and Observations of Other Interested Parties**

**Principal Estates Surveyor**  
No objection

### **Neighbour Observations**

<b>Neighbours notified by letter:</b>	12 November 2015
<b>Site Notice Date:</b>	17 November 2015
<b>Press Notice Date:</b>	26 November 2015
<b>No. Of Responses Received:</b>	None

### **Relevant Planning Policy**

#### **Fylde Borough Local Plan:**

SH08	Secondary shopping frontage (Lytham)
SH08	Secondary shopping frontage (Lytham)
EP04	Alteration and adaptation of listed buildings

#### **Other Relevant Policy:**

NPPF:	National Planning Policy Framework
NPPG:	National Planning Practice Guidance

### **Site Constraints**

Conservation area site  
Listed Building

### **Environmental Impact Assessment**



This development does not fall within Schedule 1 or 2 of the Town and Country Planning (Environmental Impact Assessment) (England and Wales) Regulations 2011 as amended.

### **Comment and Analysis**

The galvanised metal frame in dark grey colour will appear as a muted and attractive contrast to the granite plaque and as a later addition which will not conflict with the plaques or the Portland Stone used in the memorial, and so is considered to be an acceptable material. Given the scale of the memorial the border will not detract from its architectural features or historical importance.

### **Conclusions**

Some works are necessary to ensure that the heavy granite wall plaques remains secure. The steel border is an appropriate solution for this and accords with the requirements of Policy EP4 so consent should be granted.

The legislation requires that applications such as this are publicised by letters to neighbours, notices on site, and advertisements in the press. In this case the press advertisement allows time for comments that does not expire until 17 December 2015. With the need for this application to be considered by Committee and the next meeting being after the 8 week target determination period for the application it is requested that the authority to determine this application and grant Listed Building Consent be delegated to officers. This will only be acted on following the completion of the publicity period, the consideration of any comments received, and the revision of the scheme or imposition of any conditions that are necessary.

### **Recommendation**

That the authority to grant listed building consent be delegated to the Head of Planning and Regeneration subject to him being satisfied that all material considerations raised in any further consultation responses received are appropriately satisfied by the submission, or can be satisfied by conditions.

Should he conclude that listed building consent be GRANTED then this should be subject to the following conditions:

1. The development must be begun not later than the expiration of three years beginning with 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.

2. This consent relates to the following details:

#### **Approved plans:**

- Location Plan - TS15006/01
- Proposed plans and Elevations - TS15006/FD

#### **Supporting Reports:**

- Heritage Statement

Reason: For the avoidance of doubt and as agreed with the applicant / agent.



Development Services Fylde Council		(c) Crown Copyright and database right (2015). Ordnance Survey (100006084).	
Application No. 5/15/0784	Address War Memorial & Garden, Market Square, Lytham St Annes	Grid Ref. E.3364 : N.4271	Scale 0 6 12 18 24 m 

## LIST OF APPEALS DECIDED

The following appeal decision letters were received between 23/10/2015 and 27/11/2015. Copies of the decision letters are attached.

Rec No: 1

24 August 2015

14/0839

38 CHURCH ROAD, ST ANNES, LYTHAM ST ANNES, FY8  
3TL  
RESUBMISSION OF APPLICATION 14/0430 FOR  
PROPOSED CONVERSION AND EXTENSION OF  
GARAGE/STORE TO FORM ONE BEDROOM  
APARTMENT WITH WORKS INCLUDING ADDITION OF  
FIRST FLOOR.

Written  
Representations  
RT

Appeal Decision: Dismiss: 28 October 2015

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## Appeal Decision

Site visit made on 13 October 2015

**by Alexander Walker MPlan MRTPI**

**an Inspector appointed by the Secretary of State for Communities and Local Government**

**Decision date: 28 October 2015**

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**Appeal Ref: APP/M2325/W/15/3038270**

**38 (Garage/Store rear of), Church Road, St. Annes, Lytham St. Annes FY8 3TL**

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a refusal to grant planning permission.
  - The appeal is made by Mr John Lunt against the decision of Fylde Borough Council.
  - The application Ref 14/0839, dated 18 November 2014, was refused by notice dated 26 January 2015.
  - The development proposed is the conversion and extension of garage/store to form one bedroom apartment with works including addition of first floor.
- 

### Decision

1. The appeal is dismissed.

### Preliminary Matters

2. The Council's second reason for refusal cites saved Policy HL4 of the Fylde Borough Local Plan, as altered (the 'Local Plan') (2005). However, they have confirmed that this was in error and should read saved policy HL2. I have determined the appeal on this basis.

### Main Issues

3. The main issues are the effect of the development on the character and appearance of the area; the living conditions of the neighbouring residential property, No 40 Church Road, in respect of outlook; and, whether adequate living conditions would be provided for future residents, in respect of outlook.

### Reasons

4. The appeal site is located within a well-established residential area comprising primarily traditional two-storey terraced properties. The appeal property is a single-storey, double garage adjoining the rear of No 38 Church Road. The garage is accessed via a side road that links to a rear access service lane behind properties on Church Road and Holmfield Road. Many of the properties within the area have outbuildings within their rear amenity space that are accessed off the service lane.
5. The lane is very much subordinate to the main road frontage of the rows of terrace properties. The outbuildings are predominantly single storey and vary in their appearance and materials. The lane itself is relatively wide and retains its traditional utilitarian purpose being a place to store bins, park vehicles and

access the rear gardens of the dwellings. This subordinate relationship with Church Road and Holmfield Road contributes significantly to the character area.

