

Agenda

Planning Committee

Date:	Wednesday, 8 December 2021 at 10:00 am
Venue:	Town Hall, St Annes, FY8 1LW
Committee members:	Councillor Trevor Fiddler (Chairman) Councillor Richard Redcliffe (Vice-Chairman) Councillors Tim Armit, Gavin Harrison, Kiran Mulholland, Jayne Nixon, Linda Nulty, Liz Oades, David O'Rourke, Heather Speak, Ray Thomas, Stan Trudgill.

Public Speaking at the Planning Committee

Members of the public may register to speak on individual planning applications: see [Public Speaking at Council Meetings](#).

	PROCEDURAL ITEMS:	PAGE
1	Declarations of Interest: 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	Confirmation of Minutes: To confirm the minutes, as previously circulated, of the meeting held on 1 December 2021 as a correct record.	1
3	Substitute Members: Details of any substitute members notified in accordance with council procedure rule 24.	1
	DECISION ITEMS:	
4	Planning Matters	3 - 114
	INFORMATION ITEMS:	
5	List of Appeals Decided	115 - 137

Contact: Lyndsey Lacey-Simone - Telephone: (01253) 658504 – Email: democracy@fylde.gov.uk

The code of conduct for members can be found in the council's constitution at
<http://fylde.cmis.uk.com/fylde/DocumentsandInformation/PublicDocumentsandInformation.aspx>

© Fylde Council copyright 2021

You may re-use this document/publication (not including logos) free of charge in any format or medium. You must re-use it accurately and not in a misleading context.

The material must be acknowledged as Fylde Council copyright and you must give the title of the source document/publication.

Where we have identified any third party copyright material you will need to obtain permission from the copyright holders concerned.

This document/publication is also available on our website at www.fylde.gov.uk

Any enquiries regarding this document/publication should be sent to us at the Town Hall, St Annes Road West, St Annes FY8 1LW, or to listening@fylde.gov.uk.

Planning Committee Index

08 December 2021

Item No:	Application No:	Location/Proposal	Recomm.	Page No.
1	21/0627	BULLHORNS SMOKEHOUSE, 32 POULTON STREET, KIRKHAM, PRESTON, PR4 2AH ERECTION OF SINGLE STOREY TIMBER SHELTER TO REAR TO PROVIDE COVER FOR EXTERNAL FOOD 'SMOKERS' (RETROSPECTIVE)	Grant	5
2	21/0628	BULLHORNS SMOKEHOUSE, 32 POULTON STREET, KIRKHAM, PRESTON, PR4 2AH LISTED BUILDING CONSENT ERECTION OF SINGLE STOREY TIMBER SHELTER TO PROVIDE COVER FOR EXTERNAL FOOD 'SMOKERS'	Grant	13
3	21/0712	THE CHADWICK HOTEL, 109-115 SOUTH PROMENADE, LYTHAM ST ANNES, FY8 1NP ERECTION OF SPLIT LEVEL 3-5 STOREY BLOCK OF 29 APARTMENTS WITH ASSOCIATED CAR PARKING, LANDSCAPING AND COMMUNAL FACILITIES INCLUDING FORMATION OF NEW ACCESSES OFF LIGHTBURNE AVENUE	Delegated to Approve	18
4	21/0794	LOWTHER GARDENS SITE, WEST BEACH, LYTHAM ST ANNES REDEVELOPMENT OF EXISTING TENNIS COURT AREA WITH INSTALLATION OF 2 NO. PADEL TENNIS COURTS WITH ASSOCIATED 4M HIGH SURROUND IN A MIXTURE OF GLASS, PLASTIC AND GREEN WELDED MESH AND 6M HIGH FLOODLIGHTS, INSTALLATION OF 6M HIGH FLOODLIGHTS TO 1. NO. RETAINED TENNIS COURT, AND RETROSPECTIVE CONSENT FOR CONSTRUCTION OF PORTABLE STORE/ OFFICE.	Grant	65
5	21/0815	COBWEBS BARN, 8 OAK LANE, NEWTON WITH CLIFTON, PRESTON, PR4 3RR CHANGE OF USE OF LAND TO PROVIDE EXTENSION OF DOMESTIC CURTILAGE TO PROPERTY AND ERECTION OF SINGLE STOREY SIDE EXTENSION TO FORM ANCILLARY RESIDENTIAL ACCOMMODATION FOLLOWING DEMOLITION OF EXISTING ATTACHED OUTBUILDING	Grant	80

6	21/0822	TANGLEWOOD, SPEN LANE, TREALES ROSEACRE AND WHARLES, PRESTON, PR4 3TE ERECTION OF REPLACEMENT TWO STOREY DWELLING WITH ATTACHED GARAGE FOLLOWING DEMOLITION OF EXISTING BUNGALOW AND DETACHED GARAGE INCLUDING CONSTRUCTION OF FRONT BOUNDARY WALL AND GATES UP TO 1.4 METRES IN HEIGHT - RESUBMISSION OF APPLICATION 21/0445	Grant	89
7	21/0906	PLOT 2 PHASE 2, LAND AT CROPPER CLOSE, WESTBY WITH PLUMPTONS CONSTRUCTION OF 10 NO. UNITS FOR USE IN CLASS E (G) (i)-(iii), CLASS B2 OR CLASS B8 WITH ASSOCIATED ACCESS AND CAR PARKING ARRANGEMENTS	Grant	100

Background Papers

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

- Fylde Local Plan to 2032 Adopted Version (October 2018)
- Joint Lancashire Minerals and Waste Local Plan
- Bryning-with-Warton Neighbourhood Plan
- Saint Anne's on The Sea Neighbourhood Development Plan
- National Planning Policy Framework 2021
- National Planning Practice Guidance
- The Community Infrastructure Levy Regulations 2010 (as amended)
- Conservation of Habitats and Species Regulations 2010 (as amended)
- Other Supplementary Planning Documents, Guidance and evidence base documents specifically referred to in the reports.
- The respective application files
- The application forms, plans, supporting documentation, committee reports and decisions as appropriate for the historic applications specifically referred to in the reports.
- Any additional information specifically referred to in each report.

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

Planning Committee Schedule 08 December 2021

Item Number: 1

Committee Date: 08 December 2021

Application Reference:	21/0627	Type of Application:	Full Planning Permission
Applicant:	Mr McDonald	Agent :	
Location:	BULLHORNS SMOKEHOUSE, 32 POULTON STREET, KIRKHAM, PRESTON, PR4 2AH		
Proposal:	ERECTION OF SINGLE STOREY TIMBER SHELTER TO REAR TO PROVIDE COVER FOR EXTERNAL FOOD 'SMOKERS' (RETROSPECTIVE)		
Ward:	KIRKHAM NORTH	Parish:	Kirkham
Weeks on Hand:	14	Case Officer:	Alan Pinder
Reason for Delay:	Need to determine at Committee		
Click Here for application site on Google Maps		Click here for application on FBC website	

Summary of Recommended Decision: Grant

Summary of Officer Recommendation

This application site is a commercial property located in on Poulton Street in Kirkham and so is in the designated town centre area of the settlement and trades as a restaurant. In this case the property is Grade II listed and is in the conservation area. It is surrounded by other commercial properties to the sides and opposite, with the car park associated with Kirkham Community Centre to the rear. A pedestrian walkway between the car park and Poulton Street runs alongside this property.

This application seeks retrospective planning permission for a timber outbuilding that has been erected in the rear curtilage of the property, and as it is a listed building is accompanied by an application for listed building consent which follows on this agenda. The building is used for the smoking of food on a series of grill/ovens to be served in the 'Bullhorns Smokehouse' eatery which occupies the ground floor of the building.

The building is a detached structure that sits to the very rear of the curtilage to the site and is largely constructed in timber. Whilst it is prominent from the car park and walkway it is not visible from the Poulton Street aspect and is considered to cause less than significant harm to the character, appearance and setting of the listed building. It brings some public benefits by contributing to the continuing viability and vitality of both the business and Kirkham town centre. These are considered to outweigh the less than substantial harm caused to the listed building's setting and so ensures compliance with that aspect of the planning assessment.

The building is used for a purpose that is clearly associated with the trading of the host building and is the type of facility that has become more prevalent in recent months as the hospitality sector adapts to trading in a post-Covid environment. This results in additional external dining, and this facility is to support that. Whilst there are some residential properties in the area, these are in a town centre environment where less protection from noise and odour are to be expected, but with the location of this structure being as well removed from those neighbours as is possible it is not considered that there are any undue implications of this nature.

Accordingly the development accords with the relevant policies of the Fylde Local Plan to 2032, and the NPPF, and is recommended for approval.

Reason for Reporting to Committee

The officer recommendation for approval conflicts with the views of the Town Council and so it is necessary to present the application to the Planning Committee for a decision.

Site Description and Location

This application relates to a three storey Grade II listed building located on the northern side of Poulton Street and within a primary shopping frontage of Kirkham town centre. The property is in the middle of a terrace of three buildings and backs onto the higher level of the Mill Street Car Park and the rear garden incorporates a steep descent from the car park level to that at the rear of the building. The current use of the premises is as a restaurant at ground floor and residential in the upper two floors.

The surrounding area is a mix of commercial units at ground floor with residential accommodation above many of them.

Details of Proposal

Retrospective planning permission is sought for the construction of a single storey timber shelter within the rear curtilage of the premises. This is designed to provide cover for food smokers used for the preparation of food served in the restaurant. The shelter is located against the rear curtilage boundary with Mill Street car park, has a 2.6 metre high flat roof, and a ground footprint measuring 6.3 metres by 2.5 metres. It has a natural finish timber appearance.

An application for listed building consent (21/0628) has been submitted relating to this development and follows this application on the agenda

Relevant Planning History

Application No.	Development	Decision	Date
06/0232	LISTED BUILDING CONSENT FOR SINGLE STOREY REAR EXTENSIONS, PROPOSED DISABLED ACCESS IMPROVEMENTS AND BASEMENT SEATING / DINING REFURB.	Granted	28/07/2006
06/0231	PROPOSED SINGLE STOREY REAR EXTENSIONS, PROPOSED DISABLED ACCESS IMPROVEMENTS AND BASEMENT SEATING / DINING REFURB.	Granted	28/07/2006
03/0567	COVERED SEATING AREA TO REAR	Granted	06/08/2003

02/0323	RETROSPECTIVE APPLICATION FOR ADVERTISEMENT CONSENT FOR 2 NO EXTERNAL BANNER SIGNS	Granted	19/11/2002
02/0322	CHANGE OF USE OF OFFICES TO MIXED USE OF OFFICES (A2), DELICATESSEN (A1) AND ANCILLARY CAFE (A3)	Granted	05/07/2002
02/0325	LISTED BUILDING CONSENT FOR DEMOLITION OF INTERNAL WALLS ON GROUND FLOOR ONLY TO CONVERT OFFICES INTO RETAIL OUTLET	Granted	25/06/2002

Relevant Planning Appeals History

None

Parish/Town Council Observations

Kirkham Town Council notified on 06 September 2021 and comment:

Kirkham Town Council object to the application as the outbuilding is out of keeping with the architecture of the listed building, will attract vermin, and cause odours and noise that will effect nearby residents and businesses.

Statutory Consultees and Observations of Other Interested Parties

Regeneration Team (Heritage)

No comments received.

Environmental Protection (Food Safety)

No objection raised but informed that applicant has been advised in respect of fire safety and rodent control.

Environmental Protection (Pollution)

With reference to your memorandum dated 06/09/2021, there are no objections to the above proposals in principle, however I would add the following conditions:

- 1. The outside seating area must cease being used at 22.00pm.*
- 2. No amplified music or live entertainment shall be undertaken in the outside seating area.*

Neighbour Observations

Neighbours notified:	06 September 2021
Site Notice Date:	16 September 2021
Press Notice Date:	09 September 2021
Number of Responses	None

Relevant Planning Policy

Fylde Local Plan to 2032:

GD1 Settlement Boundaries

GD7	Achieving Good Design in Development
EC5	Vibrant Town, District and Local Centres
ENV5	Historic Environment

Other Relevant Policy:

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

Site Constraints

Listed Building

Environmental Impact Assessment

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

Comment and Analysis

The principal issues to consider in the determination of this application are the visual impact of the development on the surrounding area, the impacts on the character and setting of this listed building, and impacts on neighbour amenity. These are examined as follows:

Design and Appearance in Streetscene

Fylde Local Plan to 2032 policy GD7 requires that development proposals demonstrate a high standard of design, taking account of the character and appearance of the local area, in accordance with 15 guiding principles (a - o). In particular, criteria d), h) and i) of the policy identify the following requirements:

- Ensuring the siting, layout, massing, scale, design, materials, architectural character, proportion, building to plot ratio and landscaping of the proposed development, relate well to the surrounding context.
- Being sympathetic to surrounding land uses and occupiers, and avoiding demonstrable harm to the visual amenities of the local area.
- Taking the opportunity to make a positive contribution to the character and local distinctiveness of the area through high quality new design that responds to its context and using sustainable natural resources where appropriate.

Paragraph 130 of the NPPF sets out six general principles of good design (a) – f)) that developments should follow and paragraph 134 indicates that “development that is not well designed should be refused, especially where it fails to reflect local design policies”.

The shelter is located wholly to the rear of No.32 Poulton Street and sited against the rear shared boundary with Mill Street car park. It is visible only in views from the car park and the narrow public passageway that provides access to Poulton Street from the car park. From these vantage points the building is seen largely against a combined backdrop of tall green flora and the rear elevations of properties along Poulton Street and Birley Street. Within these vistas the height, scale, and design of the structure are not considered to be unduly harmful or incongruous as there are a series of other ‘back street’ style structures.

The natural wood finish of the building's appearance does increase its visual presence however a permission could be conditioned requiring the shelter's timber elevations to be stained with a dark

finish. This would give it a more subtle appearance and so help to blend it with the darker backdrop of the trees and reduce its visual impact. With this condition being imposed the proposal will satisfy the requirements of Policy GD7.

Impact on the Listed Building – Legislative Background

The subsection to policy ENV5 relating to Listed Buildings indicates that *“Fylde’s listed buildings and their settings will be conserved and, where appropriate, enhanced. A proposed development which results in any harm to or loss of the significance of a listed building and / or its setting will be refused and only be permitted where any harm is justified by the public benefits of the proposal. Proposals will only be granted in exceptional circumstances where they can be clearly justified in accordance with national planning guidance on heritage assets.”* The subsection then sets out a series of criteria that developments affecting listed buildings and their settings should satisfy in order to demonstrate compliance with the policy.

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

In addition, Section 66 (1) of the Planning (Listed Buildings and Conservation Areas) Act 1990 requires that:

- *“In considering whether to grant planning permission for development which affects a listed building or its setting, the local planning authority or, as the case may be, the Secretary of State shall have special regard to the desirability of preserving the building or its setting or any features of special architectural or historic interest which it possesses.”*

Impact on the Listed Building – Assessment

The development for which retrospective permission is sought comprises a single storey building of timber construction sited alongside, and parallel to, the rear curtilage boundary. In this regard it pays little respect to the host building which is a townhouse scale property over three floors with a brick frontage traditional detailing. The application building is well separated from the listed building and so has no impact on that structure, but does have an impact on its setting and so there is a need to assess that in the determination of this application for planning permission and the application for listed building consent which accompanies it. Having undertaken that assessment officers are satisfied that the impact is an acceptable one, with the following reasoning supporting that view.

Firstly there is the context of the building. Planning permission (ref. 06/0231) and listed building consent (ref. 06/0232) were granted in 2006 for the construction of single storey rear extensions and formation of an outdoor seating area within the rear curtilage. These permissions have been implemented and whilst there are some minor discrepancies between the extensions as approved and extensions as built the essential form and appearance of the approved development has been implemented. Hence the timber building for which consent is now sought is viewed against the context of these relatively recent and modern appearing rear extensions and outdoor seating area.

Secondly there is the nature of its construction. As a timber building it is not of a permanent construction, and whilst there is no indication in the application that it is intended to remain on site for a temporary period, it is likely that in the longer term the building will not remain on site as the use of the building continues to evolve in the future.

Thirdly, its use is clearly designed to support the restaurant use of the premises. The hospitality sector has seen particular challenges as a consequence of the Covid pandemic and has had to evolve to react to those challenges. This has resulted in more space being required to sit the same number of covers internally, and more use of external space for dining. The building is designed to allow some of the cooking at the site to be undertaken externally to the host building to free up space within the building, and to serve the external diners. It is also to host bulky equipment that could less readily be accommodated within the more constrained facilities of the listed building without their alteration.

Finally, the continued trading of the premises brings public benefits, both in the occupation of the building ensuring it remains in a maintained state, and in the additional to the vitality of the town centre that its occupation can only contribute positively to.

The listed building legislation set out above requires that an assessment of a proposal such as this is to be made regarding whether it is harmful, and if so the level of any harm. In this case the proposal does lead to some harm, but this is adjudged to be the 'less than substantial harm' that is set out in para 202 of NPPF. In such cases the of harm is to be weighed against the public benefits of the development. For the reasons set out above, particularly that the building supports the on-going trading from the site with a structure that leads to no harm to the building itself and limited harm to its setting, it is considered that proposal satisfies the requirements of para 202 of NPPF. This test is essentially that required by Policy ENV5 in respect of the impact of development on the setting of a listed building, and so it is officer conclusion that the impact of the development on the listed building is an acceptable one that is in accordance with local policy and national guidance despite the contrary views on that aspect of the Town Council.

Neighbour amenity

The application property and the adjoining No.34 both have residential flats in their upper floors. The Old Coach House (2No. residential flats) on Birley Street also backs onto the application site and thus neighbour amenity is a consideration. The nature of the use of the outbuilding suggests that smoke would be a by-product of the food smoking process and thus potentially impact on neighbour amenity. However the contained nature of the food smoking process is such that very little generated smoke escapes to the atmosphere. The council's Environmental Protection team have been consulted on the application and raised no objections to the building or its use for smoking food, and no objections have been received from nearby residents. Given that the application is retrospective and the outbuilding has now been in use for at least four months it is considered that the absence of complaints or objections to the application indicates that neighbour amenity has not been unduly prejudiced by the development in that time, and so is unlikely to do so in the future.

Whilst the Environmental Protection team have suggested conditions that could be imposed to limit the hours of use of the external areas of the site, as this area is lawfully used under other planning permission and that is unrelated to this planning application then it is not possible to impose controls of this nature though this decision.

Other Matters

One of the reasons for objection provided by Kirkham Town Council refers to the potential of the building to attract vermin. Whilst this is not a planning issue, and would be dealt with under separate environmental health related legislation, the issue has been raised with the applicant. They have confirmed that they operate a pest control policy with a contract in place with specialists in that area to regularly visit the property to address any vermin issues that arise, which is to support the work of the business themselves in ensuring the areas are maintained in a clean and tidy

condition as is inherent in the operation of a successful food business. Should these efforts not be successful and complaints of vermin be received then these would be addressed through environmental protection or food hygiene legislation as normal. It is not the case that the Town Council's concerns over potential issues of this nature can have a bearing on the determination of this application, as there is other legislation that would address any issues that arise.

Conclusions

This application relates to a timber outbuilding erected in the rear curtilage of a listed building. Having viewed the outbuilding and assessed the issues raised, it is considered that the development accords with the relevant policies of the Fylde Local Plan to 2032, and the NPPF. Accordingly, the application is recommended for approval.

Recommendation

That Planning Permission be GRANTED subject to the following conditions:

1. This permission relates to the following plans:

- Location Plan - Drawing no. 101 Rev A
- Site Plan - Drawing no. 101 Rev A
- Plans & Elevations - Drawing no. 101 Rev A

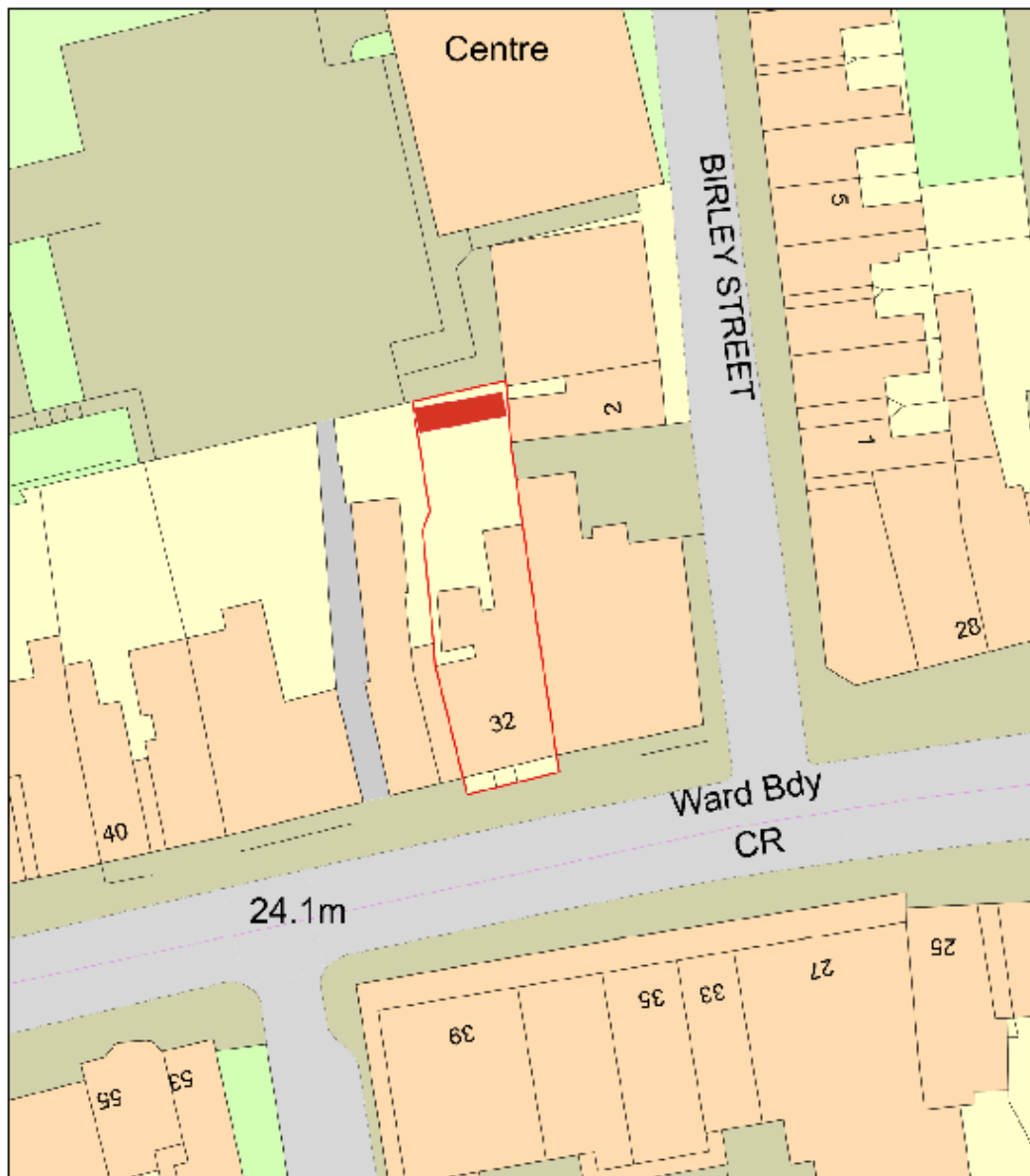
Except as provided for by other conditions to this permission, the development shall be carried out in complete accordance with the approved drawings.

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

2. Within three months of the date of this permission the timber elevations of the outbuilding hereby approved shall be consistently stained in a dark colour finish, details of which are to be submitted to and approved by the Local Planning Authority prior to its application onto the outbuilding' elevations. The building shall remain in this condition thereafter.

Reason: To ensure an appropriate material finish which is sympathetic to the character of the site and its surroundings in accordance with the requirements of Fylde Local Plan to 2032 policies ENV5 and GD7 and the National Planning Policy Framework.

32 Poulton street



Plan Produced for: Fylde Council
Date Produced: 18 Jul 2021
Plan Reference Number: TQRQM21199134229310
Scale: 1:500 @ A4

© Crown copyright and database rights 2021 OS 100042766

Item Number: 2

Committee Date: 08 December 2021

Application Reference:	21/0628	Type of Application:	Listed Building Consent
Applicant:	Mr McDonald	Agent :	
Location:	BULLHORNS SMOKEHOUSE, 32 POULTON STREET, KIRKHAM, PRESTON, PR4 2AH		
Proposal:	LISTED BUILDING CONSENT ERECTION OF SINGLE STOREY TIMBER SHELTER TO PROVIDE COVER FOR EXTERNAL FOOD 'SMOKERS'		
Ward:		Parish:	Kirkham
Weeks on Hand:	14	Case Officer:	Alan Pinder
Reason for Delay:	Need to determine at Committee		
Click Here for application site on Google Maps		Click here for application on FBC website	

Summary of Recommended Decision: Grant

Summary of Officer Recommendation

This application site is a commercial property located in on Poulton Street in Kirkham and so is in the designated town centre area of the settlement and trades as a restaurant. In this case the property is Grade II listed and is in the conservation area. It is surrounded by other commercial properties to the sides and opposite, with the car park associated with Kirkham Community Centre to the rear. A pedestrian walkway between the car park and Poulton Street runs alongside this property.

This application seeks listed building consent for a timber outbuilding that has been erected in the rear curtilage of the property, and accompanies a planning application which precedes it on this agenda. The building is used for the smoking of food on a series of grill/ovens to be served in the 'Bullhorns Smokehouse' eatery which occupies the ground floor of the building.

The building is a detached structure that sits to the very rear of the curtilage to the site and is largely constructed in timber. Whilst it is prominent from the car park and walkway it is not visible from the Poulton Street aspect and is considered to cause less than significant harm to the character, appearance and setting of the listed building. It brings some public benefits by contributing to the continuing viability and vitality of both the business and Kirkham town centre. These are considered to outweigh the less than substantial harm caused to the listed building's setting and so ensures that listed building consent can be granted.

Reason for Reporting to Committee

The application is closely linked to application 21/0627 which relates to planning permissions for this development and is to be considered by Committee due to a Town Council objection. Given the

similarity of the assessment of the applications it is considered appropriate to present this listed building consent application to Committee alongside the planning application.

Site Description and Location

This application relates to a three storey Grade II listed building located on the northern side of Poulton Street and within a primary shopping frontage of Kirkham town centre. The property is in the middle of a terrace of three buildings and backs onto the higher level of the Mill Street Car Park and the rear garden incorporates a steep descent from the car park level to that at the rear of the building. The current use of the premises is as a restaurant at ground floor and residential in the upper two floors.

The surrounding area is a mix of commercial units at ground floor with residential accommodation above many of them.

Details of Proposal

Listed building consent is sought for the construction of a single storey timber shelter within the rear curtilage of the premises. This is designed to provide cover for food smokers used for the preparation of food served in the restaurant. The shelter is located against the rear curtilage boundary with Mill Street car park, has a 2.6 metre high flat roof, and a ground footprint measuring 6.3 metres by 2.5 metres. It has a natural finish timber appearance.

An application for planning permission (21/0627) has been submitted relating to this development and precedes this application on the agenda

Relevant Planning History

Application No.	Development	Decision	Date
06/0232	LISTED BUILDING CONSENT FOR SINGLE STOREY REAR EXTENSIONS, PROPOSED DISABLED ACCESS IMPROVEMENTS AND BASEMENT SEATING / DINING REFURB.	Granted	28/07/2006
06/0231	PROPOSED SINGLE STOREY REAR EXTENSIONS, PROPOSED DISABLED ACCESS IMPROVEMENTS AND BASEMENT SEATING / DINING REFURB.	Granted	28/07/2006
03/0567	COVERED SEATING AREA TO REAR	Granted	06/08/2003
02/0323	RETROSPECTIVE APPLICATION FOR ADVERTISEMENT CONSENT FOR 2 NO EXTERNAL BANNER SIGNS	Granted	19/11/2002
02/0322	CHANGE OF USE OF OFFICES TO MIXED USE OF OFFICES (A2), DELICATESSEN (A1) AND ANCILLARY CAFE (A3)	Granted	05/07/2002
02/0325	LISTED BUILDING CONSENT FOR DEMOLITION OF INTERNAL WALLS ON GROUND FLOOR ONLY TO CONVERT OFFICES INTO RETAIL OUTLET	Granted	25/06/2002

Relevant Planning Appeals History

None

Parish/Town Council Observations

Kirkham Town Council notified on 06 September 2021. Whilst there has been an exchange of emails with the Town Council Clerk regarding the nature of the application, no formal comments have been received. It appears that some members of the Town Council understood that the building could be used to provide accommodation for customers wishing to smoke. In fact its use is to house 'smokers' used in food preparation at the premises.

No formal comments on the merits of the application have been received at the time of report preparation, but any that are received will be brought to Committee attention as part of the late observations report.

Statutory Consultees and Observations of Other Interested Parties

Regeneration Team (Heritage)

No comments received.

Neighbour Observations

Neighbours notified:	06 September 2021
Site Notice Date:	16 September 2021
Press Notice Date:	09 September 2021
Number of Responses	None

Relevant Planning Policy

Fylde Local Plan to 2032:

GD1	Settlement Boundaries
GD7	Achieving Good Design in Development
EC5	Vibrant Town, District and Local Centres
ENV5	Historic Environment

Other Relevant Policy:

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

Site Constraints

Listed Building

Environmental Impact Assessment

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

Comment and Analysis

The preceding planning application (21/0627) requires the consideration of the full range of planning matters. However, this application relates solely to the issues raised by the listed building legislation, which in this case is limited to the impact of the building on the setting of the listed building that it is sited in the curtilage of. This assessment is identical to that undertaken for the

related planning application and is repeated here verbatim to the content of that report.

Impact on the Listed Building – Legislative Background

The subsection to policy ENV5 relating to Listed Buildings indicates that *“Fylde’s listed buildings and their settings will be conserved and, where appropriate, enhanced. A proposed development which results in any harm to or loss of the significance of a listed building and / or its setting will be refused and only be permitted where any harm is justified by the public benefits of the proposal. Proposals will only be granted in exceptional circumstances where they can be clearly justified in accordance with national planning guidance on heritage assets.”* The subsection then sets out a series of criteria that developments affecting listed buildings and their settings should satisfy in order to demonstrate compliance with the policy.

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

In addition, Section 66 (1) of the Planning (Listed Buildings and Conservation Areas) Act 1990 requires that:

- *“In considering whether to grant planning permission for development which affects a listed building or its setting, the local planning authority or, as the case may be, the Secretary of State shall have special regard to the desirability of preserving the building or its setting or any features of special architectural or historic interest which it possesses.”*

Impact on the Listed Building – Assessment

The development for which retrospective permission is sought comprises a single storey building of timber construction sited alongside, and parallel to, the rear curtilage boundary. In this regard it pays little respect to the host building which is a townhouse scale property over three floors with a brick frontage traditional detailing. The application building is well separated from the listed building and so has no impact on that structure, but does have an impact on its setting and so there is a need to assess that in the determination of this application for planning permission and the application for listed building consent which accompanies it. Having undertaken that assessment officers are satisfied that the impact is an acceptable one, with the following reasoning supporting that view.

Firstly there is the context of the building. Planning permission (ref. 06/0231) and listed building consent (ref. 06/0232) were granted in 2006 for the construction of single storey rear extensions and formation of an outdoor seating area within the rear curtilage. These permissions have been implemented and whilst there are some minor discrepancies between the extensions as approved and extensions as built the essential form and appearance of the approved development has been implemented. Hence the timber building for which consent is now sought is viewed against the context of these relatively recent and modern appearing rear extensions and outdoor seating area.

Secondly there is the nature of its construction. As a timber building it is not of a permanent construction, and whilst there is no indication in the application that it is intended to remain on site for a temporary period, it is likely that in the longer term the building will not remain on site as the use of the building continues to evolve in the future.

Thirdly, its use is clearly designed to support the restaurant use of the premises. The hospitality

sector has seen particular challenges as a consequence of the Covid pandemic and has had to evolve to react to those challenges. This has resulted in more space being required to sit the same number of covers internally, and more use of external space for dining. The building is designed to allow some of the cooking at the site to be undertaken externally to the host building to free up space within the building, and to serve the external diners. It is also to host bulky equipment that could less readily be accommodated within the more constrained facilities of the listed building without their alteration.

Finally, the continued trading of the premises brings public benefits, both in the occupation of the building ensuring it remains in a maintained state, and in the additional to the vitality of the town centre that its occupation can only contribute positively to.

The listed building legislation set out above requires that an assessment of a proposal such as this is to be made regarding whether it is harmful, and if so the level of any harm. In this case the proposal does lead to some harm, but this is adjudged to be the 'less than substantial harm' that is set out in para 202 of NPPF. In such cases the of harm is to be weighed against the public benefits of the development. For the reasons set out above, particularly that the building supports the on-going trading from the site with a structure that leads to no harm to the building itself and limited harm to its setting, it is considered that proposal satisfies the requirements of para 202 of NPPF. This test is essentially that required by Policy ENV5 in respect of the impact of development on the setting of a listed building, and so it is officer conclusion that the impact of the development on the listed building is an acceptable one that is in accordance with local policy and national guidance despite the contrary views on that aspect of the Town Council.

Conclusions

This application relates to a timber outbuilding erected in the rear curtilage of a listed building. Having viewed the outbuilding and assessed the issues raised, it is considered that the development accords with the relevant policies of the Fylde Local Plan to 2032, and the NPPF. Accordingly, the application is recommended for approval.

Recommendation

That listed building consent be GRANTED subject to the following conditions:

1. This permission relates to the following plans:
 - Location Plan - Drawing no. 101 Rev A
 - Site Plan - Drawing no. 101 Rev A
 - Plans & Elevations - Drawing no. 101 Rev A

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

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

Application Reference: 21/0712		Type of Application: Full Planning Permission	
Applicant:	River Properties Ltd	Agent :	Creative SPARC Architects
Location:	THE CHADWICK HOTEL, 109-115 SOUTH PROMENADE, LYTHAM ST ANNES, FY8 1NP		
Proposal:	ERECTION OF SPLIT LEVEL 3-5 STOREY BLOCK OF 29 APARTMENTS WITH ASSOCIATED CAR PARKING, LANDSCAPING AND COMMUNAL FACILITIES INCLUDING FORMATION OF NEW ACCESSES OFF LIGHTBURNE AVENUE		
Ward:	FAIRHAVEN	Parish:	St Anne's on the Sea
Weeks on Hand:	19	Case Officer:	Matthew Taylor
Reason for Delay:	Awaiting Consultee replies		
Click Here for application site on Google Maps		Click here for application on FBC website	

Summary of Recommended Decision: Delegated to Approve

Summary of Officer Recommendation

The application relates to a rectangular parcel of land extending to *circa* 0.28 hectares at the junction of South Promenade and Lightburne Avenue, Lytham St Annes. The land falls within the settlement boundary identified on the Fylde Local Plan to 2032 (FLP) Policies Map and was previously occupied by the Chadwick Hotel – a three-storey building of mixed scale and design which occupied a square-shaped footprint towards the central and northern areas of the site. The hotel was demolished *circa* June 2019 pursuant to prior approval application 19/0138 and more recent works have taken place to remove the building's floor slab, foundations and perimeter boundary walls.

The site occupies a prominent, corner location amongst buildings of varying era, scale and style. Buildings fronting onto the promenade vary significantly in form, but are typically of a larger scale and follow a staggered building line with deep setbacks from the roadside. The adjacent site to the west is occupied by the split-level apartment block of Lystra Court which rises from three to five storeys where it wraps around the junction with Derbe Road. Conversely, surrounding *circa* Edwardian properties on Lightburne Avenue and the eastern stretch of South Promenade are three storeys in height and laid out to follow a more regular pattern arranged in symmetrical pairs with a consistent setback to the roadside frontage driven by a linear building line.

The application involves the construction of a split-level block of 29 apartments (4 x 1-bed and 25 x 2-bed) on the site. The apartment building would be split into a series of bays which vary between three and five storeys in height, stepping up gradually towards a corner turret on the junction as it moves away from immediately adjacent buildings on South Promenade and Lightburne Avenue. Its roof would comprise a series of staggered hips punctuated by facing gables to the South Promenade and Lightburne Avenue facades. The layout of the apartment

block would follow a staggered profile comprising a series of individual bays of broadly equal width which step out gradually towards flanking roads as they build up to the corner. The building's elevations would be heavily glazed, with windows and balconies arranged in a series of symmetrical rows with a strong vertical emphasis. Depth would be created through the use of overhanging soffits to facing gables, stepped brick piers between openings, deep window and balcony reveals and 'box' window detailing.

Externally, a total of 31 car parking spaces would be provided within two separate car parks to the front (south) and rear (northwest) of the building – each with a separate access from Lightburne Avenue. Spaces within the frontage car park would be arranged in pairs separated by strips of soft landscaping and planted borders flanking South Promenade and Lightburne Avenue. Deep landscaped borders would form an open, L-shaped garden setting wrapping around both roadside frontages to reflect the setback positions and prevailing building lines of surrounding properties on South Promenade and Lightburne Avenue.

The application site is previously developed land and falls within the settlement boundary of Lytham St Annes. The settlement of St Annes is a Key Service Centre and one of the four Strategic Locations for Development which the local plan seeks to direct development towards. There are no other designations applicable to the site and the former hotel was demolished *circa* June 2019. Accordingly, the principle of residential development on the site accords with the development strategy contained within the FLP and the St Annes on the Sea Neighbourhood Development Plan. The proposed mix of dwellings would meet an identified need for smaller units of living accommodation and a total of six homes (20% of the total) would meet optional technical standard M4(3(2a)) (wheelchair-adaptable dwellings) of the Building Regulations in order to provide specialist accommodation for the elderly in accordance with the requirements of FLP policy H2.

The scale of the proposed apartment block is substantial. In particular, the five storey section on the corner would be a prominent addition in the street scenes of both South Promenade and Lightburne Avenue from near and distant vantage points. The development's massing and visual impact would, however, be tempered by the block's stepped layout and graduating height which replicates the scale of adjacent buildings where it borders these, before building up incrementally across a series of separate, staggered bays towards the corner where it wraps around the junction to create a prominent focal point. Similar stepped arrangements and scales are evident at other apartment blocks in several locations along South Promenade, which comprises an eclectic mix of buildings that are generally of substantial scale. When seen in this wider context, the height, bulk and massing of the proposed apartment block, combined with the layout and landscaped setting in relation to flanking roads, would not appear unacceptably dominant, overpowering or incongruous. The building's roof profile and gable-faced façades would provide a modern interpretation of the Edwardian architecture which surrounds it, ensuring that it respects and assimilates with the surrounding vernacular while avoiding pastiche. The design of the building's elevations – having particular regard to its detailing, materials, architectural features and the arrangement and dressing of openings and its external areas, which would comprise superior hard landscaped surface treatments softened by generous soft landscaping – would provide a unique and bespoke development of high quality design which sits comfortably within its surroundings.

The development's relationship with surrounding buildings, having particular regard to its layout, scale, spacing and window arrangements in relation to neighbouring dwellings, would ensure that it does not appear as an unacceptably oppressive or imposing addition in the outlook of neighbouring occupiers, nor would it cause detrimental effects through

overshadowing. The interface distances achieved between proposed windows and balconies with the corresponding features of surrounding dwellings would avoid any adverse effects with respect to overlooking and would be commensurate with the general levels of privacy, amenity and mutual overlooking typical in the area and within the context of a busy coastline where buildings are prominently in view within the public domain.

A safe and suitable means of access for all users would be achieved via the two vehicle and additional pedestrian accesses from Lightburne Avenue and the level of traffic generated by the development – including when compared to the site’s previous use as a hotel – would not have a severe residual, cumulative impact on network capacity. There are no objections to the scheme from the Local Highway Authority and the recommended off-site highway works to improve local walking routes (though the introduction of additional tactile paving at crossing points) and the enhancement of the closest bus stops on Clifton Drive South (through the introduction of raised kerbs) can be secured through condition. The development’s effects on designated nature conservation sites arising from added recreational disturbance can be mitigated by condition (as recommended by Natural England) and biodiversity enhancements would be secured as part of the scheme. The site falls within flood zone 1 and so is at the lowest risk of flooding from fluvial and tidal sources. Issues concerning surface water drainage can be appropriately addressed via condition (as recommended by United Utilities and the Lead Local Flood Authority), as can further investigations relating to contaminated land.

The applicant’s submission includes a viability appraisal which concludes that the collection of any financial contributions towards affordable housing, education, healthcare and public open space would make the development unviable. However, an independent review of this appraisal undertaken by Keppie Massie suggests that the development is capable of delivering all these contributions while still remaining viable. Accordingly, the current position based on Keppie Massie’s initial review is that the development will be viable with full, policy-compliant contributions in place and so any grant of permission will be subject to the completion of a planning obligation to secure all these contributions. The applicant has, however, indicated that they intend to submit additional information to justify the construction costs contained within their appraisal (which are significantly higher and provide the main area of disagreement with the Keppie Massie appraisal) and so maintain that the collection of these financial contributions, in full, would make the development unviable.

Aside from viability, there are no other outstanding matters with the application or issues in the planning balance to indicate that the adverse impacts of granting planning permission would significantly and demonstrably outweigh the benefits. Accordingly, providing that matters concerning viability can be resolved, the proposal will represent sustainable development in accordance with the relevant policies of the St Annes on the Sea Neighbourhood Development Plan, the FLP and the provisions of the National Planning Policy Framework. Therefore, the resolution in the agenda papers is for members of the Planning Committee to delegate authority to the Head of Planning and Housing to grant planning permission subject to the completion of a S106 agreement to secure full, policy-compliant infrastructure contributions (totalling £997,297.75) unless the applicant provides sufficient additional information to demonstrate, to the satisfaction of the Head of Planning and Housing (as advised by Keppie Massie), that the collection of these contributions would make the scheme unviable.

Reason for Reporting to Committee

The application is classified as major development and the officer recommendation is for approval.

Site Description and Location

The application relates to a rectangular parcel of land extending to *circa* 0.28 hectares at the junction of South Promenade and Lightburne Avenue, Lytham St Annes. The land was previously occupied by the Chadwick Hotel – a three-storey building of mixed scale and design which occupied a square-shaped footprint towards the central and northern areas of the site. The hotel was demolished *circa* June 2019 pursuant to prior approval application 19/0138 and more recent works have taken place to remove the building's floor slab, foundations and perimeter boundary walls. As a result, the land is presently vacant and open.

The site occupies a prominent, corner location facing onto the promenade amongst buildings of varying era, scale and style. Buildings fronting onto the promenade vary significantly in form, but are typically of a larger scale and follow a staggered building line with deep setbacks from the roadside behind a mix of garden and parking courtyard frontages. The adjacent site to the west is occupied by the split-level apartment block of Lystra Court which rises from a minimum of three storeys on Derbe Road up to five storeys where it wraps around the junction to face onto South Promenade. The building's top (fifth) storey comprises a combination of dormer windows within the roof space, protruding facing gables to both road frontages and a square-shaped corner 'turret' with a hipped roof.

In contrast, buildings to the east on the opposite side of the junction (nos. 117 – 127 South Promenade), and to the north (nos. 56-58) and northeast (nos. 57-65) on Lightburne Avenue – which are also subdivided into flats – comprise lower rise, three storey *circa* Edwardian properties that are slightly elevated to the road. These buildings are smaller in scale with traditional elevations defined by protruding facing gables and bay windows, with some having formed additional accommodation in the roof space through the introduction of dormers. While those fronting South Promenade continue to follow the staggered building layout onto that highway, properties on Lightburne Avenue are laid out to follow a more regular pattern arranged in symmetrical pairs with a consistent setback to the roadside frontage driven by a linear building line which extends for the full length of the road, including around its junctions with Alexandria Drive and Clifton Drive South.

The site is relatively flat, with a slight cross fall from north to south towards South Promenade. The land falls within the settlement boundary of Lytham St Annes as defined on the Fylde Local Plan to 2032 Policies Map, but is not subject to any other site-specific land use allocations. Land on the opposite side of South Promenade comprises open greenspace and a dune system which forms part of the "Lytham Foreshore Dunes and Saltmarsh" Biological Heritage Site. Beyond this is the Ribble & Alt Estuaries Ramsar site, Special Protection Area (SPA) and Site of Special Scientific Interest (SSSI).

Details of Proposal

The application seeks full planning permission for the construction of a split-level block of 29 apartments. The apartments include a mix of 4 x 1-bed and 25 x 2-bed dwellings, with 6 of the units designed to meet optional technical standard M4(3(2a)) (wheelchair-adaptable dwellings) of the Building Regulations. All of the dwellings would be market properties, as no on-site affordable housing is proposed.

The building would occupy an L-shaped footprint comprising separate rectangular sections flanking

Lightburne Avenue (spanning 41m in length) and South Promenade (spanning 32.4m in length). The section running north-south flanking Lightburne Avenue would be narrower (at a maximum depth of 14.5m), with that running east-west flanking South Promenade measuring up to 17.1m in depth at its widest point. Both façades would be composed of distinct, separate sections which step out gradually as they travel towards the junction of the two roads.

The building would be set back from both roads to sit centrally within the site in a similar manner to the former Chadwick Hotel. To the east side, the elevation flanking Lightburne Avenue would maintain a gap ranging between 7.3m (at its southern end) and 9.1m (at its northern tip) in depth with the edge of the footway which would comprise landscaped gardens and a hardstanding forecourt approaching the main entrance in the southeast corner. To the south, the elevation flanking South Promenade would be set back a minimum of 21m (at its western end) and a maximum of 23m (at its eastern end) from the footway, with the frontage comprising a 20-space car park bordered by perimeter planting. The rear elevations of the building would face onto a shared courtyard in the northwest corner containing a further 11 car parking spaces and bin/bike store within a single storey, flat-roofed brick outbuilding.

The apartment block would step up from a minimum of three to a maximum of five storeys in height. On the Lightburne Avenue side a three-storey section reaching 8.8m to eaves and 11.8m to ridge would flank the southern side of the existing flats at no. 58. This would step up to a wider four storey section (11.8m to eaves and 14.8m to ridge) which would then adjoin a five storey element (14.8m to eaves and 17.8m to ridge) wrapping around the junction. The fifth storey includes a mix of rooms in the roof below eaves level and a taller facing gable on the corner which is repeated on the South Promenade elevation. The elevation facing South Promenade would step up from four storeys adjacent to Lystra Court to five storeys on the corner – again, with rooms in the roof stepping up to a gabled corner turret. Each step up in the roof would be marked by a hipped end where the ridge of the lower section joins the eaves of the taller flank wall.

The building's elevations would be split into a series of separate bays – four to the South Promenade elevation and five to the Lightburne Avenue elevation. With the exception of the flush roof-level rooms in the lower section of the fifth storey, each bay would be punctuated by a facing gable within the roof space. While those to the South Promenade elevation would measure the full width of each bay, the facing gables to the three and four storey sections on the Lightburne Avenue façade would be narrower (approximately half the width of the bay) with recessive rows of windows set back alongside to separate them. The corner turret on the junction would present equal-width facing gables to both streets where the building turns the corner. Window openings would have a strong vertical emphasis with narrower, floor-to-ceiling windows set alongside wider balconies to both front elevations. No balconies are proposed to the rear elevations facing the courtyard, with these comprising vertical windows only. The principal materials to the elevations include red brick to the external walls, a dark grey standing seam roof in zinc (or similar), with dark grey aluminium windows and dressings in a mix of corbelled brickwork, timber and metal cladding.

Two separate points of vehicle access to each car park are proposed from Lightburne Avenue to the southeast and northeast corners of the site. The width of both accesses would allow two-way vehicle movements in and out, with the north-easterly access enclosed with pedestrian and vehicle gates set back 10m from the entrance onto Lightburne Avenue. The car park to the promenade frontage would be finished in charcoal block paving, with the parking spaces to the rear courtyard distinguished from a tarmac internal access road through the use of block paving in silver grey. Internal pathways and the main entrance forecourt would be surfaced in silver grey paving slabs.

Relevant Planning History

Application No.	Development	Decision	Date
19/0138	PRIOR APPROVAL FOR DEMOLITION OF ALL EXISTING BUILDINGS ON THE SITE PURSUANT TO SCHEDULE 2, PART 11 OF THE TOWN AND COUNTRY PLANNING (GENERAL PERMITTED DEVELOPMENT) (ENGLAND) ORDER 2015	Prior Approval is not required	12/03/2019

Relevant Planning Appeals History

Application No.	Development	Decision	Date
89/0789	SECOND FLOOR EXTENSION	Allowed	26/10/1990

Extensive earlier planning history entirely associated with alterations to hotel building that has now been demolished.

Parish/Town Council Observations

St Annes on the Sea Town Council – Notified of the application on 03.08.21 and commented 17.08.21 as follows:

- The applicant is encouraged to investigate and implement appropriate measures to provide renewable energy, to maximise energy efficiency, and to incorporate water recycling technology into the development wherever possible.
- The site has been vacant for some time now and the plan appears to provide good quality accommodation, would count towards our new housing needs and would hopefully include a S106 contribution.
- Ground floor layout plan appears to exceed building line on Lightburne Avenue.

Statutory Consultees and Observations of Other Interested Parties

Environmental Protection (FBC) – No objections. Comments as follows:

- **Contaminated land** – The Phase I desk study should be followed by a Phase II ground investigation. Should this reveal contamination it must be followed by a Phase II remediation statement and Phase IV validation report.
- **Noise** – The dwellings should be designed so that noise levels at each dwelling does not exceed the levels within British Standard 8233 (2014) and WHO guidelines.
- **Construction period** – No development should take place until a Construction Environmental Management Plan (CEMP) has been submitted to set out how effects from dust, noise, vibration, lighting and traffic are to be minimised during the construction period.

Fylde and Wyre CCG – No objections. Comments as follows:

- The CCG has assessed the implications of this proposal on delivery of general practice services and is of the opinion that it will have a direct impact which will require mitigation with the payment of an appropriate financial contribution.
- The proposed dwelling mix is estimated to generate 56 additional GP patient registrations. The proposed development falls within the catchment area of St Annes Primary Care Centre (the Primary care centre is located less than 1.2 miles from the development and would therefore be the practice where the majority of the new residents register for general medical services). This need, with other new developments in the area, can only be met through the

reconfiguration of the existing premises in order to ensure sustainable general practice. In turn, a contribution of £7,016 is required towards the reconfiguration of St Annes Primary Care Centre.

- It is however important to note that general practice capacity would need to be created in advance of the growth in population so that both the infrastructure and workforce are in place. We would therefore be seeking the trigger of any healthcare contribution to be linked to commencement of development.

Greater Manchester Ecology Unit – No objections. Comments as follows:

- The contents of the shadow HRA provided by Envirotech and the comments of Natural England (26 August 2021) are noted. GMEU have nothing further to add assuming that prior to first usage of the new apartments that the details of the homeowners pack are provided and agreed with the LPA. This can be secured via condition

Lancashire Fire and Rescue Service - No objections. Comments as follows:

- It should be ensured that the scheme fully meets all the requirements of Building Regulations Approved Document B, Part B5 'Access and facilities for the Fire Service'.
- It should be ensured that the proposal is provided with suitable provision of Fire Fighting water. Any provisions should comply with National Guidance.