6. The proposed two-storey dwelling would be in marked contrast to the low level buildings along the lane, appearing highly prominent when viewed from either end of the lane. Its prominence would be exacerbated by its corner plot location. The introduction of a domestic property in this area would represent a form of back land development that would fail to respect the established pattern of development and detract from the subordinate role the lane plays in its overall character.
7. Furthermore, the proposed obscure glazed first floor windows would represent a poor standard of residential design. Whilst I understand the reasons behind obscuring them, this does not outweigh the contrived design would have on the character and appearance of the area.
8. There are a small number of other two-storey buildings on the lane. However, these would appear to be conversions of original coach houses, rather than purpose built residential properties. The appeal building is clearly a modern addition to the lane that offers no particular architectural merit. Its utilitarian appearance conforms to the general appearance of other, similar buildings on the lane.
9. I find therefore that the dwelling would have significant harm on the character and appearance of the area, contrary to saved policy HL2 of the Local Plan, which, amongst other matters, seeks to ensure that development is in keeping with the character of the locality in terms of scale, space around buildings, materials and design. The dwelling would also fail to meet the requirements of paragraphs 17 and 58 of the National Planning Policy Framework (the 'Framework'), which similarly seek to protect the character of the area.

#### *Living Conditions of the Occupants of No 40*

10. The appeal building is adjacent to the rear garden area of No 40, which is limited in size due to its own single storey rear extension and garage to the rear of the garden.
11. The dwelling would not result in any significant harm by way of overlooking, due to obscure glazed windows at first floor. Furthermore, the Council do not dispute that there would be adequate distance between the proposed dwelling and existing dwellings or that there would be any loss of light to existing properties. I find no reason not to agree with this view.
12. The existing garden of No 40 is bound on all sides by structures that are single storey and allow some level of outlook over them. However, the proposed two-storey building would rise substantially above the existing garage and given its close proximity it would significantly dominate the outlook from the garden resulting in an unacceptable over bearing impact on the occupants of the property. As a result, the dwelling would adversely affect the ability of the occupants of No 40 to enjoy their private outdoor amenity space.
13. I find therefore, that the dwelling would significantly harm the living conditions of the occupants of No 40, with particular regard to outlook. As such, the proposal is contrary to saved policy HL2 of the Local Plan, which seeks to ensure that development does not affect the amenity and privacy of neighbouring properties. Furthermore, the proposal fails to comply with

paragraphs 17, 58 and 64 of the Framework which similarly promote good design that adds to the overall quality of the area.

#### *Living Conditions of Future Occupants*

14. All of the first floor windows would be obscure glazed. There would also be two roof lights; one serving the bedroom and the other serving the en suite. There would be two ground floor windows. Due to the lack of any outdoor private amenity space, the value of outlook is particularly important in providing adequate living conditions for future occupants.
15. The proposed fenestration would allow a significant amount of daylight into the property. However, whilst protecting the privacy of the occupants, the obscure glazed first floor windows would severely limit the outlook from the bedroom. Although the roof lights would allow some outlook, they would be above eye line and therefore any outlook would be severely limited. In addition, the views from the windows at ground floor would be of the adjacent lane on both sides, which provides limited outlook of any value. As a result, I find that the limited outlook would result in oppressively confined accommodation.
16. The appellant has referred me to a number of planning applications that the Council have approved whereby they allowed the conversion of existing buildings subject to windows being obscure glazed or they were similarly located as the current appeal site. However, I do not have full details of the circumstances that led to these proposals being approved. For example, in respect of the obscure glazed windows, there is no indication of whether or not the approved proposals had any private outdoor amenity space. In respect of the site at Back North Crescent, the street does not share the same subordinate relationship as the appeal site does. Therefore, the evidence submitted is limited for me to draw any direct comparison between the approved proposals and the current appeal. In any event, I have determined the appeal based on its own merits.
17. I find therefore that the proposal would not provide adequate living conditions for future occupants with regard to outlook. As such, the proposal is contrary to saved policy HL2 of the Local Plan, which, amongst other matters, seeks to ensure that development is in keeping with the locality in terms of design. Furthermore, the proposal fails to comply with paragraphs 7, 17, 58 and 64 of the Framework, which similarly promote good design that adds to the overall quality of the area.

#### **Other Matters**

18. I note that the location of the site is sustainable, in terms of its proximity to services and facilities, and it promotes alternative transport methods. However, whilst these matters weigh in favour of the proposal, they do not outweigh the significant harm I have found the proposal would have in respect of its effect on the character and appearance of the area and on the living conditions of existing and future occupants.
19. The Council do not have five year supply housing land and therefore the proposal would make a positive contribution towards the deficit. However, the contribution of a single residential unit holds limited weight and does not outweigh the harm I have identified above.

**Conclusion**

20. For the reasons given above, having regard to all matters raised, the appeal is dismissed.

*Alexander Walker*

INSPECTOR