LCC Education – No objections. Comments as follows:

- **Primary School Places** – There are 6 primary schools located within a 2 mile radius of the site. It is estimated that 196 places will be available in these schools in 5 years' time. There are also pending applications expected to generate demand for a further 154 school places. However, with an expected pupil yield of 2 places arising from this development, LCC would not be seeking a contribution from the developer in respect of primary places.
- **Secondary School Places** – There are 2 secondary schools located within a 3 mile radius of the site. It is estimated that there will be a shortfall of 329 places in these schools in 5 years' time. With an expected yield of 1 place from this development the shortfall would increase to 330. Accordingly, LCC will be seeking a contribution towards the delivery of 1 secondary school place as part of this development. Based on current rates this contribution would be £23,061.75.

An updated assessment dated 18.11.21 reiterates the need for the same level of contribution to secure the delivery of 1 secondary school place as part of the development, while also identifying the project where this contribution is to be spent as follows:

- "Lancashire County Council intend to use the secondary education contribution to provide an additional secondary place at Lytham St Annes High School or Baines School. These are the closest secondary schools to the development that have space to accommodate an expansion."

Officer note: The Schools Planning Team's latest response identifies the potential for the secondary education contribution to be spent at two different schools. It has been clarified by LCC that the second named school ("Baines School") is included as a contingency project. It is, however, noted that "Baines School" (located in Poulton-Le-Fylde) is not identified as a school being located within a 3 mile radius of the site and, in turn, the number of places available within this school has not been factored in to the calculation of projected places available in 5 years' time. Instead, that projection (and the associated shortfall) has been calculated only in relation to the number of places available at Lytham St Annes High School and St Bede's Catholic High School (the only schools within the 3 mile radius). Moreover, given the distance between the site and Baines School, it is considered that there is little reasonable prospect of any future occupiers of this development attending that school.

Given the above it is considered that, in order meet the tests where planning obligations can be sought as set out in the CIL Regulations and paragraph 57 of the NPPF – having particular regard to the requirement for these to be “directly related to the development” – the secondary education contribution should be spent at Lytham St Annes High School and it would be inappropriate to name “Baines School” as a contingency project.

LCC Highways – No objections. Comments as follows:

- **Accessibility and sustainable travel** – The site situated within an urban setting and as such has good sustainable travel links with bus stops to the north on Clifton Drive South approximately 330m away. The route to these bus stops is direct along Lightburne Avenue and the footways are in a reasonable condition. The route does not contain any tactile paving to assist users with wayfinding, which could be a barrier to sustainable travel.
- **Pedestrian access and tactile paving** – To access public transport pedestrian traffic from the proposed development would most likely travel along the footpath on the western side of Lightburne Avenue, which travels north approximately 125 metres to its intersection with Alexandria Drive. From here pedestrians would cross the road to carry on along Lightburne Avenue approximately 154 metres until reaching the junction with Clifton Drive South. Pedestrians wishing to travel towards St Annes-on-the-Sea would turn left and walk approximately 50 metres to the established bus shelter and stop. Pedestrians wishing to travel towards Lytham would need to cross to the northern side of the junction via an established pedestrian refuge island to the east and then walk westwards to the established bus shelter and stop, for the return leg those that alighted from the bus stop on the northern side of Clifton Drive South would likely return to the site via the eastern side of Lightburne Avenue. As there is currently no tactile provision it may be difficult to identify walking routes and thus making sustainable travel less attractive. Should pedestrian traffic generated by the development wish to travel along the coast front towards St Annes-on-the-Sea, there is an existing pedestrian refuge island approximately 120 metres to the North-West. This assists with crossing to the more scenic southern side of South Promenade and crossing back onto the northern side on a return journey. As there is currently no tactile provision it may be difficult to identify walking routes and thus making sustainable travel less attractive. As promoting sustainable travel is a requirement under NPPF for all developments it is reasoned that provision of tactile paving would be needed for the proposals to meet the requirements under NPPF.
- **Bus stops** – The existing bus shelters whilst of an older nature are deemed to be acceptable and serve the needs of pedestrian traffic from the site. The current kerbing at both bus stops do not meet the requirements as required by the Equality Act 2010 and would not help in promoting sustainable travel as required by the NPPF. As such the enhancing of the existing bus stop to meet the Equality Act 2010 requirements would need to be provided for by the development.
- **Parking** – As the site is in a sustainable location the level of provision in terms of parking is deemed acceptable.
- **Access** – To achieve the site access for parking, two site accesses are proposed onto Lightburne Avenue which would require tactile paving provision.
- **Summary and conditions** – There are no highway objections to this proposal subject to the following conditions: i) laying out of the car parking and manoeuvring areas for the development to a suitable specification before the apartments are first occupied; ii) a scheme of off-site highway works comprising the provision of tactile paving including any associated local kerbing works and the installation of quality bus stop kerbing is required; iii) the submission of a traffic management plan to control traffic movements at the site during the construction period is required.

Lead Local Flood Authority (LLFA) – No objections. Comments as follows:

- The Lead Local Flood Authority has no objection to the proposed development subject to the inclusion of the following conditions, in consultation with the Lead Local Flood Authority: i) the submission of a final sustainable surface water drainage strategy for the development based upon sustainable drainage principles and requirements set out in the National Planning Policy Framework, Planning Practice Guidance and Defra Technical Standards for Sustainable Drainage Systems; ii) a construction phase surface water management plan containing details of how surface water and pollution prevention will be managed during the construction phase; iii) an operation and maintenance plan and verification report of the constructed sustainable drainage system.

National Air Traffic Services (NATS) – The proposed development has been examined from a technical safeguarding aspect and does not conflict with NATS' safeguarding criteria. Accordingly, NATS has no safeguarding objection to the proposal.

Natural England – No objection subject to appropriate mitigation being secured. Comments as follows:

- The application site is within 400m from Ribble and Alt Estuaries SPA and Ramsar. These sites are afforded protection under The Conservation of Species and Habitats Regulations 2017 (as amended) "Habitats Regulations."
- Natural England notes that the Habitats Regulations Assessment (HRA) has not been produced by your authority, but by the applicant. As competent authority, it is your responsibility to produce the HRA and be accountable for its conclusions. We provide the advice enclosed on the assumption that your authority intends to adopt this HRA to fulfil your duty as competent authority. The appropriate assessment concludes that your authority is able to ascertain that the proposal will not result in adverse effects on the integrity of any of the sites in question. Having considered the assessment, and the measures proposed to mitigate for all identified adverse effects that could potentially occur as a result of the proposal, Natural England advises that we concur with the assessment conclusions, providing that all mitigation measures are appropriately secured in any planning permission given.
- Without appropriate mitigation the development would have an adverse effect on the integrity of Ribble and Alt Estuaries Special Protection Area (SPA), Ribble and Alt Estuaries Ramsar site and damage the interest features for which Ribble Estuary Site of Special Scientific Interest (SSSI) has been notified.
- In order to mitigate these adverse effects and make the development acceptable, the provision of an advisory homeowner pack explaining the sensitivities of the nearby designated sites and include a 'responsible user code' is required. An appropriate planning condition or obligation should be attached to any planning permission to secure this measure.
- Our concerns regarding the potential impacts upon the Ribble Estuary SSSI coincide with our concerns regarding the potential impacts upon the international designated sites, therefore we are content that providing the application is undertaken in strict accordance with the details submitted and providing the above conditions are secured, the development is not likely to damage the interest features for which the site has been notified.

United Utilities – Comments as follows:

- In accordance with the National Planning Policy Framework (NPPF) and the National Planning Practice Guidance (NPPG), the site should be drained on a separate system with foul water draining to the public sewer and surface water draining in the most sustainable way.
- Having reviewed the proposed drainage strategy layout (dwg ref: 9171-HBL-XX-XX-SK-D-0004, rev. P01 - dated: June 2021), we note foul and surface water flows are proposed to discharge

into the 225mm public combined sewer located to the West of the proposed site, with surface water flows restricted to 2 l/s. In the absence of sufficient evidence demonstrating how all other more sustainable surface water drainage solutions have been explored and exhausted, we request the following drainage condition is attached to any subsequent approval to reflect the approach detailed above: i) the submission of a surface water drainage scheme which includes an investigation of the hierarchy of drainage options in the National Planning Practice Guidance (or any subsequent amendment thereof). This investigation shall include evidence of an assessment of ground conditions and the potential for infiltration of surface water. The approved scheme shall also be in accordance with the Non-Statutory Technical Standards for Sustainable Drainage Systems (March 2015) or any subsequent replacement national standards.

Neighbour Observations

Neighbours notified:	3 August 2021
Site notice posted:	10 August 2021
Press notice:	5 August 2021
Amended plans notified:	N/A
No. Of Responses Received:	8
Nature of comments made:	8 objections

The appropriate neighbouring properties were notified of the application by letter on 3 August 2021. In addition, as the application involves major development notices have also been posted on site and in the local press. A total of 8 letters have been received in objection to the application. The points made in the letters are summarised as follows:

Highways:

- The proposal includes the introduction of two new vehicle accesses onto Lightburne Avenue whereas the former hotel operated a one-way access system onto South Promenade via two separate crossings onto that road. The proposed access arrangements would increase the amount of traffic on Lightburne Avenue, lead to added conflicts with the occupiers of surrounding dwellings who also use that road for access and parking, and is unsafe due to the limited visibility available when exiting onto Lightburne Avenue due to the cars which will park on either side of these accesses. Therefore, the risk of an accident is much higher than if the access points to at least one of the car parks were positioned on South Promenade where no on-street parking is allowed on the north side and the road is wider.
- Plenty of other apartment buildings along South Promenade have their vehicle entrances on South Promenade and there do not seem to be safety concerns with these. Therefore, the means of access to this development should also be via South Promenade rather than Lightburne Avenue, as was the case with the former hotel.
- The estate agent's brochure states that "parking for at least 2 cars with each apartment will be a necessity". However, the proposal only includes 1 parking space for each apartment. This insufficient level of parking provision would result in future residents and their visitors parking on surrounding streets, thus increasing the demand for on-street parking in an area that is already saturated, especially during tourist season.

Amenity impacts:

- The five storey high section of the building on the corner facing Lightburne Avenue includes balconies and several windows which will overlook the windows and outdoor amenity areas (including balconies) of lower-level neighbouring dwellings on the opposite side of Lightburne Avenue and the junction with South Promenade (especially nos. 117 and 119 South

Promenade) from an elevated vantage point. This would have a harmful impact on the privacy of existing occupiers.

- The size and amount of floor-to-ceiling glazing and balconies in the elevations would result in a complete loss of privacy to surrounding occupiers and would result in a need to keep blinds closed to avoid overlooking, thus also limiting natural light.
- The scale of the building and its relationship with Lystra Court would result in a loss of views and daylight from apartments within the neighbouring building.

Character and appearance:

- The height and massing of the proposed building is excessive in relation to surrounding buildings and would dominate the junction and skyline. The building will not co-exist sympathetically with its surroundings and will stand out as a negative addition to the area. There has been no attempt to blend it in with its surroundings in terms of size and appearance. It looks like a huge eyesore.
- The excessive scale and massing of the development will loom over existing homes and is significantly larger than the adjacent Lystra Court, which is already a large building. While the tiered design takes account of nos. 56 and 58 Lightburne Avenue by dropping down to three storeys alongside those properties, it then steps up to five storeys on the corner alongside nos. 117 and 119 South Promenade, thus dwarfing those neighbouring three storey buildings.
- The size of the building results in it exceeding the current building line on Lightburne Avenue.
- The proposed development fails to sympathise with the character and architecture of the Victorian and Edwardian buildings which surround it. The development will cause harm to the wider Promenade and erode its character. This has already happened in several other instances along the Promenade historically, which has resulted in a loss of heritage value.
- The proposed design simply seeks to replicate that of other similarly large, poorly-designed apartment blocks that have been constructed along the promenade and is a missed opportunity to showcase something of outstanding architectural beauty and elegance.

Housing mix:

- The development fails to include any provision or the delivery of low-cost housing in the borough. The Council should ensure that this is part of the scheme.

Other matters:

- The new sea defences currently planned will not protect this part of the promenade and the sand dunes are practically non-existent due to previous alterations to the dune system. The old lifeboat ramp also appears to give easy access for a future excessive tide. The developer should be required to replenish the dune system as a means of providing coastal defence for this scheme and the wider area.
- The noise, dust and vibration generated during the construction period would harm the living conditions of surrounding occupiers and could also cause structural damage to surrounding properties due to the need for piling of foundations. This has already occurred during the recent demolition works. Vibration levels should be monitored during the construction period to check for incidences of land movement and dampening down is required to limit dust emissions.
- If there is damage to local buildings due to the building work then the builders/owners should be responsible for any repairs required.
- The development will de-value surrounding properties. There should be financial compensation for this given to affected residents.

Relevant Planning Policy

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

The Fylde Local Plan to 2032 (the 'FLP') was formally adopted by the Council at its meeting on Monday 22 October 2018 as the statutory, adopted development plan for the Borough. Therefore, the FLP should guide decision taking for the purposes of paragraph 38 (6) of the Planning and Compulsory Purchase Act 2004 and paragraph 2 of the National Planning Policy Framework. In addition, as the site also falls within the boundaries of the Saint Anne's on the Sea Neighbourhood Development Plan (SANDP), the Neighbourhood Plan is also part of the statutory Development Plan.

The Council submitted a Partial Review of the FLP (the 'PRFLP') to the Secretary of State for Examination on 21 October 2020. The PRFLP does not seek to delete or add new policies to the existing FLP. It is, instead, concerned principally with matters relating to re-calculating housing need and amending the wording of existing policies to bring these in alignment with the latest (2021) version of the National Planning Policy Framework. In particular, the PRFLP contains modifications to the wording of policies DLF1, GD4, GD7, EC5, H1, H6, ENV1, ENV2 and ENV3, and/or the reasoned justification for those policies.

The Council received the Inspector's report on the examination of the PRFLP on 21 October 2021. Paragraph 57 of the Inspector's report confirms that "with the recommended main modifications set out in the Appendix the Partial Review of the Fylde Local Plan to 2032 satisfies the requirements referred to in Section 20(5)(a) of the 2004 Act and is sound". Accordingly, as the emerging PRFLP has been found sound following examination, it is at a very advanced stage and so can be given significant weight in planning decisions in accordance with paragraph 48 of the NPPF (albeit that it will not attract full weight as part of the development plan until it is formally adopted by the Council).

Fylde Local Plan to 2032 (FLP) and Partial Review Fylde Local Plan to 2032 (PRFLP):

S1	The Proposed Settlement Hierarchy
DLF1	Development Locations for Fylde
GD1	Settlement Boundaries
GD7	Achieving Good Design in Development
GD9	Contaminated Land
H1	Housing Delivery and the Allocation of Housing Land
H2	Density and Mix of New Residential Development
H4	Affordable Housing
HW1	Health and Wellbeing
INF2	Developer Contributions
T4	Enhancing Sustainable Transport Choice
T5	Parking Standards
CL1	Flood Alleviation, Water Quality and Water Efficiency
CL2	Surface Water Run-Off and Sustainable Drainage
ENV1	Landscape
ENV2	Biodiversity
ENV4	Provision of New Open Space

St Annes on the Sea Neighbourhood Development Plan (SANDP):

GP1 – Settlement boundary
DH1 – Creating a distinctive St Anne's
TR3 – Residential car parking
HOU1 – Housing development
HOU4 – Residential design
DEL1 – Developer contributions

Other Relevant Policy:

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

Other relevant guidance:

Affordable Housing Supplementary Planning Document
Extending Your Home Supplementary Planning Document
Building for a Healthy Life
National Design Guide
National Model Design Code

Environmental Impact Assessment

The development is of a type listed within Schedule 2 of the Town and Country Planning (Environmental Impact Assessment) Regulations 2017, but does not exceed the threshold in Column 2 of the table relating to category 10(b) developments. Therefore, it is not Schedule 2 development for the purposes of the Regulations and, accordingly, is not EIA development.

Comment and Analysis

Policy context and main issues:

As outlined in paragraphs 10 and 11 of the NPPF, at the heart of the Framework is a presumption in favour of sustainable development. In terms of decision taking, subparagraphs c) and d) of paragraph 11 indicate that this means:

- c) approving development proposals that accord with and up-to-date development plan without delay; or
- d) where there are no relevant development plan policies, or the policies which are most important for determining the application are out-of-date, granting permission unless:
 - i. The application of policies in the Framework that protect areas or assets of particular importance provides a clear reason for refusing the development proposed; or
 - ii. Any adverse impacts of doing so would significantly and demonstrably outweigh the benefits, when assessed against the policies in the Framework taken as a whole.

Paragraph 12 of the NPPF makes clear that “the presumption in favour of sustainable development does not change the statutory status of the development plan as the starting point for decision making. Where a planning application conflicts with an up-to-date development plan (including any neighbourhood plans that form part of the development plan), permission should not usually be granted. Local planning authorities may take decisions that depart from an up-to-date development plan, but only if material considerations in a particular case indicate that the plan should not be followed.”

Given the site's designation in the local plan and the comments received in public representations and from statutory consultees, the main issues for consideration in the application relate to:

- The principle of residential development on the site and whether it is a suitable location for housing.
- The scheme's effects on the character and appearance of the area.
- The development's impact on the amenity of surrounding occupiers.
- The scheme's effects on highway safety.
- Whether the proposal makes appropriate infrastructure contributions as required by the development plan and, if not, whether there are sufficient grounds to allow an exemption from these contributions on viability grounds.
- Other relevant matters including those relating to the mix of housing provided and the development's effects in respect of contamination, flood risk and ecology.

Each of these issues is addressed in turn below.

Principle of development:

The site falls within the settlement boundary of Lytham St Annes as identified on the FLP Policies Map. As it was, until recently, occupied by a permanent structure and associated fixed surface infrastructure whose remains have not yet blended into the landscape, it is also considered to be "previously developed land" for the purposes of the definition in Annex 2 of the NPPF. FLP policy GD1 and SANDP policies GP1 and HOU1 are permissive of schemes for residential development on sites within settlement boundaries providing that these comply with all other relevant local and neighbourhood plan policies. In particular, SANDP policy HOU1 states that housing development on previously developed land and land within the settlement boundary will be positively supported subject to other development plan policies being satisfied.

Paragraph 60 of the NPPF sets out the Government's objective of "significantly boosting the supply of homes". FLP policy H1 identifies a minimum housing requirement of 415 net homes per annum across the plan period (up to 2032), though this figure is reduced to "305 net homes per annum for the period 2019-2032" in the PRFLP. FLP Policy DLF1 indicates that the local plan will provide sites for a minimum of 8715 new homes over the plan period (reduced to a figure of 7275 in the PRFLP) in accordance with a development strategy which follows the four-tier settlement hierarchy set out in policy S1. FLP policy S1 identifies St Annes as a "Key Service Centre" sitting at the top of the settlement hierarchy and policy DLF1 identifies Lytham and St Annes as one of four "Strategic Locations for Development". Policy DLF1 indicates that 90% of new homes delivered over the plan period will be located in the four Strategic Locations for Development (SLD).

Both FLP and PRFLP policy H1 c) stipulates that the Council will provide for and manage the delivery of new housing by "ensuring there is enough deliverable land suitable for house building capable of providing a continuous 5 year supply calculated using the "Liverpool" method from the start of each annual monitoring period and in locations that are in line with the Policy DLF1".

The application site comprises an area of previously developed land located within the settlement boundary and within the "Lytham and St Annes" SLD. Therefore, the principle of residential development on the site is wholly in accordance with the development strategy set out in the FLP and SANDP. As a result, the remainder of this report is focussed on matters relating to impacts arising from the scheme's detailed design in order to assess its compliance with other relevant policies of the development plan.

Character and appearance:

SANDP policy DH1 states that “all development must be of a high quality of design and must be appropriate and sympathetic to the character of the town and its neighbourhoods”. The policy goes on to indicate that “development should create pleasant places to live and work and take into account surrounding scale, density, layout and car parking, as well as achieving high visual standards.”

Alongside this, policy HOU4 stipulates that “all new residential development must be designed in accordance with the principles set out in a separate Design Guide SPD.” Policy HOU4 also requires that applications for major developments involving over 25 dwellings should be “accompanied by an illustrative masterplan showing the layout and distribution of housing and other uses, proposed vehicular access arrangements, open space, recreation and green infrastructure provision, landscaping, relationship with existing development, proposed pedestrian, cycling linkages to adjoining neighbourhoods and networks, and response to climate change in terms of micro-climate and seaside location.”

FLP policy GD7 requires that development proposals demonstrate a high standard of design, taking account of the character and appearance of the local area, in accordance with 15 guiding principles (a – o). The PRFLP introduces additional criterion p) which requires developments to “[ensure] that the quality of approved development is not materially diminished between permission and completion”, though this is not of direct relevance in this case.

FLP policy H2 indicates that developments will be expected to make efficient use of land, whilst avoiding detrimental impact on the amenity, character, appearance, distinctiveness and environmental quality of the surrounding area. It is expected that this will normally result in a minimum net residential density of 30 homes per hectare. The policy goes on to state that high density development should be very carefully designed to relate well to its surroundings, be orientated towards and have principal entrances facing towards the street, and should include sufficient usable amenity space to provide for the needs of residents

FLP policy ENV1 requires development to have regard to its visual impact within its landscape context and type, and for an assessment to be made as to whether it is appropriate to the landscape character, amenity and tranquillity of the area within which it is situated. Criteria a) – e) of the policy require, where necessary, that developments conserve existing landscape features and provide suitable compensation and/or strengthening of landscape planting.

Paragraph 130 of the NPPF sets out six general principles of good design (a – f) and paragraph 133 indicates that local planning authorities should make use of “tools and processes for assessing and improving the design of development [including] assessment frameworks such as Building for a Healthy Life” (BHL). Paragraph 134 of the NPPF indicates that “development that is not well designed should be refused, especially where it fails to reflect local design policies and government guidance on design [contained in the National Design Guide and National Model Design Code]” (the NDG and NMDC).

BHL includes specific guidance for the design of apartment buildings and the NMDC also includes a section concerning design principles for “tall buildings”. Although no definition of a “tall building” is given in the NMDC (e.g. by reference to specific dimensions) it is considered that, in this case, the proposed development can reasonably be considered to represent a “tall building” within its context. Where relevant, specific parts of BHL and the NMDC are referred to in each subsection below.

Density:

The proposed development would deliver 29 dwellings across a *circa* 0.28 hectare site, resulting in a net residential density of 104 dwellings per hectare (dph). While this significantly exceeds the “normal” target of 30 dph in policy H2, it should be noted that this target is expressed as a “minimum net residential density” and the policy makes provision for higher densities to be permitted depending on site-specific circumstances in line with the objectives in paragraphs 124 and 125 of the NPPF which encourage developments to make efficient use of land while maintaining an area’s prevailing character and securing well-designed, attractive and healthy places.

In this case, as the proposed development involves the construction of an apartment block rather than dwellings contained in separate, individual buildings, the density will naturally be high. This is, however, a common characteristic along the wider frontage of South Promenade, which is typically characterised by larger scale apartment buildings delivering higher density developments fronting the coastline. In this context, the principle of locating an apartment block with a higher housing density on the site would not be at odds with the area’s prevailing character. The key issue relating to the development’s density is, therefore, less to do with a quantitative assessment of the number of dph and, instead, more closely related to how a development of this density is designed to assimilate with its surroundings. In this respect, FLP policy H2 states that “high density development should be very carefully designed to relate well to its surroundings, be orientated towards and have principal entrances facing towards the street, and should include sufficient usable amenity space to provide for the needs of residents.”

Layout:

The apartment building would follow an L-shaped footprint comprising separate rectangular sections flanking Lightburne Avenue to the east and South Promenade to the south. The building’s frontage includes a combination of soft landscaped gardens and parking areas providing open buffers to the roadside and a second car park would be located to the rear (northwest) of the block.

The building frontage onto South Promenade follows a staggered pattern from west to east, reflecting the curvature of the road. In the immediate vicinity of the site – between the junctions of South Promenade with Fairhaven Road and Cartmell Road – there is consistent stagger across groups of buildings where those to the east step out in front of the preceding, adjacent building to the west. The existing apartment block at Lystra Court provides a particularly prominent example of this arrangement where approximately two-thirds of its elevation facing Derbe Road steps out from the front of Vernon Lodge on the opposite side of the junction. Despite the staggered building layout along South Promenade, there is a broad consistency in the setting of buildings to the roadside which ensures generous, open spaces to their frontages and buildings set back from the highway.

The building line on Lightburne Avenue is, in comparison, much more regimented with properties laid out to follow a straight, linear pattern with garden frontages of equal (*circa* 8.9m, excluding bay windows) depth facing the highway and extending up to the junction with Clifton Drive South. It is, however, also the case that many property frontages on Lightburne Avenue have been paved over to create driveways between wide gaps in front boundary walls which has somewhat compromised the sense of openness to the street. Where buildings on South Promenade wrap around junctions with side streets running at right angles, it is also common for the elevations facing these side streets to be articulated by protruding features such as bay windows, balconies and corner turrets that step out marginally from the prevailing building line. This is the case, for example, at Vernon Lodge, Lystra Court and no. 117 South Promenade and, moreover, was also apparent with respect to flat and mansard roofed additions at the rear of Chadwick Hotel which stepped out from the eastern gable of

the original building.

Section B.2.ii of the NMDC relates to building lines and states that “the building line is created by the primary front face of buildings along a street and is a key element of design codes. New development should follow the established building line where it exists”. However, the NMDC also indicates that coding for building lines should account for:

3. “Variation: The extent to which buildings can be set forward or back from the line.
4. Projections: Allowance for elements such as balconies.
 - Compliance: The percentage of the building line that should be occupied by development.
 - Set-Back: The distance that buildings are set back from the pavement.”

Consideration 7 of BHL (well defined streets and spaces) also advises that “haphazard building lines” should be avoided.

Objectors opine that the Lightburne Avenue façade of the apartment block would exceed the existing building line along the street. Similar observations are made by the Town Council. While it is true that some parts of the building’s main eastern elevation would protrude beyond the linear building line on Lightburne Avenue, it is equally the case that other elements would be set both behind and in alignment with the same building line. Moreover, the elements of the building which do protrude beyond the building line include narrower balconies which step forward for a limited depth beyond the main wall behind. The exception to this is the five storey corner turret on the junction, which steps forward up to *circa* 1.6m from the building line at the front of nos. 56-58 Lightburne Avenue (excluding the bay windows to the front of those properties). In contrast, the northern two-thirds of the building (which provide the three and four storey bays onto Lightburne Avenue) are set back *circa* 9.1m and 8.8m from the roadside.

Therefore, while it is the case that the five storey turret to the southeast corner of the building would exceed the linear building line that extends across the front of properties on the west side of Lightburne Avenue to create consistent garden frontages to those properties, the harm arising from this would be limited and tempered by the following factors:

- The corner turret measures approximately 8.3m in width and steps out approximately 1.6m from the building line. When seen in the context of a façade which measures a total of 41m in length, follows a stepped profile in both layout and height and comprises a series of other protruding features alongside, the turret’s 1.6m breach of the building line is marginal and would not be immediately distinguishable. Certainly, it could not be considered to result in a “haphazard” interruption to the building line when taken in the context of the elevation as a whole.
- The turret is located to the southeast corner of the Lightburne Avenue façade. This is the point which is the furthest distance away from the edge of the closest existing dwelling at 58 Lightburne Avenue. It is also the point where other buildings wrapping around side-street junctions off South Promenade build up to junctions and include corner features that, similarly, step out from the linear building lines of those streets running perpendicular (e.g. at Vernon Lodge, Lystra Court and no. 117 South Promenade).
- The retained buffer strip to the east side of the building (measuring between 9.1m at the northern end and 7.3m at the southern end) would, save for the two accesses and hardstanding forecourt outside the main entrance, be occupied by soft landscaping which would add a softening, garden-fronted setting to the Lightburne Avenue elevation rather than the hardstanding driveways that disrupt the openness of many front gardens to the west side of the highway.

The above factors, taken in combination, would ensure that the building’s layout in relation to

Lightburne Avenue, while resulting in a modest and partial exceedance of the existing building line, would not result in an unacceptable narrowing of the street on the junction.

To South Promenade, the building's façade would be split into four individual bays, each of which step out 1.5m from the preceding section running from west to east across the elevation. The depth of the retained frontage to the south of the building would vary between a minimum of 21m at the western end up to 23m at the eastern end. For comparison, the South Promenade frontage to Lystra Court varies between approximately 16.6m and 24.6m in depth. The siting and stepped profile of the building's South Promenade elevation follows the curved profile of the southern boundary which becomes deeper as it approaches the junction with Lightburne Avenue. The elevation has been arranged to follow the staggered pattern of surrounding buildings along the South Promenade frontage to sit broadly halfway between the inner building line at the front of Lystra Court to the west and the outer building line of no. 117 South Promenade to the east, with the steps between the bays extending out from the narrowest (western) to the deepest (eastern) part of the site. This approach replicates the staggered building line between Fairhaven Road and Cartmell Road and the stepped profile of the façade ensures a gradual and incremental building out towards the junction which avoids the full length of the building's wall stepping out as a single, continuous massing from the side of Lystra Court. Importantly, the buffer retained between the front of the building and the highway to the south replicates the deep, open frontages and setback elevations which are a prominent and cohesive characteristic of built development along the promenade.

Scale:

The apartment block would follow a split-level arrangement of storey heights, rising from a minimum of three to a maximum of five storeys. The configuration of these storeys would also vary across the building's elevations with respect to the design and massing of individual bays – particularly between the South Promenade and Lightburne Avenue elevations. Nevertheless, the common principle across both elevations involves stepping the height of the building up in stages towards the corner turret on the junction.

The elevation to South Promenade comprises a total of four bays split across two four storey (adjacent to Lystra Court) and two five storey (on the southeast corner) sections. While the eaves of the four storey bays would be approximately 1m taller than Lystra Court, their ridgeline would be set 0.45m below the ridge of the adjacent building. The two five storey bays to the corner would step up to an eaves height in line with the ridge of Lystra Court and a ridge height 2.55m taller. The scale of the western five storey bay would be reduced by containing windows below eaves level, whereas the eastern bay forming the southern half of the turret would comprise a bulkier facing gable. The ridgeline of the five storey bays would be set 4.15m above that of nos. 117-119 South Promenade and 3.85m above nos. 121-123 (the tallest of the buildings in the group to the east on the opposite side of the junction).

The elevation to Lightburne Avenue comprises a total of five bays stepping up to the south from a single, three storey section flanking no. 58 into two four storey bays and two five storey bays on the corner. While the three and four storey bays include facing gables to the façade, these are narrower features intended to reflect the slenderer proportions of facing gables and pediments to neighbouring buildings on Lightburne Avenue, with recessive windows alongside. As with the South Promenade elevation, the fifth storey would comprise below-eaves windows to the first bay before stepping up to a taller facing gable on the corner which is repeated on South Promenade to create the turreted corner. The three, four and five storey sections of the building would be 0.5m, 3.5m and 6.5m taller than the ridge of nos. 56-58 Lightburne Avenue respectively.

Section I.2.i of the NMDC identifies key design principles for tall buildings. In terms of building scale, these include:

- Top: Consider the impact on the skyline. Services need to be concealed, and both the street views and the long views need to be considered.
- Form: Should be well-proportioned in terms of slenderness when viewed from all frontages.

Consideration 5 of BHL (making the most of what's there) also advises that developments should avoid "not being sensitive to existing neighbouring properties by responding to layout arrangements, housing typologies and building heights."

Objectors opine that the scale of the building is excessive in relation to surrounding properties and suggest that the building's height should be limited to that of the former three storey Chadwick Hotel. While it is appreciated that the scale of the apartment block is markedly different to the more domestic proportions of individual dwellings and smaller flatted developments which have been created from the subdivision of surrounding *circa* Edwardian villas to the north and east, it does not follow that the scale of this building must be restricted to replicate those buildings. In particular, the character of the promenade is an extremely varied one with respect to building era, design and scale. It is also common to find larger buildings on the promenade that differ significantly from the style and proportions of smaller properties both alongside and flanking on bordering side streets which run at right angles away from the coast. This is, indeed, the case with the adjacent building at Lystra Court, though that building rises immediately from three storeys adjacent to no. 45 Derbe Road to five storeys without the incremental, single storey stepped arrangement proposed in this case. There are numerous other examples of similar, often stark, variances between the scale of adjacent buildings along the promenade to both the west (e.g. Sandhurst Court, Orchid Court, De Vere Gardens, Winward House, Hillcliffe and Vernon Lodge) and east (e.g. Tarleton Lodge and Cartmell Court) of the site where tall blocks of apartments dominate the street scene before settling into more domestic scale properties.

The scale of the proposed apartment building is substantial and greater than that of immediately surrounding properties, including Lystra Court. As a result, the proposed development would have a significant visual presence in both near and distant views, including those from further along the promenade. However, the skyline impact would be tempered by the wider context of similarly substantial and tall buildings fronting the remainder of the promenade. Importantly, in this case, and unlike many other larger buildings on the promenade, the overall scale, bulk and massing of the building is both varied and broken up into individual components. This is achieved by the design in several ways which include:

- Stepping the building's height up gradually in single storey increments towards the corner in order that it matches the height of immediately adjoining buildings on Lightburne Avenue (no. 58) and South Promenade (Lystra Court) before stepping up to a corner turret on the junction where the aspect and spacing with the closest buildings on the opposite side widens.
- Incorporating a stepped profile to both the South Promenade and Lightburne Avenue façades which splits the building into a series of more slender, individual bays that break up its massing.
- Depth, slenderness and a strong vertical emphasis is added to the elevations through the use of projecting window boxes, a mix of both protruding and recessive balconies, generous floor-to-ceiling window proportions and gable-faced pediments at roof level.
- The massing at roof level is reduced by incorporating hipped transitions where the roofs of individual bays meet and through the use of below-eaves windows and matching materials to the roof for the lower bay of the five storey sections to give the impression of these windows being contained within the roof space.

The above design philosophy would avoid the building being seen as two flat, long vertical planes when viewed from both near and distant vantage points. Instead, it would be broken up into a series of smaller, individual components (bays) which form part of a cohesive building design that complements the height of immediately adjacent buildings where it borders them over a short distance before stepping up to a prominent focal point where the aspect and spacing with other properties opens around the junction. Accordingly, while collectively larger in scale than surrounding buildings, the proposed development would not appear overtly dominant when viewed alongside them nor, when seen in the wider context of the promenade, would its scale jar or be in stark contrast with the street scene.

While objectors are critical of the design of other larger buildings along the promenade these are, nevertheless, part of the established character within which the proposed apartment block would be seen. The application site is not so locationally detached from these other examples that it would be seen in an entirely different context. Most importantly, however, the design approach taken to integrating the scale of the proposed building into its surroundings is, in a positive way, markedly different and bespoke in comparison to that taken in the case of several of the other examples mentioned above and referred to by objectors.

Appearance:

While the immediate setting of the site is varied, the prevailing building typology – particularly to the north and east – is one of *circa* Edwardian villas with tall floor-to-ceiling heights, protruding features (e.g. bay windows and facing gables/pediments) and front garden buffers (though several have been paved over) to the highway enclosed predominantly by low walls.

Section 1.2.i of the NMDC identifies key design principles for tall buildings. In terms of building appearance, these include:

- Materials: The use of materials to be consistent and simple.
- Public realm: Public spaces around the base to be generous, well designed and contribute positively to the local context.
- Entrance: The entrance needs to be clearly marked.

Considerations 6 (a memorable character) and 7 (well defined streets and spaces) of BHL advise that the following should be avoided:

- “Attempting to create character through poor replication of architectural features or details.
- Presenting blank or largely blank elevations to streets and public spaces.
- Lack of front boundaries, street planting and trees.
- Apartment buildings with single or limited points of access.
- Apartment buildings accessed away from the street.
- Street corners with blank or largely blank sided buildings.”

The external appearance of the apartment building is intended to avoid pastiche and, instead, present a modern interpretation of the Edwardian vernacular which surrounds it within a building of larger scale with lower floor-to-ceiling heights. At roof level, this is achieved by incorporating gable-faced pediments which are wider and taller onto South Promenade to reflect the larger scale of buildings facing that roadside before narrowing on the Lightburne Avenue façade to reflect the slenderer width of pediments to properties on that street.

External walls incorporate a mix of protruding and recessive balconies and projecting window boxes separated by intervening brick piers to add depth and emphasis. Glazed openings are organised with symmetrical rhythm, alignment and proportions to ensure a consistent and legible appearance across

both street façades. Materials would comprise red facing brick to external walls with fluting and corbelled dressings to add detail, while a dark (e.g. slate grey) standing seam cladding (e.g. zinc) would be used within the recessive roof space. The main entrance would comprise a wide, glazed feature to the ground floor of the Lightburne Avenue façade with protruding, chamfered edges finished in timber cladding. Two further entrances are located to the rear of the building from the courtyard.

The five storey corner turret wrapping around the junction comprises equal-width facing gables to both the South Promenade and Lightburne Avenue elevations at roof level, with recessive balconies set in a deep reveal behind a slender pier to create an open-sided corner with wraparound glazing.

The building's roof profile, elevational treatment and architectural detailing responds to the character and composition of surrounding Edwardian buildings by reflecting their roof profiles, protruding features, and the depth, symmetry, rhythm and detailing of their elevations. A simple, limited palette of materials is proposed to blend with the colour of the walls and roofs of surrounding buildings and long swathes of blank brickwork are avoided through a combination of generous glazing and detailing. The corner turret ensures that interest is maintained where the building wraps around the junction and consistent, active street frontages are achieved to both South Promenade and Lightburne Avenue through the ordered arrangement and generous proportions of openings.

The building's main entrance is clearly marked and differentiated from the rest of the façade through the use of a wider opening to the ground floor with protruding, chamfered edges and a change in materials. This is carried through to the landscaping scheme by the inclusion of a paved forecourt in contrasting surface materials to the footway of Lightburne Avenue buffered by soft landscaped borders on either side. Pedestrians would be directed to the entrance through a gap in the frontage boundary treatment which comprises a low brick wall backed by hedging. The building offers multiple entrances to both the front and rear, all of which benefit from good natural surveillance.

Landscaping:

The proposed soft landscaping scheme comprises planted gardens arranged in an L shape wrapping around the main façades to South Promenade and Lightburne Avenue to create a garden buffer with the roadside. Shrub borders would follow the edges of the building, with wider grass verges up to the roadside including taller trees before meeting a boundary hedge placed behind a low brick wall to the perimeter. Hard landscaped areas include car parks to the south and northwest of the building with separate accesses from Lightburne Avenue and a pedestrian forecourt in front of the main entrance. The car park to the promenade frontage would be finished in charcoal block paving, with the parking spaces to the rear courtyard distinguished from a tarmac internal access road through the use of block paving in silver grey. Internal pathways and the main entrance forecourt would be surfaced in silver grey paving slabs. A single storey, flat-roofed brick outbuilding to the northwest corner of the rear car park would provide a combined bin and bike store.

The soft landscaping scheme would ensure a spacious, garden-fronted setting and soft roadside buffer to the South Promenade and Lightburne Avenue frontages to enhance the sense of openness to the junction. While a large car park is proposed to the front of the building, its visual impact would be minimised by the presence of the perimeter boundary treatment (a low wall backed by hedging), the inclusion of strips of landscaping (including trees) between spaces and the presence of planting buffers to each side. It is also the case that the surface of the car park would comprise block paviours rather than tarmac to ensure a superior surfacing treatment. Although the car park to the rear contains less softening through planting, this would be extensively screened from surrounding streets by the building itself and discreetly located. Similarly, the outbuildings to the corner of the car park containing the bin and bike store would be modest, inconspicuous features which would also be

finished in materials to match the main building to present an attractive internal aspect that complements the character of the host building.

Impact on amenity:

FLP policy GD7 c) requires that development proposals facilitate good design by “ensuring that amenity will not be adversely affected by neighbouring uses, both existing and proposed”. In addition, criterion o) states that “all new housing developments should result in a high standard of amenity for occupiers. The standard of amenity for occupiers should not be compromised by inadequate space, poor layout, poor or lacking outlook or inconvenient arrangements for waste, access or cycle storage. Developments should include adequate outside amenity space for the needs of residents.”

Furthermore, paragraph 130 f) of the NPPF indicates that planning decisions should ensure developments “create places that are safe, inclusive and accessible and which promote health and well-being, with a high standard of amenity for existing and future users.”

While principally used in the assessment of applications involving extensions to existing dwellings, the guidance in Design Note 1D iii) of the Council’s ‘Extending Your Home’ Supplementary Planning Document (the ‘SPD’) indicates that:

- “Windows to habitable rooms at first floor level should be a minimum of 21 metres from any facing habitable room windows in neighbouring properties. A relaxation of this distance may be considered where the relationship between the extension and the window(s) is oblique.”

Effects on existing occupiers:

Apartments within Lystra Court to the west are orientated with principal windows facing over the promenade to the south and onto an internal courtyard to the north. The exception to this is a dormer window in the roofspace which faces east towards the site and a row of kitchen windows to the southeast side elevation. Windows in the return leg of the ‘L’ face in an easterly direction towards the site across the intervening buffer to the rear of Lystra Court. A row of windows within the staggered front elevation to the southeast corner of Lystra Court serve a staircase. Windows in Lystra Court would achieve the following minimum spacing distances with the proposed apartment building:

- Approximately 6.3m between the roof-level dormer in the southeast corner and the roof slope of the four storey bay to the southwest corner of the apartment block.
- As the apartment block would be set forward 6.6m from the front elevation of Lystra Court, the kitchen windows in the east side of Lystra Court facing the site would be offset from the west side of the apartment building and would, instead, face the rear of the block’s four storey section over a distance of approximately 22.5m.
- Approximately 32m between east-facing windows in the return leg of Lystra Court and the rear of the four storey section of the apartment block.

The roof-level dormer in the southeast side of Lystra Court previously faced the gable end of the Chadwick Hotel over a similar distance to that now proposed by this scheme. While three storeys in scale, the greater floor-to-ceiling height of the original part of the Chadwick Hotel resulted in the former building having a similar eaves and ridge height to the four storey section of the apartment block proposed in the same location. Moreover, as the western roof slope of the proposed building hips away from the boundary with Lystra Court, its roof-level massing alongside the dormer would be reduced in comparison to previous scenario. Given the established outlook from the dormer window in relation to the former Chadwick Hotel, its orientation facing over the adjoining site and the massing of the apartment building’s roof in relation to this opening, it is not considered that the proposed development would result in an unacceptable loss of outlook or overshadowing to this window – views

from which will remain available over the roof of the apartment block.

Kitchen windows set close to the shared boundary in the east side of Lystra Court would be offset from the western elevation of the apartment building in order that they face onto the parking courtyard to the rear of the development and, beyond that, the rear of the four storey section facing onto Lightburne Avenue. The degree of spacing achieved between the kitchen windows and the rear of the proposed building (*circa* 22.5m) would avoid any undue effects on the outlook and natural light available to these windows. Similarly, the minimum 32m spacing achieved between principal windows in the rear of Lystra Court and the rear of the apartment building – across interlocking, open courtyards to the rear of both buildings – would maintain a high level of amenity for existing occupiers within Lystra Court. Similarly, the arrangement and spacing of windows in the proposed apartment building in relation to Lystra Court would not cause any undue loss of privacy through overlooking.

Residential properties surrounding the site to the north and east on Lightburne Avenue comprise three storey buildings, the majority of which have been subdivided into flats. The immediately adjacent dwelling to the north (no. 58) includes windows facing onto the side, with these mostly contained in the south side of a two storey outrigger which protrudes to the rear. Other windows in the taller southern gable are smaller openings which do not appear to serve habitable rooms. The northern, three storey bay of the apartment building would achieve a separation of approximately 7.4m with the southern gable of no. 58, and 9.6m with the ground and first floor windows in the south side of its staggered, rearward outrigger. The apartment building would extend 3.2m beyond the main rear wall of no. 58, ensuring that the outlook from these windows would also be partially over the open courtyard to the rear of the building rather than wholly against the side elevation of the building. In contrast, the former Chadwick Hotel included a three storey building flanking the southern gable of no. 58 over a distance of approximately 2m which includes a flat-roofed, three-storey section to the rear bordering windows in the outrigger over a similarly short distance. Accordingly, the siting of the three storey bay of the apartment building in relation to no. 58 Lightburne Avenue would, by virtue of its greater spacing, shallower depth and similar height, have a lesser impact on the south-facing windows in the side of no. 58 in comparison to the previous situation and would ensure an appropriate outlook and natural light to these windows. No windows are proposed in the northern elevation of the apartment block facing no. 58 and views from those to the rear elevation would be oblique in relation to the rear of that dwelling to avoid any adverse effects through overlooking.

Dwellings on the opposite side of Lightburne Avenue to the east (nos. 65-57) would achieve a minimum spacing of approximately 30.3m with the three and four storey bays to the building's eastern elevation. This is commensurate with the established spacing distances between the front elevations of dwellings facing each other across the remainder of Lightburne Avenue (*circa* 30m). The block of flats on the opposite side of the junction to the east of the site (no. 117 South Promenade) which would flank the five storey bays of the building on the corner have a series of habitable room windows, dormers and balconies in the western elevation facing the site. A minimum spacing of approximately 29m would be achieved between the eastern wall of the apartment block and the west-facing elevation of no. 117 South Promenade.

A number of objectors have raised concerns regarding the five storey scale of the apartment block in relation to neighbouring three storey properties to the east, along with the amount of glazing proposed within its elevation eastern elevation facing these dwellings. In particular, these concerns relate to impacts associated with a loss of outlook, overshadowing and a loss of privacy through overlooking.

While it is the case that the scale of the apartment building – and especially its five storey corner turret – would be notably greater than that of the three storey properties facing onto Lightburne Avenue to

the east, it is also the case that, at a minimum distance of *circa* 29m, the spacing between the eastern elevation of the building and properties on the opposite side of Lightburne Avenue would be substantial. Indeed, this spacing distance is 8m greater than the minimum 21m standard recommended between facing habitable room windows in the Extending Your Home SPD. When this spacing distance is taken in combination with the open aspect on the junction afforded by the deep garden frontages to buildings South Promenade, the staggered relationship between the buildings (with the front of no. 117 being set forward approximately 8.5m of the proposed apartment block) and the 4.15m difference in ridge height between no. 117 South Promenade and the five storey bay of the apartment building (the height difference being limited by the lower floor-to-ceiling heights of the proposed apartment block in comparison to those of the *circa* Edwardian property at no. 117 South Promenade), it is not considered that the development would appear as an unacceptably dominant, oppressive or imposing feature in the outlook of neighbouring dwellings to the east, nor would its orientation, scale and proximity to those properties give rise to an undue sense of enclosure, overshadowing or loss of natural light.

The apartment building's elevation onto Lightburne Avenue contains a number of windows and balconies which would face towards existing dwellings to the east. The former Chadwick Hotel also contained several large windows in the same elevation and dwellings facing one another across Lightburne Avenue have opposing habitable room windows (including those in wide, protruding bays) which results in a degree of mutual overlooking between existing properties, albeit over a distance of approximately 30m. While it is recognised that the greater height of parts of the apartment building in relation to surrounding dwellings would allow views towards existing windows in neighbouring dwellings, and balconies on the west side of no. 117 South Promenade, from an elevated vantage point in some instances, any unacceptable effects in terms of loss of privacy due to overlooking would be avoided by virtue of the generous (minimum *circa* 29m) spacing between opposing windows/balconies across the intervening throughfare of Lightburne Avenue. In this respect, it should be noted that the test in policy GD7 c) is to ensure that "amenity will not be **adversely** affected by neighbouring uses" (emphasis added). In turn, it does not follow that *any* impact on existing occupiers arising through overlooking will necessarily be an adverse one. In this case, given that the minimum *circa* 29m interface distance achieved between windows in the proposed development and the closest neighbouring dwellings far exceeds the minimum (21m) standard recommended in the Extending Your Home SPD, and having regard to the general levels of mutual overlooking already typical between dwellings in the area, there is no reason to conclude that the proposed window arrangement within the development would adversely affect the privacy of surrounding occupiers through overlooking. It is also the case that several existing windows and balconies at no. 117 South Promenade are exposed in views from the busy throughfare of the promenade and so these openings are also readily visible within the public domain rather than being private openings concealed from public vantage points.

Objectors also raise amenity issues in terms of the potential for noise, vibration, dust and traffic nuisance during the construction phase. These are, however, unavoidable consequences of any development project that takes place in close proximity to existing dwellings and cannot be eliminated in their entirety. Instead, the focus is on minimising these effects through appropriate mitigation. Accordingly, a condition has been imposed requiring the submission of a construction method statement to set out these mitigation measures before any development takes place in accordance with the recommendations of the Council's Environmental Protection Service and the Local Highway Authority.

Future occupiers:

As set out above, the proposed apartment building would achieve an appropriate layout, spacing and relationship with existing properties surrounding the site to ensure that it does not adversely affect

the amenity, privacy and living conditions of existing occupiers. The same factors would ensure a high standard of amenity for future occupiers in relation to surrounding buildings outside the site.

Internally, the L-shaped layout of the building ensures that the arrangement between different elements of the apartment block would achieve a high standard of amenity for future occupiers having regard to the positioning, proportions and outlook available from and between window openings. In particular, those to habitable rooms would be positioned to face onto flanking streets or the open courtyard to the rear of the building to ensure an appropriate outlook and access to natural light.

Externally, the scheme includes the provision of landscaped gardens to the east and south of the building and a shared, private courtyard to the rear. As areas to the front and rear of the building would be largely occupied by car parking, the main outdoor amenity space for residents would be within the soft landscaped gardens to the east and through the provision of individual balconies for each dwelling. Similar, commensurate provision of outdoor amenity spaces are common for other apartment blocks along South Promenade. It is, however, also the case that the site's location on the thoroughfare of South Promenade means that existing public open space on the coastal side of South Promenade would be readily accessible to future occupiers to meet recreational needs. The scheme includes the provision of a communal bin and cycle store inside a dedicated building within the rear courtyard which would ensure suitable arrangements for storage of refuse and access to cycling as a viable alternative mode of travel.

Given the above, the proposal would achieve a high standard of amenity for future occupiers which would not be compromised by inadequate space, poor layout, poor or lacking outlook or inconvenient arrangements for waste, access or cycle storage. The development would also include adequate outside amenity space for the needs of residents commensurate with its coastal location and the availability of other public open space nearby.

Highways:

Criteria p), q) and r) of FLP policy GD7 (re-numbered criteria q), r) and s) of PRFLP policy GD7) require developments to meet the following principles with respect to highway safety:

- The needs of non-motorised users, such as pedestrians and cyclists, should be prioritised over other road users, through design measures.
- The development should not prejudice highway safety, pedestrian safety, and the efficient and convenient movement of all highway users (including bus passengers, cyclists, pedestrians and horse riders).
- All development proposals will need to show that appropriate provision is made for public transport services; appropriate measures are provided to facilitate access on cycle or foot; where practicable, ensure existing pedestrian, cycle and equestrian routes are protected and extended; and the needs of specific groups in the community such as the elderly and those with disabilities are fully provided for.

In addition, FLP policy T4 requires developments to enhance opportunities for travel by maximising access to sustainable transport modes, including by supporting the shift towards new technologies and fuels by promoting low carbon travel choices and encouraging the development of ultra-low carbon / electric vehicles and associated infrastructure (criterion i)).

Paragraph 104 c) of the NPPF states that "transport issues should be considered from the earliest stages of plan-making and development proposals, so that: opportunities to promote walking, cycling and public transport use are identified and pursued". Paragraph 110 of the NPPF indicates that, in assessing applications for development, it should be ensured that:

- appropriate opportunities to promote sustainable transport modes can be – or have been – taken up, given the type of development and its location;
- safe and suitable access to the site can be achieved for all users;
- the design of streets, parking areas, other transport elements and the content of associated standards reflects current national guidance, including the National Design Guide and the National Model Design Code; and
- any significant impacts from the development on the transport network (in terms of capacity and congestion), or on highway safety, can be cost effectively mitigated to an acceptable degree.

Paragraph 111 of the Framework stipulates that “development should only be prevented or refused on highways grounds if there would be an unacceptable impact on highway safety, or the residual cumulative impacts on the road network would be severe.” Paragraph 112 of the Framework indicates that, within this context, applications for development should:

- give priority first to pedestrian and cycle movements, both within the scheme and with neighbouring areas; and second – so far as possible – to facilitating access to high quality public transport, with layouts that maximise the catchment area for bus or other public transport services, and appropriate facilities that encourage public transport use;
- address the needs of people with disabilities and reduced mobility in relation to all modes of transport;
- create places that are safe, secure and attractive – which minimise the scope for conflicts between pedestrians, cyclists and vehicles, avoid unnecessary street clutter, and respond to local character and design standards;
- allow for the efficient delivery of goods, and access by service and emergency vehicles; and
- be designed to enable charging of plug-in and other ultra-low emission vehicles in safe, accessible and convenient locations.

Access and capacity:

Access to the development is proposed via Lightburne Avenue. This includes the provision of two separate vehicular entrances to the southeast and northeast corners of the site (one for each car park) along with pedestrian accesses off the footway of Lightburne Avenue. Objectors opine that accessing the development from Lightburne Avenue alone, without any means of access onto South Promenade, would harm highway safety and give rise to added congestion and conflicts on Lightburne Avenue, having particular regard to vehicle traffic movements and parking.

The south-eastern access would open onto Lightburne Avenue with its centreline positioned approximately 14m from the junction with South Promenade. The access would be 4.6m in width and would serve a 20 space car park. The north-eastern access would run between the northern end of the building and no. 58 Lightburne Avenue (opposite no. 59) and would have a width of 4.25m for vehicle traffic with a flanking 1.3m wide footway leading into the rear courtyard (which accommodates 11 parking spaces) on its south side. This access would be gated, with the gates set back 10m from the edge of Lightburne Avenue.

The width of both accesses would allow two-way vehicle movements in and out of the site. Waiting restrictions are in place on both sides of Lightburne Avenue to the south side of the south-eastern access and wrap around both sides of the junction with South Promenade. Accordingly, visibility of oncoming, northbound traffic to the south of this access (towards the junction with South Promenade) would remain clear of parked vehicles. There are other, intermittent ‘keep clear’ ground markings on both sides Lightburne Avenue, including a *circa* 18.5m long stretch to the south side of the north-eastern access and the presence of dropped crossings to individual driveways beyond and opposite

this limit opportunities for on-street parking which could block and/or obscure visibility from the north-eastern access.

While it is noted that there are presently no waiting restrictions along a *circa* 38m long stretch between the double yellow lines and keep clear markings on the west side of Lightburne Avenue – and so vehicles could continue to park here on the immediate north side of the south-eastern access – this will not obscure views of oncoming northbound traffic and southbound traffic will be travelling on the opposite side of the road in order that cars parked along this stretch would not unacceptably obscure visibility looking north across a splay onto the opposite side of the highway. Moreover, unlike the driveways to existing properties on Lightburne Avenue which do not include turning areas for vehicles to enter and exit onto the highway in forward gear (and so vehicles typically reverse out onto Lightburne Avenue), the layout of the two car parks within the development provide adequate turning space for vehicles to enter and exit the site onto Lightburne Avenue in forward gear.

Pedestrians would access the building's main entrance onto Lightburne Avenue via a wide forecourt in front of the entrance lobby which merges with the existing footway. The entrance forecourt would be distinguished from the tarmac footway by superior, contrasting surfacing materials to provide definition of public and private areas, with perimeter boundary treatments to the edges of the site creating desire lines to direct pedestrians towards these access points. The gated access to the rear of the building would secure the rear courtyard for residents, with this also benefitting from good natural surveillance from overlooking windows in the rear elevation, and the setback position of the gates would avoid vehicles overhanging the highway while attempting to gain access to the site via the north-eastern junction.

It is also the case that the number and frequency of vehicle movements to and from the car parks (which would provide a total of 31 spaces) would not result in an excessive increase in traffic generation on Lightburne Avenue which would meet the very high bar of causing a severe residual cumulative impact on the road network. In this respect, it is noted that Lightburne Avenue is a more lightly trafficked road in comparison to South Promenade, that several other apartment buildings on South Promenade take sole vehicle access from side streets off South Promenade rather than the promenade itself (e.g. two accesses from Derbe Road to Vernon Lodge; two accesses from King's Road to Winward House; two accesses from Hornby Road to Hilton Court; and two accesses off East Bank Road to Orchid Court) and that the number of traffic movements from the former Chadwick Hotel would also have generated a similar amount of traffic onto the surrounding network (albeit that access from that use was taken from South Promenade rather than Lightburne Avenue). Finally, the Local Highway Authority (LHA) have raised no objections to the application on highway safety or capacity grounds. Accordingly, it is considered that the scheme would ensure a safe and suitable means of access to the development for all users, would not have an unacceptable impact on highway safety and would not give rise to a severe, residual cumulative impact on the surrounding highway network.

The LHA have identified the need for the provision of tactile paving at existing pedestrian crossing points surrounding the site and for the upgrading of kerbing for the closest bus stops on Clifton Drive South to quality bus stop standard. These conditions are needed to ensure that appropriate opportunities to promote sustainable transport modes are taken up and to give priority to pedestrian movements surrounding the scheme. Therefore, appropriate conditions have been imposed to secure the off-site highway works recommended by the LHA. A condition has also been imposed requiring the delivery of charging points for plug-in and other ultra-low emission vehicles as identified in paragraphs 107 e) and 112 e) of the NPPF and FLP policy T4 i).

Parking:

FLP Policy T5 relates to parking provision and indicates that “a flexible approach [will be applied] to the level of car parking provision, dependent on the location of the development”. Paragraph 11.61 of the local plan indicates that the Council “will prepare a Supplementary Planning Document (SPD) on parking standards”. However, as this has not yet been adopted the parking standards contained in the Joint Lancashire Structure Plan (JLSP) remain of greatest relevance in this case. Table A of the JLSP identifies the following maximum level of parking provision for individual dwellings based on the number of bedrooms:

- Single bed houses – 1 space per dwelling.
- 2-3 bed houses – 2 spaces per dwelling.
- 4+ bed houses – 3 spaces per dwelling.

However, as set out in the introduction to the parking standards of the JLSP: “levels of car parking are set out as the maximum that may be allowed, rather than minimum levels which must be provided.” Paragraph F.4.1 re-states this in an explanatory note for dwelling houses as follows: “the figures identified for residential parking are maximum figures”. Paragraph 108 of the NPPF states that “maximum parking standards for residential and non-residential development should only be set where there is a clear and compelling justification that they are necessary for managing the local road network, or for optimising the density of development in city and town centres and other locations that are well served by public transport”.

In addition, paragraph 107 of the NPPF indicates that local parking standards for residential and non-residential development should take into account:

- the accessibility of the development;
- the type, mix and use of development;
- the availability of and opportunities for public transport;
- local car ownership levels; and
- the need to ensure an adequate provision of spaces for charging plug-in and other ultra-low emission vehicles.

SANDP policy TR3 relates to residential car parking and states that “wherever possible car parking should be accommodated within the curtilage of the dwelling in the form of a garage, parking space, or both.” The policy then sets out four principles for in-curtilage parking relating to the size, design and siting of garages (a-c) and the siting of in-curtilage parking spaces to avoid “excessive hard surfacing” in front gardens.

The proposed development includes a total of 31 car parking spaces for the 29 apartments. Objectors consider that this level of parking provision would be insufficient to serve future occupiers of and visitors to the development and reference advice from a local estate agent that each apartment should include two dedicated car parking spaces. This is not, however, a view shared by the LHA who opine that “as the site is in a sustainable location the level of provision in terms of parking is deemed acceptable”.

It is acknowledged that the level of parking provision for the development would fall below the maximum standard identified in Table A of the JLSP – which would be up to 54 spaces for the proposed dwelling mix. It is, however, the case that these standards are, in conflict with the advice in paragraph 108 of the NPPF, expressed as a maximum rather than a minimum, and so consideration must be given to other factors which would influence the level of parking provision required as set out in paragraph 107 of the NPPF.

In this case, the site is located on a busy coastal throughfare and has access to both local shops and services (including those within the Alexandria Drive Local Centre) and public transport (including bus stops on Clifton Drive South to each side of the junction with Lightburne Avenue) in a comfortable walking distance (less than 350m) of the site. Accordingly, and as recognised by the LHA, the development is in a highly accessible location to modes of transport other than private car. The scheme also makes provision for 12 bicycle parking spaces within a dedicated outbuilding to further encourage travel by sustainable modes of transport. Furthermore, alternative parking, including for visitors, is available nearby on the streets of Lightburne Avenue and South Promenade, and within Fairhaven Road Car Park. Therefore, in accordance with the provisions of FLP policy T5 and paragraphs 107 and 108 of the NPPF which require a flexible approach to be taken to the level of parking provision according to the development's location, there is no reason, in highway safety terms, why the maximum parking standards set out in the JLSP must be met in this case.

Given the above, in the absence of any objections from the LHA on the grounds of inadequate parking provision, it is considered that the scheme makes satisfactory provision for vehicle and cycle parking in accordance with the objectives of SANDP policy TR3, FLP policies GD7 and T5, and paragraphs 107 and 108 of the NPPF.

Infrastructure contributions and viability:

Paragraph 34 of the NPPF indicates that “plans should set out the contributions expected from development. This should include setting out the levels and types of affordable housing provision required, along with other infrastructure (such as that needed for education, health, transport, flood and water management, green and digital infrastructure). Such policies should not undermine the deliverability of the plan.”

The number of dwellings proposed by the development exceeds the 10-unit threshold where infrastructure contributions towards affordable housing, public open space, education and healthcare may be required in accordance with the provisions of policies H4, ENV4, INF2 and HW1 of the FLP respectively. Similar requirements are identified in SANDP policy DEL1. In this case, the following would be required to deliver policy-compliant infrastructure contributions as part of the scheme:

- **Affordable housing** – An off-site financial contribution of £938,220 calculated in accordance with the methodology in FLP policy H4 and Appendix 4 of the Affordable Housing SPD. An off-site (rather than on-site) contribution is considered preferable in this case due to the difficulties that arise from the management of individual affordable housing units within shared, market-led apartment blocks which make these schemes unattractive to Registered Providers of affordable housing. Accordingly, it is considered that an equivalent financial contribution to allow the delivery of alternative affordable housing provision in an alternative location is preferable.
- **Public open space** – The proposed dwelling mix would require a minimum of 664sqm of public open space provision in accordance with the standards in FLP policy ENV4. As the requirement does not meet the 0.2 hectare (2,000 sqm) threshold for on-site provision in policy ENV4 – below which commuted sum payments for the enhancement of existing open space will be sought in lieu of on-site provision – an off-site financial contribution of £29,000 (equivalent to £1,000 per dwelling) is sought to meet the requirements of policy ENV4.
- **Education** – A financial contribution of £23,061.75 towards the provision of one additional secondary school place at Lytham St Annes High School to offset the development's effects on an anticipated shortfall in secondary school places in 5 years' time as advised by Lancashire County Council's Schools Planning Team in accordance with FLP policy INF2 e).
- **Healthcare** – A financial contribution of £7,016 towards enhancing healthcare facilities at St

Annes Primary Care Centre as advised by the Fylde and Wyre Clinical Care Commissioning Group in accordance with the provisions of FLP policies HW1 d) and INF2 e)

Monitoring fees:

Paragraph 036 of the 'Planning Obligations' chapter to the NPPG (ID 23b-036-20190901) identifies a mechanism for local authorities to support the monitoring and reporting of planning obligations by charging a monitoring fee within S106 agreements. Specifically, the relevant paragraph of the NPPG states that:

- "Authorities, including county councils, should work together to ensure that resources are available to support the monitoring and reporting of planning obligations. Authorities can charge a monitoring fee through section 106 planning obligations, to cover the cost of monitoring and reporting on delivery of that section 106 obligation. Monitoring fees can be used to monitor and report on any type of planning obligation, for the lifetime of that obligation. Monitoring fees should not be sought retrospectively for historic agreements. Fees could be a fixed percentage of the total value of the section 106 agreement or individual obligation; or **could be a fixed monetary amount per agreement obligation (for example, for in-kind contributions)**. Authorities may decide to set fees using other methods. However, in all cases, monitoring fees must be proportionate and reasonable and reflect the actual cost of monitoring. Authorities could consider setting a cap to ensure that any fees are not excessive."

The Council's strategy for monitoring fees follows the process highlighted in bold above – that a fixed fee will be charged per obligation contained in each agreement for in-kind contributions. This fee is charged at a rate of £300 per trigger for each contribution (for example, if an off-site contribution towards public open space were to be paid in two separate instalments on the occupation of the 10th and 20th dwellings, the monitoring fee would be £600) and would be payable on commencement of development (that being the point when the monitoring period commences). As the precise triggers for each contribution required in this case are unknown at this stage (they are to be determined through the drafting of the S106 agreement), the resolution sets out the approach and charges that will be applied rather than specifying a figure.

Viability:

Criteria a) – i) of FLP policy INF2 identify the types of infrastructure that developments may be required to contribute to. The opening sentence of the policy makes clear that these contributions are "subject to viability" and similar caveats are included in the wording of FLP policies H4 and HW1 d), and SANDP policy DEL1. In addition, FLP policy H4 includes a subsection relating to "viability" which states as follows:

- "The Council will take account of viability when assessing individual schemes. If a level of affordable housing lower than that set out [in this policy] is proposed for a specific scheme, the Council will expect robust financially-based justification to be provided by the applicant, demonstrating that the development would be unviable with a higher level of affordable housing than proposed. The Council may seek to independently verify such information, with any costs associated with the verification met by the applicant, before approving a scheme with lower levels of affordable housing than that specified above."

Paragraph 58 of the NPPF indicates that "where up-to-date policies have set out the contributions expected from development, planning applications that comply with them should be assumed to be viable. It is up to the applicant to demonstrate whether particular circumstances justify the need for a viability assessment at the application stage. The weight to be given to a viability assessment is a matter for the decision maker, having regard to all the circumstances in the case, including whether

the plan and the viability evidence underpinning it is up to date, and any change in site circumstances since the plan was brought into force. All viability assessments, including any undertaken at the plan-making stage, should reflect the recommended approach in national planning guidance, including standardised inputs, and should be made publicly available.”

The “recommended approach in national planning guidance” referred to in paragraph 58 of the Framework is set out in the ‘Viability’ chapter of the NPPG. All references to the ‘NPPG’ below are in relation to that chapter.

As set out in paragraph 010 of the NPPG, “viability assessment is a process of assessing whether a site is financially viable, by looking at whether the value generated by a development is more than the cost of developing it. This includes looking at the key elements of gross development value, costs, land value, landowner premium, and developer return. [...]. Viability helps to strike a balance between the aspirations of developers and landowners, in terms of returns against risk, and the aims of the planning system to secure maximum benefits in the public interest through the granting of planning permission.”

Paragraph 018 of the NPPG relates to how a return to developers should be defined for the purpose of viability assessment. In particular, this clarifies that:

- “The cost of fully complying with policy requirements should be accounted for in benchmark land value. Under no circumstances will the price paid for land be relevant justification for failing to accord with relevant policies in the plan.”
- “For the purpose of plan making an assumption of 15-20% of gross development value (GDV) may be considered a suitable return to developers in order to establish the viability of plan policies. Plan makers may choose to apply alternative figures where there is evidence to support this according to the type, scale and risk profile of planned development.”

In this case, the applicant has submitted a viability appraisal by Saunders Quantity Surveyors dated July 2021 (referred to hereafter as the “Saunders Appraisal”) which concludes that the development would achieve a profit return of 12.74% on GDV. Accordingly, the Saunders Appraisal concludes that the collection of any of the four contributions set out above would make the scheme unviable because the level of profit return to the developer is 7.26% below the 20% return on GDV recommended to reduce “a high degree of risk due to both the local housing market and uncertain in the general housing market”.

In accordance with the ‘viability’ section of policy H4, the LPA has engaged Keppie Massie to undertake an independent viability assessment (referred to hereafter as the “Keppie Massie Appraisal”) for comparison with the Saunders Appraisal submitted by the applicant. In contrast with the Saunders Appraisal, the Keppie Massie Appraisal concludes that, even with full policy compliant contributions in place – a total of £997,298 (rounded) – the development would deliver a profit of 25.36% on GDV, some 5.36% above the 20% target identified in the Saunders Appraisal and, accordingly, that the development is viable with all these infrastructure contributions in place. The main differences between the figures in the Saunders and Keppie Massie Appraisals are highlighted in Table 1 below:

Element	A – Keppie Massie Appraisal Figure	B – Saunders Appraisal Figure	Difference (A-B)
Gross Development Value (total sales revenue)	£10,500,000	£10,385,000	+£115,000
Total development costs	£5,930,142	£7,313,514	-£1,383,372

Sales and marketing costs	1.2% GDV	3.5% GDV	-2.3% GDV
Interest rate	6.5%	7%	-0.5%
Benchmark Land Value	£310,500	£698,625	-£388,125

Table 1 – Summary of main differences between Saunders and Keppie Massie Appraisals.

As the greatest difference between the two appraisals relates to the construction cost of the development, the Keppie Massie appraisal also includes sensitivity testing to model the impact of changes in construction costs on the level of planning contribution that could be supported in different scenarios. The results of this sensitivity testing are set out in Table 2 below.

Construction Cost Increase	Total Viable Planning Contribution
0%	£997,298
+5%	£997,298
+10%	£930,000
+15%	£640,000
+20%	£360,000
+25%	£70,000

Table 2 – Impact of Sensitivity Construction Cost Increases on infrastructure

contributions.

Summary and implications for committee resolution:

Given the outcome of Keppie Massie’s independent viability appraisal as summarised above, the current position must be that, despite the conclusions in the Saunders Appraisal, the development would be viable will all the infrastructure contributions – totalling £997,298 (rounded) – required to meet SANDP policy DEL1 and FLP policies H4, ENV4, INF2 and HW1 in place. It is, however, noted that the Keppie Massie appraisal includes the following advice with respect to the construction costs contained in the Saunders Appraisal:

- “Our QS [(quantity Surveyor)] has not been able to verify that the FVA [(the Saunders Appraisal)] construction costs are reasonable and a number of the costs adopted in the applicant’s cost plan are unsupported or appear to be duplicated. If the applicant is able to submit further supporting information in relation to the construction costs then our QS will consider this information and adjust the construction cost assessment as appropriate.”

Accordingly, the applicant has indicated that they intend to prepare additional evidence and justification to support the construction costs contained in the Saunders Appraisal in order to demonstrate that the collection of full, policy-complaint infrastructure contributions would make the scheme unviable and so trigger the viability exemption contained in the relevant policies of the SANDP, FLP and NPPF.

As viability is the only unresolved matter with the application, and to provide the applicant with a degree of certainty that the scheme could otherwise be supported subject to this being resolved, the application is referred to the Planning Committee with a recommendation for members of the committee to resolve to delegate authority to the Head of Planning and Housing to grant planning permission subject to the collection of infrastructure contributions towards affordable housing, public open space, education and healthcare in full, unless the applicant subsequently demonstrates that the collection of these contributions (either in full or in part) would make the development economically unviable and so trigger the viability exceptions set out in the revealing policies of the development plan.

For the avoidance of any doubt, and as set out in the resolution, in reaching any decision concerning the viability of the development the Head of Planning and Housing will give substantial weight to the advice and recommendations of the assessor engaged by the LPA to undertake an independent review of any viability evidence supplied by the applicant – this being Keppie Massie – with any costs associated with this verification to be met by the applicant through reimbursement to the Council. In the event that the applicant fails to provide the LPA with robust financially-based justification to demonstrate that the development would be unviable with the infrastructure contributions required by the development plan in place, and is unwilling to make the necessary contributions to mitigate the development's impact in this regard, the application would be refused under the powers delegated to the Head of Planning and Housing.

Other matters:

Housing mix:

FLP policy H2 requires developments to deliver “a broad mix of types and sizes of home, suitable for a broad range of age groups”. The policy states that “all developments of 10 or more dwellings will therefore be required to include at least 50% of dwellings that are 1, 2 or 3 bedroom homes” and includes an additional requirement for “developments of 20 or more homes [to be] designed specifically to accommodate the elderly, including compliance with optional technical standard M4(3(2a)) (wheelchair adaptable dwellings), unless it is demonstrated that this would render the development unviable”.

The proposed housing mix includes 4 x 1-bed units and 25 x 2-bed units. Accordingly, as all 29 dwellings would be delivered as 1-3 bed homes, the scheme surpasses the housing mix requirements of policy H2 with respect to dwelling size.

In terms of the second requirement relating to the provision of specialist accommodation for the elderly, the development includes a total of 6 apartments – equating to 20.7% of the total – that are designed to be compliant with optional technical standard M4(3(2a)) of the Building Regulations relating to wheelchair adaptable dwellings. For clarity, optional technical requirement M4(3(2a)) of the Building Regulations requires that “the provision made must be sufficient to allow simple adaptation of the dwelling to meet the needs of occupants who use wheelchairs”. Accordingly, the requirement in policy H2 is for the designated M4(3(2a)) dwellings to be built to a specification where their physical structure is capable of being adapted in the future with minimal retrofitting (i.e. that the dwellings are capable of being easily adapted in the future without the need for major rebuilding works or extensions etc.). The dwellings do not need to be built ‘as adapted’ at this stage.

As set out in paragraph 0.3 of Approved Document M of the 2010 Buildings Regulations (as amended), optional requirement M4(3) “only applies where a condition that one of more dwellings should meet the relevant optional requirement is imposed on new development as part of the process of granting planning permission.” Accordingly, an appropriate condition has been imposed to require the 6 dwellings identified on the submitted plans to be constructed so that they comply with that standard. With this condition in place the development will comply with the requirements of FLP policy H2 relating to the provision of specialist accommodation for the elderly.

Contamination:

FLP policy GD9 states that development will be encouraged on previously developed land that may be contaminated as result of previous uses provided that three criteria relating to: a) evidence of satisfactory site investigation; b) the stability of surrounding areas; and c) evidence of remedial and

mitigation measures, are met. Similar requirements are identified in paragraphs 120 c), 174 f) and 183 of the NPPF.

The application is accompanied by a phase I ground investigation report which includes the following recommendations:

- The conceptual ground model indicates that a nominal Phase II intrusive ground investigation is required to assess the ground conditions and to obtain soil samples for contamination analyses. Groundwater and surface water samples should also be taken for contamination analyses if possible.
- No significant sources of ground gas were identified in the desk study and based on the available evidence in our opinion no ground gas risk assessment is likely to be required. However, if made ground is encountered to a depth greater than 1m (excluding the anticipated infilled swimming pool) and contains biodegradable material then there may be a risk of ground gas generation. Consequently, if this is the case standpipes should be installed and monitored over an extended period of time to allow for an assessment to be made.

The Council's Environmental Protection Service (EPS) have reviewed the Phase I investigation and consider the recommendations contained within it to be acceptable. The EPS identify the need for the Phase I desk study to be followed by a Phase II ground investigation and, dependent upon the findings of the ground investigation, a Phase III remediation statement and Phase IV validation report may be required. Accordingly, a suitable condition has been imposed to deal with contamination in accordance with the sequencing recommended by the EPS in order to meet the objectives of FLP policy GD9 and the NPPF.

Flood risk and surface water drainage:

FLP policy CL1 requires that planning decisions follow the sequential, risk-based approach to the location of development, as required by the NPPF (paragraph 159). Policy CL1 indicates that all new development is required to minimise flood risk impacts on the environment, retain water quality and water efficiency, and mitigate against the likely effects of climate change on present and future generations in accordance with 10 criteria (a-j).

FLP policy CL2 sets out a hierarchy of measures that should be used to attenuate surface water discharge from development sites. The policy indicates a preference for infiltration, followed by attenuation in open features for gradual release into a watercourse and, finally, storage in tanks. The policy also encourages surface water to be discharged direct to a watercourse in the first instance, with discharge to a surface water sewer where this is not possible and finally to the combined sewer. Policy CL2 indicates that development should make use of sustainable drainage systems whenever practical and reduce discharge to greenfield run-off rates wherever feasible. Where discharge is allowed to a surface water sewer, policy CL2 indicates that evidence must be provided to demonstrate that capacity exists within that sewer, including relevant authorisation from the appropriate infrastructure provider.

As the site is located in flood zone 1 as defined on the Flood Map for Planning – an area at the lowest risk of flooding from fluvial and tidal sources – and its area does not exceed 1 hectare, there is no requirement for the scheme to be accompanied by a flood risk assessment. The scheme is, however, supported by an indicative drainage strategy (drawing no. 9171-HBL-XX-XX-SK-D-0004 Rev P01) which sets out the following intentions with respect to the disposal of foul and surface water drainage:

- Foul and surface water is to be discharged to the combined 225mm diameter sewer on Lightburne Avenue which merges with a 450mm diameter combined sewer on South Promenade.

- A surface water discharge rate of 2 litres per second into the combined sewer is anticipated. This is to be restricted by a hydrobrake and surface water attenuation provided by a collection of below-ground cellular storage tanks located beneath the car park to the southern end of the site. These tanks will provide a minimum storage volume of 115.52 cubic metres to account for runoff up to the 1 in 100 year event +40% for climate change and 10% for urban creep.

Both the Lead Local Flood Authority (LLFA) and United Utilities (UU) have been consulted on the application. The response from UU identifies the applicant's intention to discharge both foul and surface water to the combined sewer without evidence of first having explored and exhausted other, more sustainable, surface water drainage solutions. Accordingly, while UU have no objections to the scheme in principle, they consider that any grant of planning permission should be subject to a condition requiring the submission of a detailed surface water drainage scheme which includes an investigation of the hierarchy of drainage options in the NPPG, including evidence of an assessment of ground conditions and the potential for infiltration of surface water to ensure that foul water drains to the public sewer and surface water drains in the most sustainable way possible. As the approach suggested by UU accords with the surface water drainage hierarchy set out in FLP policy CL2, this condition is both reasonable and necessary to demonstrate compliance with the development plan.

Similarly, the response from the LLFA raises no objections in principle to the scheme subject to the imposition of conditions requiring: i) the submission of a final sustainable drainage strategy; ii) a report verifying the construction of the sustainable drainage system; iii) a construction phase surface water management plan; and iv) an operation and maintenance plan for the surface water drainage system.

Given that the site has recently been occupied by another building, there are no site-specific reasons to suggest that, with the conditions recommended by UU and in the LLFA in place, the development would be at an unacceptable risk of flooding, would increase flood risk elsewhere or that an appropriate means of disposal for foul and surface water could not be achieved in accordance with FLP policies CL1 and CL2, and the NPPF.

Ecology:

Section 1 of FLP policy ENV2 a) identifies a hierarchy of nature conservation sites falling within three tiers including International, National and Local designations. Criterion b) sets out a list of five principles that must be followed for developments within or affecting designated nature conservation sites. Criterion c) of the policy defines what will constitute damage to nature conservation sites in assessing developments. Section 2 of policy ENV2 indicates the protection that will be afforded to priority species. Paragraph 174 d) of the NPPF requires developments to minimise impacts on and provide net gains for biodiversity.

The application site is located within 400m of the Ribble and Alt Estuaries SPA and Ramsar. These internationally designated sites are afforded protection under The Conservation of Species and Habitats Regulations 2017 (as amended) (the "Habitats Regulations"). The application is accompanied by a site-specific ecological appraisal and 'shadow' Habitat Regulations Assessment (HRA) prepared by Envirotech which include the following conclusions:

- **Site-specific ecological appraisal (November 2019)** – The site comprises hardstanding with areas where buildings have been cleared upon which ruderal plants grow. There are walls on the boundaries and a hedge along the south-west boundary. Bats and nesting birds are known to occur in the local area. There was however no conclusive evidence of any specifically protected species regularly occurring on the site or the surrounding areas which would be negatively affected by site development following the mitigation proposed. The vegetation

to be cleared has a low ecological significance in the local area. The landscaping scheme should utilise plants which are native and wildlife friendly. In particular night flowering species would be beneficial to bats. Wildflower seed suitable for the coastal location could be used to plant verges to enhance the ecological value of the site. Any lengths of intact hedgerow to be removed to facilitate development should be transplanted and/or replanted in order that there is no net negative impact on this BAP habitat due to development.

- **Shadow HRA** – Following screening of the special qualifying features of interest of the Ribble and Alt Estuaries Ramsar and SPA, consideration of potentially harmful operations on these features which could arise from the implementation of the planned development, consideration of the proposed mitigation for potentially harmful operations and consideration of possible in-combination effects, it is concluded that the implementation of the development with appropriate mitigation will not have a significant impact on the special interest of these sites. Accordingly, with mitigation in place, the proposed development will not have any harmful effects on special nature conservation interest of the designated sites concerned and will not adversely affect their integrity. The required mitigation involves the provision of a Homeowners Pack to all new residents of the development giving details of the sensitivity of the Ribble and Alt Estuaries Ramsar site and SPA, and of ways of avoiding causing increased disturbance.

Both GMEU and Natural England have commented on the application. With reference to the shadow HRA and effects on designated nature conservation sites protected by the Habitat Regulations, Natural England advise that, as identified in the shadow HRA, without appropriate mitigation the development would have an adverse effect on the integrity of the Ribble and Alt Estuaries Ramsar and SPA and would damage the interest features for which it has been notified. Accordingly, Natural England recommend that, in order to mitigate these adverse effects and make the development acceptable, an appropriate planning condition or obligation is required to secure “provision of an advisory homeowner pack explaining the sensitivities of the nearby designated sites and include a ‘responsible user code’.” Natural England’s response also advises that the LPA adopt the shadow HRA prepared by the applicant’s ecologist as part of any decision in order to fulfil its duty as a competent authority under the Habitat Regulations. Similarly, GMEU’s response states that they agree with the conclusions in the shadow HRA and having nothing further to add to the advice in Natural England’s response, other than to make clear that the homeowner packs must have been approved by the LPA and made available prior to any of the apartments first being occupied.

The shadow HRA prepared by Envirotech concludes, through initial screening, that likely significant effects on the Ribble and Alt Estuaries Ramsar and SPA cannot be ruled out. This is due to indirect effects associated with added recreational disturbance from the uplift in local population occurring as a result of the development. Accordingly, the shadow HRA proceeds to an appropriate assessment with the conclusion that, when the mitigation afforded through the provision of homeowner information packs is included, the proposed development will not have any harmful effects on the special nature conservation interest or adversely affect the integrity of the designated nature conservation site. As the responses from Natural England and GMEU agree with the conclusions in the HRA, there is no reason to conclude that the proposed development is likely to have significant effects on designated nature conservation sites for the purposes of FLP policy ENV2 a) and the Habitats Regulations which could not be appropriately mitigated through proportionate measures. The resolution makes clear that the LPA is adopting the shadow HRA prepared by Envirotech as part of its decision in order to fulfil its obligations as a competent authority under the Habitat Regulations.

The submitted site-specific ecology appraisal also demonstrates that the development would not have any adverse effects on any priority species or habitats. While the hedgerow identified to the southern part of the site has been removed since the survey was conducted, it is noted that the landscaping

scheme includes provision for introduction of a greater length of hedgerow behind a boundary wall flanking the site's southern and eastern boundaries. Accordingly, appropriate biodiversity enhancements can be made commensurate to the scale of development and a condition has been imposed to ensure suitable biodiversity net gains as required by the NPPF.

Private matters:

Objectors refer to the potential for the development to cause damage to surrounding properties and to devalue neighbouring dwellings, while also querying whether any financial compensation to address these issues is available. It is, however, an established principle of the planning system that it does not exist to protect the private interests of one person against the activities of another. Instead, the basic question is not whether owners and occupiers of neighbouring properties would experience financial or other loss from a particular development, but whether the proposal would unacceptably affect amenities and the existing use of land and buildings which ought to be protected in the public interest.

Accordingly, and as is made clear in paragraph 008 of the "Determining a Planning Application" chapter to the NPPG (reference ID 21b-008-20140306), any perceived devaluation of surrounding properties is not a material planning consideration that would justify refusal of the application. Similarly, issues relating to any damage caused to surrounding properties while carrying out a development are private, civil matters between adjoining landowners which are dealt with under separate legislation (the Party Wall Act 1990) which falls outside the remit of the planning system and so are not material planning considerations. There is also no provision in the planning legislation for financial compensation to be paid to neighbouring occupiers in relation to these issues.

Conclusions

The application relates to a rectangular parcel of land extending to *circa* 0.28 hectares at the junction of South Promenade and Lightburne Avenue, Lytham St Annes. The land falls within the settlement boundary identified on the Fylde Local Plan to 2032 (FLP) Policies Map and was previously occupied by the Chadwick Hotel – a three-storey building of mixed scale and design which occupied a square-shaped footprint towards the central and northern areas of the site. The hotel was demolished *circa* June 2019 pursuant to prior approval application 19/0138 and more recent works have taken place to remove the building's floor slab, foundations and perimeter boundary walls.

The site occupies a prominent, corner location amongst buildings of varying era, scale and style. Buildings fronting onto the promenade vary significantly in form, but are typically of a larger scale and follow a staggered building line with deep setbacks from the roadside. The adjacent site to the west is occupied by the split-level apartment block of Lystra Court which rises from three to five storeys where it wraps around the junction with Derbe Road. Conversely, surrounding *circa* Edwardian properties on Lightburne Avenue and the eastern stretch of South Promenade are three storeys in height and laid out to follow a more regular pattern arranged in symmetrical pairs with a consistent setback to the roadside frontage driven by a linear building line.

The application involves the construction of a split-level block of 29 apartments (4 x 1-bed and 25 x 2-bed) on the site. The apartment building would be split into a series of bays which vary between three and five storeys in height, stepping up gradually towards a corner turret on the junction as it moves away from immediately adjacent buildings on South Promenade and Lightburne Avenue. Its roof would comprise a series of staggered hips punctuated by facing gables to the South Promenade and Lightburne Avenue facades. The layout of the apartment block would follow a staggered profile

comprising a series of individual bays of broadly equal width which step out gradually towards flanking roads as they build up to the corner. The building's elevations would be heavily glazed, with windows and balconies arranged in a series of symmetrical rows with a strong vertical emphasis. Depth would be created through the use of overhanging soffits to facing gables, stepped brick piers between openings, deep window and balcony reveals and 'box' window detailing.

Externally, a total of 31 car parking spaces would be provided within two separate car parks to the front (south) and rear (northwest) of the building – each with a separate access from Lightburne Avenue. Spaces within the frontage car park would be arranged in pairs separated by strips of soft landscaping and planted borders flanking South Promenade and Lightburne Avenue. Deep landscaped borders would form an open, L-shaped garden setting wrapping around both roadside frontages to reflect the setback positions and prevailing building lines of surrounding properties on South Promenade and Lightburne Avenue.

The application site is previously developed land and falls within the settlement boundary of Lytham St Annes. The settlement of St Annes is a Key Service Centre and one of the four Strategic Locations for Development which the local plan seeks to direct development towards. There are no other designations applicable to the site and the former hotel was demolished *circa* June 2019. Accordingly, the principle of residential development on the site accords with the development strategy contained within the FLP and the St Annes on the Sea Neighbourhood Development Plan. The proposed mix of dwellings would meet an identified need for smaller units of living accommodation and a total of six homes (20% of the total) would meet optional technical standard M4(3(2a)) (wheelchair-adaptable dwellings) of the Building Regulations in order to provide specialist accommodation for the elderly in accordance with the requirements of FLP policy H2.

The scale of the proposed apartment block is substantial. In particular, the five storey section on the corner would be a prominent addition in the street scenes of both South Promenade and Lightburne Avenue from near and distant vantage points. The development's massing and visual impact would, however, be tempered by the block's stepped layout and graduating height which replicates the scale of adjacent buildings where it borders these, before building up incrementally across a series of separate, staggered bays towards the corner where it wraps around the junction to create a prominent focal point. Similar stepped arrangements and scales are evident at other apartment blocks in several locations along South Promenade, which comprises an eclectic mix of buildings that are generally of substantial scale. When seen in this wider context, the height, bulk and massing of the proposed apartment block, combined with the layout and landscaped setting in relation to flanking roads, would not appear unacceptably dominant, overpowering or incongruous. The building's roof profile and gable-faced façades would provide a modern interpretation of the Edwardian architecture which surrounds it, ensuring that it respects and assimilates with the surrounding vernacular while avoiding pastiche. The design of the building's elevations – having particular regard to its detailing, materials, architectural features and the arrangement and dressing of openings and its external areas, which would comprise superior hard landscaped surface treatments softened by generous soft landscaping – would provide a unique and bespoke development of high quality design which sits comfortably within its surroundings.

The development's relationship with surrounding buildings, having particular regard to its layout, scale, spacing and window arrangements in relation to neighbouring dwellings, would ensure that it does not appear as an unacceptably oppressive or imposing addition in the outlook of neighbouring occupiers, nor would it cause detrimental effects through overshadowing. The interface distances achieved between proposed windows and balconies with the corresponding features of surrounding dwellings would avoid any adverse effects with respect to overlooking and would be commensurate with the general levels of privacy, amenity and mutual overlooking typical in the area and within the

context of a busy coastline where buildings are prominently in view within the public domain.

A safe and suitable means of access for all users would be achieved via the two vehicle and additional pedestrian accesses from Lightburne Avenue and the level of traffic generated by the development – including when compared to the site’s previous use as a hotel – would not have a severe residual, cumulative impact on network capacity. There are no objections to the scheme from the Local Highway Authority and the recommended off-site highway works to improve local walking routes (though the introduction of additional tactile paving at crossing points) and the enhancement of the closest bus stops on Clifton Drive South (through the introduction of raised kerbs) can be secured through condition. The development’s effects on designated nature conservation sites arising from added recreational disturbance can be mitigated by condition (as recommended by Natural England) and biodiversity enhancements would be secured as part of the scheme. The site falls within flood zone 1 and so is at the lowest risk of flooding from fluvial and tidal sources. Issues concerning surface water drainage can be appropriately addressed via condition (as recommended by United Utilities and the Lead Local Flood Authority), as can further investigations relating to contaminated land.

The applicant’s submission includes a viability appraisal which concludes that the collection of any financial contributions towards affordable housing, education, healthcare and public open space would make the development unviable. However, an independent review of this appraisal undertaken by Keppie Massie suggests that the development is capable of delivering all these contributions while still remaining viable. Accordingly, the current position based on Keppie Massie’s initial review is that the development will be viable with full, policy-compliant contributions in place and so any grant of permission will be subject to the completion of a planning obligation to secure all these contributions. The applicant has, however, indicated that they intend to submit additional information to justify the construction costs contained within their appraisal (which are significantly higher and provide the main area of disagreement with the Keppie Massie appraisal) and so maintain that the collection of these financial contributions, in full, would make the development unviable.

Aside from viability, there are no other outstanding matters with the application or issues in the planning balance to indicate that the adverse impacts of granting planning permission would significantly and demonstrably outweigh the benefits. Accordingly, providing that matters concerning viability can be resolved, the proposal will represent sustainable development in accordance with the relevant policies of the St Annes on the Sea Neighbourhood Development Plan, the FLP and the provisions of the National Planning Policy Framework. Therefore, the resolution in the agenda papers is for members of the Planning Committee to delegate authority to the Head of Planning and Housing to grant planning permission subject to the completion of a S106 agreement to secure full, policy-compliant infrastructure contributions (totalling £997,297.75) unless the applicant provides sufficient additional information to demonstrate, to the satisfaction of the Head of Planning and Housing (as advised by Keppie Massie), that the collection of these contributions would make the scheme unviable.

Recommendation

That authority be delegated to the Head of Planning and Housing to GRANT planning permission subject to:

1. The completion of a planning obligation entered into pursuant to S106 of the Town and Country Planning Act (as amended) to secure the following:
 - a) A contribution of £938,220 towards the off-site provision of affordable housing within the borough of Fylde.

- b) A contribution of £29,000 towards the provision of new facilities, or enhancement of existing facilities, for public open space purposes within the vicinity of the site.
- c) A contribution of £7,016 towards addressing the expected shortfall in Primary Care capacity to serve the occupants of the development to be spent in connection with the provision and/or enhancement of healthcare facilities at St Annes Primary Care Centre.
- d) A contribution of £23,061.75 towards addressing the expected shortfall in secondary education capacity to serve the occupants of the development to be spent at Lytham St Annes High School as identified in the assessment from Lancashire County Council dated 18.11.21 (or any other named infrastructure project in any subsequent assessment that succeeds it).
- e) A fee equivalent to £300 per trigger towards the Council's costs incurred in monitoring each of the contributions in a), b) and c) above.

The planning obligation will be expected to meet the full amounts quoted above unless: 1) the local planning authority receives updated assessments from the relevant consultee advising that the contributions set out above are to be altered and/or are no longer required; or 2) the applicant provides the local planning authority with robust financially-based justification to demonstrate that the collection of these contributions (either in full or in part) would make the development economically unviable. For the avoidance of any doubt, in reaching any decision concerning the viability of the development, the Head of Planning and Housing will give substantial weight to the advice and recommendations of the assessor engaged by the local planning authority to undertake an independent review of any viability evidence supplied by the applicant – this being Keppie Massie.

In the event that the applicant fails to provide the local planning authority with robust financially-based justification to demonstrate that the development would be unviable with the infrastructure contributions required to satisfy the relevant policies of the development plan in place and is unwilling to make the necessary contributions to mitigate the development's impact in this regard, the application would be refused under the powers delegated to the Head of Planning and Housing.

- 2. The local planning authority adopting the document titled "Habitat Regulations Assessment" prepared by 'Envirotech Ecological Consultants' (document reference '21-6-21 Rev3') as part of its decision in order to discharge the obligations contained in regulations 63 and 64 of The Conservation of Habitats and Species Regulations 2017, as amended by The Conservation of Habitats and Species (Amendment) (EU Exit) Regulations 2019.

- 3. The following conditions:

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

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

- 2. This permission relates to the following plans:

Drawing no. 19-07 PL01 – Location plan.
 Drawing no. 19-07 PL03 – Proposed site plan.
 Drawing no. 19-07 PL04 – Proposed layout plans sheet 1.
 Drawing no. 19-07 PL05 – Proposed layout plans sheet 2.
 Drawing no. 19-07 PL06 – Proposed layout plans sheet 3.
 Drawing no. 19-07 PL07 – Proposed roof plan.

Drawing no. 19-07 PL08 – Proposed elevations sheet 01 of 03
Drawing no. 19-07 PL09 – Proposed elevations sheet 02 of 03
Drawing no. 19-07 PL10 – Proposed elevations sheet 03 of 03
Drawing no. 19-07 PL11 – Proposed contextual street elevations.
Drawing no. 19-07 PL13 – Proposed accessibility strategy.
Drawing no. 19-07 PL14 – Proposed landscape scheme.
Drawing no. 19-07 PL16 – Bin store & bike store elevations.

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

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

3. Notwithstanding any description of materials in the application and the requirements of condition 2 of this permission, no above ground works of development shall take place until samples or full details of all materials to be used on the external surfaces of the buildings have been submitted to and approved in writing by the Local Planning Authority. The materials shall demonstrate compliance with the details set out on pages 46-48 of the Design and Access Statement by 'Creative Sparc Architects Limited' (document reference 19-07, dated 23.07.2021) and shall include the type, colour and texture of the materials to be used. The development shall thereafter be implemented in accordance with the duly approved details.

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

4. No development shall take place until a Construction Method Statement (CMS) has been submitted to and approved in writing by the Local Planning Authority. The CMS shall include the following details:
 - a) hours and days of work for site preparation, delivery of materials and construction;
 - b) areas designated for the loading, unloading and storage of plant and materials;
 - c) arrangements for the provision of wheel washing and road sweeping facilities to minimise the deposit of mud and other similar debris on adjacent highways, including details of how, when and where the facilities are to be used;
 - d) arrangements for the parking of vehicles for site operatives and visitors;
 - e) times when trips by heavy construction vehicles should not be made to and from the site (e.g. to avoid peak hours);
 - f) routes to be used by heavy construction vehicles carrying plant and materials to and from the site;
 - g) measures to ensure that construction and delivery vehicles do not impede access to surrounding properties;
 - h) measures to control the emission of dust and dirt during the construction period;
 - i) measures to monitor and control noise and vibration during the construction period, including the management of complaints;
 - j) the siting, luminance and design of any external lighting to be used during the construction period;
 - k) the erection and maintenance of security hoarding;
 - l) a strategy to inform neighbouring occupiers (which as a minimum, shall include those adjacent to the site boundaries) of the timing and duration of any piling operations, and contact details for the site operator during this period.

Development shall thereafter be carried out in full accordance with the duly approved CMS.

Reason: In order to ensure that appropriate measures are put in place before any development commences to limit the potential for noise, vibration, nuisance and disturbance to the occupiers of neighbouring properties and to avoid obstruction of the surrounding highway network during the construction of the development in accordance with the requirements of Fylde Local Plan to 2032 policy GD7 and the National Planning Policy Framework.

5. No development shall take place until a scheme to deal with the risks associated with contamination on the site has been submitted to and approved in writing by the Local Planning Authority. The scheme shall include:
- a) A Phase II site investigation based on the recommendations contained in the document titled "Desk Study with Walkover Survey" by 'Sub Surface North West Limited' (document reference 7217, dated May 2021) to provide information for a detailed assessment of the risk to all receptors that may be affected, including those off the site.
 - b) The results of the site investigation and the detailed risk assessment referred to in a) and, based on these, an options appraisal and remediation strategy giving full details of the remediation measures required and how they are to be undertaken.
 - c) A verification plan providing details of the data that will be collected to demonstrate that the works set out in the remediation strategy are complete and identifying any requirements for longer-term monitoring of pollutant linkages, maintenance and arrangements for contingency action.

The development shall thereafter be carried out in full accordance with the duly approved scheme and a verification report confirming its implementation shall be submitted to and approved in writing by the Local Planning Authority before any of the dwellings hereby approved are first occupied.

Reason: In order that appropriate investigations are undertaken to determine whether the site (or part of it) is contaminated before any development takes place, to avoid any disturbance of contaminated land while carrying out the development, to ensure the safe development of the site and to secure appropriate remediation of any contamination before development takes place in order to prevent pollution of the surrounding environment in the interests of the amenity of future occupiers and other sensitive receptors in accordance with the requirements of Fylde Local Plan to 2032 policy GD9 and the National Planning Policy Framework.

6. No above ground works of development shall take place until details of finished ground floor levels for the buildings and ground levels for the external areas of the site, above ordnance datum, have been submitted to and approved in writing by the Local Planning Authority. The development shall thereafter be implemented in accordance with the duly approved details.

Reason: To ensure a satisfactory relationship between the development and surrounding buildings before ground works to establish site levels are completed in the interests of ensuring a good standard of amenity for existing and future occupiers in accordance with the requirements of Fylde Local Plan to 2032 policy GD7 and the National Planning Policy Framework.

7. No development shall take place until a scheme for the disposal of foul and surface water from the development has been submitted to and approved in writing by the Local Planning Authority. The scheme shall be based on the sustainable drainage principles and requirements set out in the National Planning Policy Framework, Planning Practice Guidance and Defra Technical Standards for Sustainable Drainage Systems and shall include:
- a) Evidence of an assessment of the site conditions to include site investigation and test results to confirm infiltrations rates and the potential to dispose of surface water through infiltration.

- b) Sustainable drainage calculations for peak flow control and volume control (1 in 1, 1 in 30 and 1 in 100 + 40% climate change).
- c) Final sustainable drainage plans appropriately labelled to include, as a minimum:
 - i. The sustainable drainage system layout showing all pipe and structure references, dimensions and design levels.
 - ii. Flood water exceedance routes in accordance with Defra Technical Standards for Sustainable Drainage Systems.
 - iii. Finished Floor Levels (FFL) in AOD with adjacent ground levels for all sides of the building to confirm a minimum 150mm+ difference for FFL.
 - iv. Details of proposals to collect and mitigate surface water runoff from the development boundary.
 - v. Measures taken to manage the quality of the surface water runoff to prevent pollution, protects groundwater and surface waters, and delivers suitably clean water to sustainable drainage components.

The duly approved scheme shall be implemented before any of the dwellings hereby approved are first occupied.

Reason: To ensure that the development is not at risk of flooding and does not increase flood risk elsewhere, and that adequate measures are put in place for the sustainable disposal of foul and surface water in accordance with the requirements of Fylde Local Plan to 2032 policies CL1 and CL2, and the National Planning Policy Framework.

- 8. No development shall take place until a scheme for the management of surface water and pollution prevention during the construction period has been submitted to and approved in writing by the local planning authority. The scheme shall include the following details:
 - a) Measures taken to ensure surface water flows are retained on-site during the construction period and, if surface water flows are to be discharged from the site, that they are done so at a specified, restricted rate.
 - b) Measures taken to prevent siltation and pollutants from the site entering into any receiving groundwater and/or surface waters, including watercourses, with reference to published guidance.

The development shall thereafter be carried out in accordance with the duly approved scheme for the entirety of the construction period.

Reason: To ensure the development is served by satisfactory arrangements for the disposal of surface water during the construction phase in order that it 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 existing or proposed water bodies in accordance with the requirements of Fylde Local Plan to 2032 policies CL1, CL2 and GD9, and the National Planning Policy Framework.

- 9. None of the dwellings hereby approved shall be occupied unless and until a Verification Report and Operation and Maintenance Plan for the surface water drainage system to be installed pursuant to condition 7 of this permission have been submitted to and approved in writing by the Local Planning Authority.

The Verification Report shall: i) demonstrate that the surface water drainage system installed pursuant to condition 7 of this permission has been constructed in accordance with the duly approved scheme (or detail any variations); and ii) contain information and evidence, including photographs, details and locations (including national grid references) of the following (where applicable): inlets, outlets and control structures; landscape plans; full as built drawings; information pertinent to the installation of those items identified on the critical drainage assets drawing; and a

final 'operation and maintenance manual' for the sustainable surface water drainage system as constructed.

The Operation and Maintenance Plan shall include: i) details of appropriate operational, maintenance and access requirements for each sustainable drainage component, with reference to published guidance, for the lifetime of the development as constructed; and ii) arrangements for adoption by an appropriate public body or statutory undertaker, and/or management and maintenance by a management company and any means of access for maintenance and easements, where applicable.

The surface water drainage system shall thereafter be retained, managed and maintained in accordance with the duly approved Verification Report and Operation and Maintenance Plan.

Reason: To ensure that flood risks from the development to the future occupiers of the development and the occupiers of neighbouring land are minimised, together with those risks to controlled waters, property and ecological systems, and to ensure that the development is constructed in accordance with the duly approved surface water drainage scheme and that suitable measures are put in place for its future management and maintenance in accordance with the requirements of Fylde Local Plan to 2032 policies CL1 and CL2, and the National Planning Policy Framework.

10. The six dwellings which are identified as being “(wheelchair adaptable)” on drawing nos. 19-07 PL04, 19-07 PL05 and 19-07 PL06 shall be constructed to comply with optional requirement M4(3)(2)(a) contained in Part M, Schedule 1 of the Building Regulations 2010 (as amended).

Reason: To ensure that the development delivers a suitable proportion of dwellings that are designed to provide specialist accommodation for the elderly in order to satisfy the requirements of Fylde Local Plan to 2032 policy H2 and to provide an appropriate mechanism to secure compliance with optional requirement M4(3)(2)(a) under Part M, Schedule 1 of the Building Regulations 2010 (as amended).

11. Unless alternative details have first been submitted to and approved in writing by the Local Planning Authority, the soft landscaping scheme for the development shown on drawing no. 19-07 PL14 and detailed in the accompanying planting schedule (the 5 page document comprising a table labelled 1-48) shall be carried out during the first planting season that occurs after any dwelling hereby approved is first occupied. The areas which are landscaped shall be maintained as landscaped areas thereafter in accordance with a maintenance scheme which has been submitted to and approved in writing by the local planning authority before any of the dwellings are first occupied. 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 order that the development assimilates sympathetically into its surroundings, to provide an appropriate landscape buffer with surrounding land uses, to enhance the character of the street scene by providing a garden-fronted setting to the development and to provide appropriate biodiversity enhancements in accordance with the requirements of Fylde Local Plan to 2032 policies ENV1, ENV2 and GD7, and the National Planning Policy Framework.

12. Notwithstanding any details shown on the approved plans and the requirements of condition 2 of this permission, none of the dwellings hereby approved shall be occupied until details of the siting, height, design, materials and finish of all boundary treatments, gates and any other means of enclosure within the development have been submitted to and approved in writing by the Local Planning Authority. The boundary treatments, gates and any other means of enclosure shall be constructed in full accordance with the duly approved details before any of the dwellings are first

occupied, and shall be retained as such thereafter.

Reason: In the interests of the security of future occupiers, to achieve clear demarcation of public and private areas, to ensure that any gates positioned across vehicular accesses do not obstruct or impede a safe and suitable means of access into the site from the public highway and to ensure that the design of boundary treatments, gates and other means of enclosure is sympathetic to the character and appearance of the area in accordance with the requirements of Fylde Local Plan to 2032 policy GD7 and the National Planning Policy Framework.

13. None of the dwellings hereby approved shall be occupied until a Biodiversity Enhancement Plan (BEP) for the development has been submitted to and approved in writing by the Local Planning Authority. The BEP shall include the incorporation of the following biodiversity enhancement measures, including details of their number, location and specification, into the development and a timetable for their provision:

- a) The installation of bat boxes.
- b) The installation of bird boxes.

The duly approved BEP shall thereafter be implemented in full accordance with the details and timetable contained therein.

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

14. None of the dwellings hereby approved shall be occupied until a scheme for the distribution of homeowner information packs to inform new occupiers of the development of the importance of surrounding designated nature conservation sites has been submitted to and approved in writing by the Local Planning Authority. The scheme shall include a copy of the homeowner information pack and details of when, how and to whom these will be distributed (including provisions for future occupiers). The homeowner information packs shall be distributed in accordance with the duly approved scheme, and shall be maintained as such thereafter.

Reason: To ensure that future residents and visitors to the development are made aware of the importance of and their potential to affect the integrity of nearby designated nature conservation sites – particularly the Ribble and Alt Estuaries Site of Special Scientific Interest (SSSI), Special Protection Area (SPA), Ramsar site and land which is functionally linked to it – and to ensure appropriate measures are introduced are taken to mitigate the development's potential effects on designated nature conservation sites through recreational disturbance in accordance with the requirements of Fylde Local Plan to 2032 policy ENV2, the National Planning Policy Framework and the Conservation of Habitats and Species Regulations 2017 (as amended).

15. None of the dwellings hereby approved shall be occupied until a scheme for the siting, layout, design and construction of the following highway improvement works has been submitted to and approved in writing by the Local Planning Authority:

- a) The provision of tactile paving and associated kerbing works in the following locations: i) at all pedestrian crossing points on the east and west sides of Lightburne Avenue (including its intersections with Alexandria Drive and Clifton Drive South) located between the development's northern access and the eastbound and westbound bus stops located on the north and west sides of its junction with Clifton Drive South; ii) on both sides (north and south) of the pedestrian refuge (including the refuge itself and the crossings within the footway which lead onto that refuge) located in the centre of the carriageway of Clifton Drive South approximately 32 metres east of the junction with Lightburne Avenue; iii) on both sides (north and south) of the

pedestrian refuge (including the refuge itself and the crossings within the footway which lead onto that refuge) located in the centre of the carriageway of South Promenade approximately 125 metres northwest of the junction with Lightburne Avenue; and iv) on both sides of each of the vehicular accesses into the development to be created from Lightburne Avenue.

- b) The provision of raised kerbing to quality bus stop standard at the two bus stops located on the eastbound (Stop name: St Annes, York Road (by) and Stop ID 2500B0350) and westbound (Stop name: St Annes, York Road (opp) and Stop ID 2500B0370) carriageways of Clifton Drive South which are closest to the junction with Lightburne Avenue.

The highway improvement works shall be implemented in full accordance with the duly approved scheme and made available for use before any of the dwellings hereby approved are first occupied, or within any other timescale that has first been approved in writing by the Local Planning Authority.

Reason: To enhance and improve the usability and identification of walking routes between the site and existing bus stops and recreational routes in order to encourage modal shift and to maximise opportunities for travel by sustainable modes of transport, in the interests of ensuring a safe and suitable means of access to the site for all users and to enhance existing public transport provision for all users in accordance with the requirements of Fylde Local Plan to 2032 policies GD7 and T4, the National Planning Policy Framework and the Equality Act 2010.

- 16. No above ground works of development shall take place until a scheme for the design and construction of the development's vehicular accesses from Lightburne Avenue (the siting, layout and geometry of which are shown on drawing no. 19-07 PL03) has been submitted to and approved in writing by the Local Planning Authority. The development's vehicular accesses shall be constructed in accordance with the duly approved scheme and made available for use before any of the dwellings hereby approved are first occupied, and shall be retained as such thereafter.

Reason: To ensure a suitable and safe means of access to the site for all users and to achieve a satisfactory standard of engineering works in accordance with the requirements of Fylde Local Plan to 2032 policy GD7 and the National Planning Policy Framework.

- 17. Before any of the dwellings hereby approved are first occupied, all the hard landscaped areas (including those for vehicle parking and manoeuvring and providing pedestrian walking routes) indicated on drawing no. 19-07 PL14 shall be constructed and made available for use in accordance with the details and specification (including surfacing materials) shown on the approved plan. The duly constructed hard landscaped areas shall be retained as such thereafter.

Reason: To ensure a safe and suitable means of access for all users, in order that there is adequate provision for vehicle parking and manoeuvring clear of the highway and to ensure appropriate surface treatment of hard landscaped areas in the interests of road safety and visual amenity in accordance with the requirements of Fylde Local Plan to 2032 policies T5 and GD7, and the National Planning Policy Framework.

- 18. Before any of the dwellings hereby approved are first occupied a scheme for the provision of charging points for plug-in and other ultra-low emission vehicles within the development shall be submitted to and approved in writing by the Local Planning Authority. The scheme shall identify the number, siting and design of the charging points. All the charging points shall be provided and made available for use in accordance with the duly approved scheme before any of the dwellings are first occupied, and shall be retained as such thereafter.

Reason: To support the shift towards new technologies and fuels by promoting low carbon travel choices and to ensure that the development delivers suitable infrastructure which is designed to enable charging of plug-in and other ultra-low emission vehicles in safe, accessible and convenient locations in accordance with the requirements of Fylde Local Plan to 2032 policy T4 i) and paragraphs

107 e) and 112 e) of the National Planning Policy Framework.

19. None of the dwellings hereby approved shall be occupied until the 12 secure bicycle parking spaces (including all associated stands and fixtures) to be located within the building shown on drawing nos. 19-07 PL03 and 19-07 PL16 have been installed and made available for use in accordance with the details shown on the approved plans. The duly installed bicycle parking spaces shall be retained as such thereafter.

Reason: To promote modal shift and to encourage travel to the site by more sustainable modes of transport in accordance with the objectives of Fylde Local Plan to 2032 policies GD7 and T4, and the National Planning Policy Framework.

20. None of the dwellings hereby approved shall be occupied until the bin store to be located within the building shown on drawing nos. 19-07 PL03 and 19-07 PL16 has been constructed and made available for use in accordance with the details shown on the approved plans. The duly constructed bin store shall be retained as such thereafter.

Reason: To ensure that adequate provision is made for the storage of refuse and recycling receptacles in the interests of the amenity of future occupiers and to achieve an appropriate appearance for these storage facilities in the interests of visual amenity in accordance with the requirements of Fylde Local Plan to 2032 policy GD7.



Item Number: 4

Committee Date: 08 December 2021

Application Reference:	21/0794	Type of Application:	Full Planning Permission
Applicant:	Sr Sports services	Agent :	
Location:	LOWTHER GARDENS SITE, WEST BEACH, LYTHAM ST ANNES		
Proposal:	REDEVELOPMENT OF EXISTING TENNIS COURT AREA WITH INSTALLATION OF 2 NO. PADEL TENNIS COURTS WITH ASSOCIATED 4M HIGH SURROUND IN A MIXTURE OF GLASS, PLASTIC AND GREEN WELDED MESH AND 6M HIGH FLOODLIGHTS, INSTALLATION OF 6M HIGH FLOODLIGHTS TO 1. NO. RETAINED TENNIS COURT, AND RETROSPECTIVE CONSENT FOR CONSTRUCTION OF PORTABLE STORE/ OFFICE.		
Ward:	CLIFTON	Parish:	
Weeks on Hand:	13	Case Officer:	Rob Buffham
Reason for Delay:	Need to determine at Committee		
Click Here for application site on Google Maps		Click here for application on FBC website	

Summary of Recommended Decision: Grant

Summary of Officer Recommendation

The proposal for consideration by Members relates to the existing tennis court (x2) facilities at Lowther Gardens and is for the provision of fencing/ glazed panels, 14 number 6m floodlighting columns, and an office/ reception/ equipment store building to facilitate the addition of 2 padel tennis courts (retention of 1 traditional tennis court). The scheme will provide one of the first padel courts within the north west.

The application made is part retrospective due to the construction of the office/ reception/ equipment store building on site. Re-surfacing works have also been undertaken albeit these works are classed as maintenance and do not require planning consent.

Padel tennis is a variation of the traditional tennis format and has grown significantly in popularity recently. Padel tennis uses a smaller court, lower net and glazed screens form part of the court – similar to squash. The rackets are solid bats and heavier balls are used.

The proposal will ensure longevity of the tennis facilities as well as the diversification of sport and recreational uses at Lowther Gardens, and so will be of benefit to the health and well being of the local community.

Design is considered acceptable for this Locally Listed Park and Garden that is located within the Lytham Conservation Area. The proposed external lighting will alter the visual appearance of the application site and periphery whilst illuminated, though this would only be discernible from certain vantage points and be temporary during periods of darkness. The Council have supported external floodlighting of other sporting uses within other Parks and Gardens in the Borough, and within Lytham Conservation Area most notably tennis courts

and dome at Lytham Cricket Club and so established some precedent for this level of use.

The relationship of the proposal to neighbours is considered acceptable, and there are no technical matters that would warrant refusal of the planning application. The proposal is compliant with the development plan, and the officer recommendation is that Members grant planning permission.

Reason for Reporting to Committee

The Head of Planning and Housing has concluded that the with the level of wider public interest around a development in Lowther Gardens, the specific interest from the public on this application, and the council's role as a trustee to the Park the decision on the application should be referred to Committee for determination.

Site Description and Location

The application site relates to an established tennis court facility within Lowther Gardens which is bound by Church Road to the north, West Beach to the south, Lowther Terrace to the east and Woodville Terrace to the west.

The wider gardens are formally landscaped and include provision of a theatre, café, children's play area and bowling greens. Planning consent has been recently granted for extension and refurbishment of the theatre Pavilion building and works on Phase 1 of that development have recently commenced.

The existing tennis court facilities are located to the east of the gardens and are hard surfaced, surrounded by a 3m high green mesh fence.

The application site forms part of Lowther Gardens which is Locally Listed as a Park and Garden and is located within the Lytham Conservation Area. The Fylde Local Plan also allocates the site as a Park and Garden.

Details of Proposal

Padel tennis is an increasingly popular alternative to the more traditional game with smaller court, solid racket, lower net and glazed end walls that form part of the playing surface - similar to squash.

Two padel courts and one traditionally size tennis court are proposed within the existing fenced site. Each padel court will have its own enclosure consisting of green mesh fencing to a height of 3m, with glazed ends to a height of 3m topped by a 1m green mesh fence (4m overall height), the glazing wraps to the side elevation of each court. Each padel court is to be floodlit by 4 x 6m high columns, the tennis court will be floodlit by 6 columns. Floodlighting will encourage use of the courts for longer periods of the day, especially during the winter months. The submitted application form confirms hours of use to be 8am – 9pm Monday to Friday, 8am to 8pm Saturday and 9am – 8pm on Sundays and Bank Holidays.

The proposal also includes provision of an office/ reception/ equipment store building located to the south east of the tennis court adjacent to the equipped play area. The structure is of single storey flat roof design, measuring 2.5m x 4m and 2.5m in height, being clad in timber with black framed door and window detail. The application is part retrospective given the construction of the office/

reception/ equipment store building.

Sport England refer to correspondence from the Lawn Tennis Association confirming that the demand for padel tennis in the area is very high, and that the courts will be the first to be built in the north west.

Relevant Planning History

There is no history specific to this part of the Gardens.

Relevant Planning Appeals History

None

Parish/Town Council Observations

n/a.

Statutory Consultees and Observations of Other Interested Parties

Environmental Protection (Pollution)

I have read the provided information regarding light spillage and am satisfied that light should not spill beyond the site boundary.

I have considered noise. However, it is in my opinion that the level of noise introduced to the site would not be excessive. I do understand that paddle tennis is slightly louder than traditional tennis, with the noise the bat makes when hitting the ball louder. However, given the local of the area (an established park used for municipal sports), I do not believe this application would introduce a statutory nuisance into the area. I believe that if the hours of proposed operation are conditioned, there shall not be an issue here. I also do not believe it is necessary to formally request a noise assessment for the proposed activity, as the type of noise produced can be reasonably predicted without, and it would be very difficult to introduce any mitigating measures. The current use of the park could also attract members of the public to play sports of their choice within the park anyway, which are uncontrolled. The park itself could also theoretically attract groups of people for other social reasons at any given time, which again could produce noise. I believe the proposed application will have an element of control to which other events and gatherings on the park do not. It is in my professional opinion that I do not have enough evidence or reason to object to this application based on noise.

Lancashire County Council - Highway Authority

They raise no objection subject to conditions stating: *"The development will not have a significant impact on highway safety, capacity or amenity in the immediate vicinity of the site."*

A condition to control highway activity during the construction period is then suggested.

Sport England

Sport England assesses this type of application in light of the National Planning Policy Framework (NPPF) and against its own planning objectives, which are:

- 1. Protect – to protect the right opportunities in the right places;*
- 2. Enhance - To enhance opportunities through better use of existing provision;*
- 3. Provide - To provide new opportunities to meet the needs of current and future generations.*

Sport England notes that the Lawn Tennis Association have submitted a letter of support dated 1 June 2021 where they comment that the demand for Padel in the area in particular is very high and these will be the first courts built in the North West and therefore provide a real focus for the Local Authority area. Sport England, therefore, considers this proposal addresses an identified need for this facility type and has the potential to be of benefit to the development of tennis. We would wish to see this accorded an appropriate weight in the decision that is reached on this application.

The primary purpose of this development is to deliver community sport and as such Sport England is satisfied that it will fulfil the benefits to community sport identified above. The application has identified the potential for this facility to be used for community sport, and this is reflected in its design, location and intended hours of operation. Sport England would wish to see this intention consolidated by way of a Community Use Agreement.

Subject to the satisfactory establishment of a Community Use Agreement through the condition identified below, Sport England is satisfied that the proposal will deliver benefits to community sport identified above.

This being the case, Sport England does not object to this this application, as it is considered to meet Objective 3 as set out above.

Leisure & Parks – Sports development officer

The original courts were not in a condition for safe use and there was limited scope for funding to improve the facility so having a private investor come in and want to improve the courts with a view to utilising padel tennis, which is an ever-growing sport was great for the site.

The inclusion of floodlights will allow for extending the tennis offer into months and hours that wouldn't normally be used.

Greater Manchester Ecology Unit

Proximity to and impact pathways to statutory designated sites – HRA Screening Opinion

The application site lies within Natural England's SSSI Impact Risk Zones (IRZ) for Ribble & Alt Estuaries SPA/Ramsar, being located approx. 300m from the SPA boundary. Whilst such sites were until January 2021 protected under European legislation, the UK government has retained the protection and the extent of assessment of what has now become our National Site Network (NSN) under the .

The site is also within even closer proximity to Lytham Foreshore Dunes and Saltmarsh Biological Heritage Site (BHS 32NW01), which will be in part selected for similar habitats and species as the National Sites Network.

The application site falls within Natural England's SSSI Impact Risk Zones (IRZ) for the Ribble Estuary SSSI which falls within the SPA "All planning applications (except householder) outside or extending outside existing settlements/urban areas affecting

greenspace, farmland, semi natural habitats or landscape features such as trees, hedges, streams, rural buildings/structures."

GMEU are familiar with the qualifying species of the SPAs in the authorities they operate in and use professional judgement, GIS alert layers and data records purchased from other sources (including Fylde Bird Club) where necessary in forming their opinions. I have the following comments to make in respect of the Likely Significant Effects that might result from the current scheme. This consultation response represents GMEU's Stage 1 HRA Screening opinion to the LPA.

The proposals lies within the current development boundary of Lytham St Annes, so in essence would not trigger a Natural England consultation. However, for the sake of completeness I have screened the proposal for Likely Significant Effects given its proximity to the SPA and BHS sites.

The proposal does not impact on any feature which could be considered part of the SPA or Functionally Linked Land, which would hold the biodiversity interest of foraging/roosting land for overwintering wildfowl and waders.

The light spillage from the proposal falls off steeply and will not extend, at a materially significant level, beyond the boundary of the park. It is noted that the main road along the coast is lit by streetlights and the promenade, also supports lighting although it is not known to what extent the foreshore is lit by these.

It is a sound conclusion however, that the increase in the impact on qualifying features of the SPA will be no greater than the current background illumination that currently exists at the boundary of the sites (SPA & BHS).

The Local Planning Authority – as the competent authority in this matter - can note that the need for any further consideration under the Habitats Regulations (2019) is not necessary. It can be concluded beyond reasonable scientific doubt that there will be no likely effect on nearby National Sites Network (SPA/Ramsars/SAC) designated sites based on the objective information and analysis provided (Waddenzee [C127-02 ∞ 45]). As has been established in case law *'it is not that significant effects are probable, a risk is sufficient, but there must be credible evidence (objective information) that there is 'a real, rather than a hypothetical, risk'* (Boggis v Natural England & Waveney District Council [2009] EWCA Civ 1061.).

In the case of the current proposal there is no likely effect that is not nugatory and therefore any risk is only hypothetical. It is concluded that the proposal can be screened out of any further assessment under the Conservation of Habitats and Species Regulations (Amendment) (EU Exit) 2019.

It is recommended that the LPA record the conclusions of the Stage 1 HRA Screening Assessment within their delegated/Committee Report.

Other Biodiversity Material Considerations

The application is not supported by any ecological survey information or assessment. However, it is my opinion that this does not invalidate the submission, as Defra guidance (06/2005) indicates that *"It is essential that the presence or otherwise of protected species, and the extent that they may be affected by the proposed development, is*

established before the planning permission is granted, otherwise all relevant material considerations may not have been addressed in making the decision. The need to ensure ecological surveys are carried out should therefore only be left to coverage under planning conditions in exceptional circumstances, with the result that the surveys are carried out after planning permission has been granted. However, bearing in mind the delay and cost that may be involved, developers should not be required to undertake surveys for protected species unless there is a reasonable likelihood of the species being present and affected by the development.”

In this case I would anticipate that crepuscular animals (eg bats and even potentially badger) may be in the vicinity of the site. Bats would certainly use the park and tree edges for foraging and commuting if they are present.

The submitted information shows that the fall off of the proposed lighting columns drops rapidly from its source point.

Additionally, considering the current levels of illumination, both within the park itself and the surrounding roads, the introduction of flood lighting is unlikely to increase any biodiversity impacts more than the current baseline.

I note from your email, that the Council have already negotiated a pattern of restriction on lighting of the courts to 15 minutes post closure at 21:00. I am satisfied that this measure would also be sufficient for addressing the low risk of biodiversity impacts. I would recommend that this is secured via condition on any permission if granted.

Neighbour Observations

Neighbours notified:	10 September 2021
Amended plans notified:	n/a
Site Notice Date:	17 September 2021
Press Notice Date:	23 September 2021
Number of Responses	27, including 5 objections and 22 support.
Summary of Comments	<u>Objection:</u> <ul style="list-style-type: none">• Noise nuisance – known to be a noisy use, shouting, sound of ball and racket, early am to late PM, increased spectators will exacerbate noise issues.• Increase traffic flow and parking problems made worse.• Light pollution – detrimental affect to quality of life, well being and greatly disturb sleeping patterns and amenity areas at our property.• Detrimental impact to character and appearance of the conservation area.• Ecology – artificial light and noise pollution would illegally and severely impact and damage natural habitat, breeding and roosting patterns.• Gardens were to be a place of peace and tranquillity not a commercial venture. The Council are ignoring the established covenants and should be wary of egal challenge and associated costs.• Loss of view would adversely affect residential amenity.• Damage to Lytham Cobble wall by these climbing over the

perimeter wall to gain access as opposed to using appropriate entrance points.

- No mention as to how the hours of operation, floodlights or decibel levels will be monitored.

Support:

- The only region in the north of England with this facility which is becoming a popular sport throughout Europe.
- A great asset and major addition to Lytham's facilities.
- Supports the regeneration of Lowther Gardens and Pavilion Theatre and forms part of the Masterplan for the Gardens. Adds to the parks excellent facilities.
- Sympathetic design to the gardens.
- Lighting has been designed so as not to be too late night or obtrusive.
- Improvement to sport/ health/ fitness/ tourism/ access for all ages to the sport.
- The tennis courts were unplayable and an eye sore, the new courts look amazing. A fantastic re-use of a worn out facility.
- Padel encourages tennis to be played to an older age as you don't have to run as far.
- It is a good introduction to tennis.
- Bring a new audience into the Park.
- Benefit to locals and business.

Relevant Planning Policy

Fylde Local Plan to 2032:

GD1	Settlement Boundaries
GD7	Achieving Good Design in Development
ENV3	Protecting Existing Open Space
ENV5	Historic Environment
EC6	Leisure, Culture and Tourism Development
HW1	Health and Wellbeing
HW2	Community Facilities
HW3	Protection & Provision of Indoor & Outdoor Sports Facilities

Other Relevant Policy:

NPPF:	National Planning Policy Framework
NPPG:	National Planning Practice Guidance
LLST	Locally Listed Building

Site Constraints

Conservation area site

Environmental Impact Assessment

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

Comment and Analysis

Paragraph 38 (6) of the Planning and Compulsory Purchase Act 2004 indicates that development proposals should be determined in accordance with the development plan unless material considerations indicate otherwise. The NPPF advocates a presumption in favour of sustainable development. In terms of decision taking, this means approving development proposals that accord with the development plan without delay. Where the development plan is absent, silent or relevant policies are out-of-date, planning permission should be granted unless any adverse impacts of doing so would significantly and demonstrably outweigh the benefits when assessed against the policies in Framework. It advises that planning decision takers should seek to approve applications for sustainable development where possible.

The main issues pertinent in the assessment of this planning application are:

- Principle of development.
- Design, including impact on the character and appearance of the Lytham Conservation Area and Locally Listed Park.
- Residential amenity.
- Highways.
- Ecology.

Taking each matter in turn:

Principle of Development

The site is located within the urban boundary as defined by the Fylde Local Plan to 2032 Proposals Map. Policy GD1 is of relevance and is generally supportive of all development within such locations, subject to assessment against all other relevant planning policies.

In addition, Policy ENV3 seeks to protect existing open space from inappropriate development having regard to the multi-functional benefits of open space. Policy EC6 seeks to plan effectively for leisure, culture and tourism development through a number of criteria including realising the potential of the borough's assets, which includes Lowther Gardens, and encouraging daytime and evening tourism and leisure uses. Policies HW1, HW2 and HW3 focus on improvements to the health and well-being of the borough's residents through various strategies which include the retention, enhancement and new provision of facilities.

The Lowther Gardens Trust refer to the existing courts as being dilapidated, with the submitted Heritage Statement confirming that the courts are in need of maintenance and resurfacing. This position is confirmed by the Sports Development Officer who also confirms that the courts are not in a condition for safe use. The current proposal seeks to ensure longevity and enhance the existing tennis facilities, helping to diversify the leisure and recreational offer within Lowther Gardens as well as contributing toward the improved health and well-being of the Boroughs residents. The proposal is therefore considered acceptable in principle with regards to Policies ENV3, EC6, HW1, HW2 and HW3 also.

Design, including impact on the character and appearance of the Lytham Conservation Area and Locally Listed Park

FLP Policy GD7 is relevant to assessing the design of development and contains several criteria that are to be complied with in the design of new development. Those relevant to the current proposal

are:

- a) new development should promote community cohesion and inclusivity which bring together all those who live, work and play in the vicinity.
- d) requires new development to relate well to surrounding context including design, materials, landscaping and architectural character of development.
- f) conserving and enhancing the built and historic environment.
- h) requires that development is not harmful to the visual amenities of the area.
- i) take opportunity to make a positive contribution to character and local distinctiveness.
- n) makes provision for the needs of specific groups in the community.
- u) requires that works which sit in the public realm are designed appropriately to reflect the quality of that area.

Paragraph 134 of the NPPF states that development that is not well designed should be refused, especially where it fails to reflect local design policies.

FLP Policy ENV3 seeks to protect existing open space from in-appropriate development. Importantly, criteria d) states that development will not be permitted on existing open space that makes a positive contribution to the historic environment including the character, appearance and setting of conservation areas or Listed Buildings, unless the proposal meets the requirements of ENV5.

FLP Policy ENV5 requires all new development to conserve, protect and where appropriate enhance designated heritage assets, including Conservation Areas. Development that harms or undermines locally Important Heritage Assets or contribution to the character of the area will only be supported where public benefit outweighs the harm caused. The policy states that there will be a presumption in favour of buildings or features that make a positive contribution to the Area, requiring new development to:

- a) be appropriate to context including setting, scales, density and physical character.
- b) preserve or enhance features that make a positive contribution.
- d) not result in the loss of open space.
- f) reinforce distinctiveness of the area, reflecting the local palette of materials and local building styles.

NPPF paragraph 195 requires local planning authorities to identify and assess the particular significance of any heritage asset that may be affected by a proposal. Paragraph 199 requires great weight to be given to the asset's conservation. Paragraph 206 encourages development to enhance or better reveal the significance of Conservation Areas and supports development that meets this aim. Paragraph 201 states that local planning authorities should refuse development that results in substantial harm to designated heritage assets.

The application site forms part of Lowther Gardens which date back to 1872 where they were gifted to the people and visitors of Lytham by John Talbot Clifton of Lytham Hall. Lowther Gardens has been Locally Listed as a Park and Garden by the Council and is a key feature of the Lytham Conservation Area (LCA). Its natural qualities include peripheral mature tree planting that softens the built form that is predominant within the LCA. The design of new development is therefore intrinsic to ensure that the character and appearance of the LCA and Locally Listed Park is not undermined.

The existing extent of the tennis court hard surfacing will be retained without expansion ensuring that there will not be any erosion of the existing soft landscaped areas within the Gardens, as too

will the 3m green mesh perimeter fence. Additional enclosures are indicated to surround both of the padel courts proposed, being a mix of glazing and green mesh fencing to a maximum height of 4m to the end of the courts and 3m to sides. The existing fence structure will minimise the visual impact of that which is additionally proposed. The 4m height of fencing will appear above that presently in situ in more long distant views of the site. The mesh design permits views through the structure which would be viewed against the back drop of trees, acting to reduce prominence of the fencing.

The management building occupies a small footprint within the south eastern corner of the tennis courts, being of single storey flat roof design and timber clad with black patio doors and window frame. The mesh design of the perimeter fence line encourages unobstructed views such that the building is visible from the main footpath network through the Gardens. Notwithstanding this, the building is an unassuming structure and is not isolated from other buildings or structures within the Gardens, being located close to the equipped play area and main pavilion building.

A total of 14 floodlighting columns are proposed to illuminate the 2 padel courts (8 lighting columns) and the traditional tennis court (6 lighting columns), with each being 6m in height. Detailed design of the floodlighting columns has not been provided, including colour or head design, but given modern lighting arrangements it is considered that these will be visually acceptable. Their slender appearance and back drop of much taller trees will act to reduce prominence. As with the fencing, colour of the columns is key to blend in with surroundings so much as practicable. In the absence of this detail and head design, it is considered necessary to condition such matters for approval.

The existing tennis court is surrounded by landscaping, being set back behind a tree planted grass verge from adjacent footpaths. In addition there is hedge planting about the periphery of the adjoining equipped play area which, in combination with the tree planting, acts to soften the visual appearance of the existing tennis court and the proposed development in certain views. It is considered that continuation of the equipped play area hedge line will provide a more consistent landscape treatment to the footpath edge, as well as softening the development proposed, and will be conditioned appropriately.

External lighting levels within the Gardens is formed primarily by street lamp illumination of footpaths as well as security lighting on the Pavilion building. This existing lighting contributes toward the character of the local listing and Conservation Area. The proposed floodlighting will alter the nature of external lighting on a temporary basis, introducing a brighter light source within the immediate vicinity of the tennis courts, that will affect the perception of the Gardens and Conservation Area when viewed from some external vantage points.

It is the case that the floodlighting will only be used to facilitate the use of the courts during periods of darkness so is limited in the times of the day and year that it operates, and even then could only affect a specific area of the Gardens. External views of the application site are filtered over the Gardens through the peripheral tree planting and buildings/ structures, which act as mitigation to reduce visual impact of the illumination. In addition, the Council has supported illumination of sporting facilities in similar circumstances at other Gardens in the Borough, such as Ashton Gardens, as well as floodlighting of tennis courts at Lytham Cricket Club that are also located in Lytham Conservation Area.

The planning submission confirms that the existing tennis facilities are substandard, being beyond their life span and in need of repair. Feedback from the Council's Parks department confirms that the former tennis courts are not safe and that funding for required improvements was limited. Support for this scheme would encourage the necessary investment to ensure longevity and enhancement of the tennis facilities, helping improve the health and well-being of residents. This

provides sufficient justification in support of the proposal to outweigh any temporary impact that external illumination might have on the Locally Listed Gardens and Conservation Area.

The application site forms part of a Locally Listed Park that is located within the Lytham Conservation Area. For the design reasons outlined above, the scale of harm to the asset resultant from the development would be minor and there is valuable public benefit that would outweigh any harm that might be caused. The proposal is therefore considered to accord with FLP Policies GD7, ENV3, ENV5, and the NPPF.

Residential amenity.

FLP Policy GD7 h) requires high standards of design which, amongst other criteria, ensure that new development is sympathetic to surrounding land uses and occupiers (amenity). With regards to the current proposal, this amenity impact includes that relative to light pollution as well as noise from the extended use of the tennis courts into the early evening.

Residents have cited such issues in their objections, adding that sleep patterns will be affected, and noise will be exacerbated by increased numbers of supporters, as well as increased anti-social behaviour resultant from illumination to late in the evening.

Closest dwellings to the application site are located to the east on Lowther Terrace. These neighbours are a mix of 2 and 3 storey terrace dwellings, flats and a care home, each having a front facing aspect over Lowther Gardens toward the tennis court area. Separation between neighbours and the application site at its closest point is approximately 58m (50m to the front garden wall). A belt of mature evergreen trees is located to the boundary of the Gardens, intervening between neighbours and application site. The canopy of these trees acts to filter views over the Garden from the first floor of neighbours, though ground floor views are less interrupted being beneath the tree canopy.

The applicant has submitted a Lighting Assessment with their application which provides an assessment of potential light trespass resultant from the proposed external lighting of the courts. The report demonstrates that light trespass will largely be contained within proximity of the application site, with very little encroachment into the existing tree line, and so none outside of the Gardens.

In addition, floodlights will only be switched on when required and this will be for temporary periods during times of darkness. This is not to extend into the later evening with a termination of 9pm on Monday to Friday, and 8pm on Saturday, Sunday and Bank Holidays. A condition requiring lights to be switched off 15 minutes after the aforementioned times is proposed to allow users to safely leave the courts and ensure the period of illumination is kept to a minimum.

The proposed external illumination will facilitate prolonged use of the tennis courts with the possibility of prolonged noise disturbance for neighbours until closure of the courts in the evening. It should be recognised that there could be similar noise levels associated to use of the existing tennis courts albeit any disturbance is presently restricted to within day light hours. The noise associated to padel tennis is slightly different given the use of solid bats and use of glazed walls as part of the playing surface. Notwithstanding there is good separation to neighbouring dwellings that would act to minimise noise disturbance. The Environmental Protection Team have not requested a noise assessment, being happy to mitigate potential noise disturbance by condition that restricts hours of operation.

It is expected that there will be some disruption during construction of the development, and so controls to daytime construction hours will be imposed in an effort to minimise disruption for residents on the locality.

On balance, it is considered that the proposal would not significantly harm the amenity of neighbouring properties, subject to hours of use restriction, in accordance with FLP Policy GD7.

Highways.

FLP policy GD7 supports good design that would not prejudice highway or pedestrian safety, and the efficient and convenient movement of all highway users. Policy T5 relates to parking provision and indicates that a flexible approach to the level of car parking provision will be applied dependent on the location of the development.

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

The proposal will make use of existing parking on the site as well as the available on street spaces within vicinity of the site. The proposal will result in the net increase of one tennis court. This is considered to be a minor increase of overall parking requirement and this increase can be accommodated without detriment to highway safety, or impinging on the availability of parking to residents. Pedestrian access to the tennis courts will remain as per existing scenario, using footpaths within the Gardens.

The Highway Authority has no objection to the proposal confirming that it would not have a significant impact on highway safety, capacity or amenity in the immediate vicinity of the site.

Accordingly, the proposal is in compliance with the objectives of SANDP policy TR3, policies GD7, T4 and T5 of the FLP, and the NPPF.

Ecology.

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

There are a number of trees within proximity of the application which provide important habitat and foraging opportunities for protected species. Whilst the development will not necessitate removal of any existing trees, light pollution from the proposed external floodlights has the potential to impinge on this habitat, potentially affecting foraging and commuting of bats. The Council's Ecology Consultants has commented on the scheme, referring that lighting drops rapidly from its source and given the existing lighting levels within the park and surrounding roads, the proposal is unlikely to increase biodiversity impacts. Controls to time restrict lighting of the courts will help further

minimise this low risk.

The Councils Ecologist also comments that the application site lies within Natural England's SSSI Impact Risk Zones (IRZ) for Ribble and Alt Estuaries SPA/Ramsar, confirming that the proposal does not require any further assessment under the Conservation of Habitats and Species Regulations (Amendment) (EU Exit) 2019. This is due to the proposal having no impact on any feature of biodiversity interest of foraging/roosting land for overwintering wildfowl and waders, and proposed lighting would not extend, at a materially significant level, beyond the boundary of the park. They have undertaken a HRA Screening of the proposal and conclude that there is no direct impact on the features which support these designations, and that as the light spillage will fall off dramatically away from the courts the indirect impacts will be so limited that any Likely Significant Effects beyond the existing impacts can be reasonably ruled out. They advise the Fylde Council as the competent authority can be satisfied that no further consideration of these matters is necessary in meeting its obligations in respect of the protection of these designations.

On this basis it is considered that the development does not affect the favourable conservation status of protected species or sites of international, national or local importance. The proposal is therefore in accordance with FLP policy ENV2.

Conclusions

The principle of the development is acceptable being located within the urban area, providing for enhanced recreational provision that would sustain the tennis offer available at Lowther Gardens in the long term for the health and well-being benefit of the local community.

Design is considered acceptable for this Locally Listed Park and Garden that is located within the Lytham Conservation Area. External lighting will alter the visual appearance of the wider site whilst illuminated, though this would only be discernible from certain vantage points and be temporary for the period of illumination. The Council have supported external floodlighting of other sporting uses with parks and Gardens in the Borough, and within Lytham Conservation Area most notably at Lytham Cricket Club.

The relationship of the proposal to neighbours is considered acceptable, subject to restriction on hours of operation, and there are no concerns relating to highways or ecology that warrant refusal of the development.

As such the proposal is considered to accord with the requirements of the Fylde Local Plan and NPPF.

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 permission relates to the following plans:

- Location Plan drawing reference: 2106 1.01
- Proposed block plan drawing reference: 2106 2.01
- Proposed PADEL court plan and elevations drawing reference: 2.02

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

3. Prior to the installation of any external lighting hereby approved, details of the lighting to be installed shall be submitted to and approved in writing by the Local Planning Authority. The submitted details shall accord with the submitted lighting report (Lightnation Direct Sports Lighting and lx level plan (1) and (2) received on 20/09/21) and shall include:

- column colour.
- a) column head design.
- b) use of shrouds and cowls where feasible.

Any external lighting shall only be installed in accordance with the duly approved scheme.

Reason: To ensure that any external lighting to be installed at the site is appropriately designed and does not cause a nuisance to surrounding occupiers or detract from visual amenity in the surrounding area as a result of light pollution in accordance with the requirements of Fylde Local Plan to 2032 policies GD7, ENV3 and ENV5, and the National Planning Policy Framework.

4. Notwithstanding any details shown on the approved plans, prior to first use of the padel tennis facility for its intended sporting use, a soft landscaping scheme shall be submitted to and approved in writing by the Local Planning Authority. The scheme shall make provision for continuation of hedgerow planting to the equipped play area about the perimeter of the tennis courts.

The soft landscaping scheme shall confirm the type, species, siting, planting distances and the programme of planting.

The duly approved landscaping scheme shall be implemented within the first available planting season following discharge of this condition. 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 Policies GD7 and ENV1 of the Fylde Local Plan to 2032 and the National Planning Policy Framework.

5. Construction activities, including any deliveries to or from the site, associated with this development shall only take place between the hours of:

08:00 - 18:00 Monday to Friday.

09:00 - 13:00 Saturday.

With no works on Sunday or Bank Holidays.

Reason: To limit noise, nuisance and disturbance to the occupiers of neighbouring dwellings during the construction of the development, in accordance with Policy GD7 of the Fylde Local Plan to 2032 and the National Planning Policy Framework.

6. Use of the development hereby approved shall only take place between the hours of:

08:00 - 21:00 Monday to Friday.

08:00 - 20:00 Saturday.

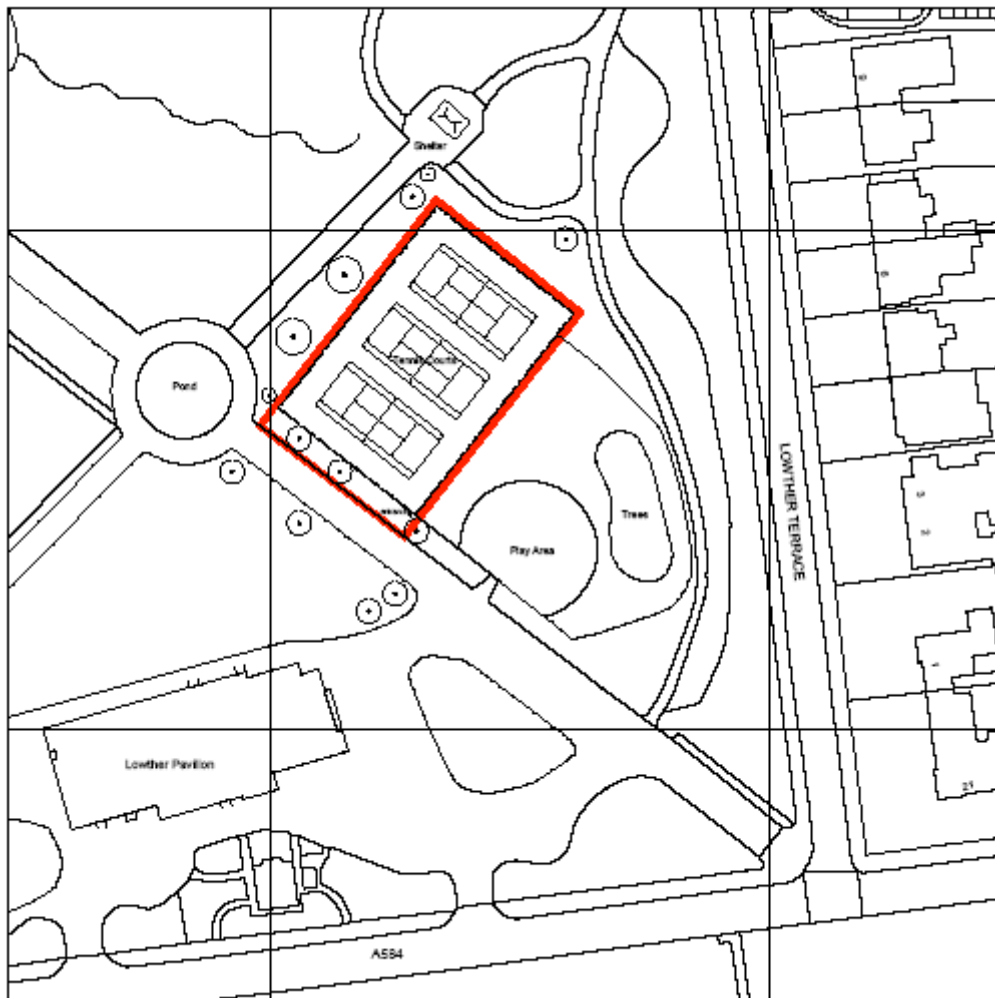
09:00 - 20:00 Sundays and Bank Holidays.

All floodlighting that illuminates the tennis and PADEL tennis courts shall be turned off no later than:

21:15 Monday to Friday.

20:15 Saturday, Sunday and Bank Holidays.

Reason: In order to ensure a satisfactory relationship to neighbours and further minimise low risk to protected species, in accordance with Policies GD7 and ENV2 of the Fylde Local Plan to 2032 and the National Planning Policy Framework.



location plan scale 1:1250

Item Number: 5

Committee Date: 08 December 2021

Application Reference:	21/0815	Type of Application:	Full Planning Permission
Applicant:	Mr Robinson	Agent :	Creative SPARC Architects
Location:	COBWEBS BARN, 8 OAK LANE, NEWTON WITH CLIFTON, PRESTON, PR4 3RR		
Proposal:	CHANGE OF USE OF LAND TO PROVIDE EXTENSION OF DOMESTIC CURTILAGE TO PROPERTY AND ERECTION OF SINGLE STOREY SIDE EXTENSION TO FORM ANCILLARY RESIDENTIAL ACCOMMODATION FOLLOWING DEMOLITION OF EXISTING ATTACHED OUTBUILDING		
Ward:	NEWTON WITH TREALES	Parish:	Newton with Clifton
Weeks on Hand:	8	Case Officer:	Ruth Thow
Reason for Delay:	Need to determine at Committee		
Click Here for application site on Google Maps		Click here for application on FBC website	

Summary of Recommended Decision: Grant

Summary of Officer Recommendation

The application site is a dwelling known as Cobwebs Barn which is located off Oak Lane in the settlement area of Newton, and an area of agricultural and an agricultural storage building that are alongside it and also within the settlement areas.

The application proposes the erection of a single storey building for domestic use which has an identical location, scale and form to the former agricultural building which is currently in position. It is also proposed to extend the domestic curtilage of the property onto land that surrounds this building with some of that being the former farmyard and other being agricultural land.

With the site being located in the settlement there is general support for these forms of development. In addition the land is shortly to be surrounded by other residential development with the construction of a residential development that is immediately to the west of this site and so will reduce any contributions that the site makes to the rural character of the village. This ensures that the proposal will not have any overly harmful visual impact.

The Parish Council and some residents have expressed consents over the scale of the building and the potential for disturbance to occur as a consequence of its use. However the scale reflects the existing building, and the use is to be associated with the domestic use of the property and will be controlled as such through a planning condition.

As such the proposal is considered to be compliant with the relevant policies of the Fylde Local Plan to 2032 and the NPPF and is therefore recommended for approval by Members.

Reason for Reporting to Committee

The officer recommendation for approval conflicts with the views of the Parish Council and so it is necessary to present the application to the Planning Committee for a decision.

Site Description and Location

The application site is a dwelling known as Cobwebs Barn and an attached barn, situated on Oak Lane, Newton. The application relates to an existing, single storey, brick built former agricultural building attached to the side elevation of Cobwebs Barn. The dwelling and the attached barn form part of a courtyard group of former agricultural buildings of which two of the buildings have been converted into three dwellings with Cobwebs Barn situated to the rear of the two dwellings which front onto Oak Lane. To the west of the building a new access has been provided to serve the land to the rear of the application site which is currently being developed for affordable housing (application 20/0315 refers).

The application site is within the settlement of Newton with Scales as allocated on the Fylde Local Plan to 2032.

Details of Proposal

The application seeks permission for a change of use of land that lies between the barn building and the access road to the housing development to the west to provide an extension of the domestic curtilage for the dwelling and the erection of a single storey side extension to Cobwebs Barn to form ancillary residential accommodation, following demolition of the existing attached building.

The new building measures 12.5 metres in length by 6.6 metres in width with an eaves height of 2.2 metres and with a dual pitched roof with an overall ridge height of 3.7 metres. The building is proposed to be constructed in facing brickwork to match the existing dwelling under a slate roof with upvc windows and rainwater goods.

The new building is proposed as a games room with an external terrace.

Relevant Planning History

There is no relevant planning history since the conversion of the buildings to residential use in 1980.

Relevant Planning Appeals History

None

Parish/Town Council Observations

Newton with Clifton Parish Council notified on 25 October 2021.

They object to the proposal as follows:

'Application does not specify dimensions and although plans of the existing and proposed structure are indicative of similar size overall members have reasoned the proposed development footprint is excessive in scale compared to the existing dwelling and constitutes over development of the

available plot conflicting with local plan policy GD7 which is intended to ensure siting, layout, massing, scale, building to plot ratio &c of a proposed development proportionately relate to the surrounding location. Detail within the document relating to provision of games room, kitchenette, seating capacity, external terrace aspect, toilet facilities together with no direct access from existing residential dwelling suggests a potential use other than private ancillary residential accommodation. In this potential scenario a loss of amenity caused to neighbouring property, including noise nuisance, is not inconceivable. Accordingly, council recommend that the proposed development is refused planning permission.'

Statutory Consultees and Observations of Other Interested Parties

Greater Manchester Ecology Unit

GMEU have confirmed that there are no reasons not to accept the findings of the Bat survey. They advise an informative to alert the developer that should they find or suspect the proposals will impact on protected species they must seek ecological advice.

Neighbour Observations

Neighbours notified:	02 November 2021
Site Notice Date:	02 November 2021
Number of Responses	7 letters received
Summary of Comments	<ul style="list-style-type: none"> • floor area excessive for private games room and so establishes a potential for commercial use • condition should restrict use • terrace has potential for noise nuisance • scale disproportion to dwelling • no access from dwelling • users could be over 20 at any time • dwelling already has outdoor seating • remove bi-fold doors • why is there a kitchenette • why 2 toilets • tables and chairs for up to 16 people • increase above what would be normally expected for New Build domestic side extension • could the rented barns not be incorporated back into the main house • proposed building looks larger than existing • self contained entertainment complex • terrace faces my property could result in excessive noise

Relevant Planning Policy

Fylde Local Plan to 2032:

GD1	Settlement Boundaries
GD7	Achieving Good Design in Development
ENV2	Biodiversity

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) Regulations 2017.

Comment and Analysis

This application seeks permission for a change of use of former agricultural land to land within the domestic curtilage of Cobwebs Barn, and the erection of a single storey building for use in association with the adjoining dwelling.

Principle

The application site is located within one of the settlement boundaries identified on the Fylde Local Plan to 2032 Policies Map. As set out in policy GD1 of the Local Plan, the principle of residential extensions and outbuildings within the identified settlements is acceptable subject to the development's compliance with other relevant policies of the Plan. In this case the criteria contained in policy GD7 of the Fylde Local Plan to 2032 are of greatest relevance, having particular regard firstly to the development's effects on the character and appearance of the area arising from its design and, secondly, to its impact on the amenity of surrounding occupiers. Each of these issues is examined further below with reference to the relevant criteria in policy GD7.

Design and Appearance in Streetscene

Fylde Local Plan to 2032 policy GD7 requires that development proposals demonstrate a high standard of design, taking account of the character and appearance of the local area, in accordance with 15 guiding principles (a - o). In particular, criteria d), h) and i) of the policy identify the following requirements:

- Ensuring the siting, layout, massing, scale, design, materials, architectural character, proportion, building to plot ratio and landscaping of the proposed development, relate well to the surrounding context.
- Being sympathetic to surrounding land uses and occupiers, and avoiding demonstrable harm to the visual amenities of the local area.
- Taking the opportunity to make a positive contribution to the character and local distinctiveness of the area through high quality new design that responds to its context and using sustainable natural resources where appropriate.

Paragraph 130 of the NPPF sets out six general principles of good design (a) – f)) that developments should follow and paragraph 134 indicates that “development that is not well designed should be refused, especially where it fails to reflect local design policies”.

This first element of this application relates to the change of use of former agricultural land to form extended domestic curtilage. The land in this application is an area of land immediately in front of the application building extending up to the new access road serving the properties currently under construction situated to the rear of the site. Prior to the allocation of that land for residential development in the current Local Plan, and then the grant of planning permission for that development, this area effectively formed the visual edge of the village and so its rural character was important.

That status has changed with the commencement of that residential development as the land is now to be entirely surrounding by residential development, with the access road to that development forming the boundary of this area. This effectively removes the value of its remaining rural in character and so the proposed change to domestic curtilage will not have a significant visual impact on the village-wide context.

On the western side the land is circa 10m in depth for the width of the site which is also 10m, and is shown as being split almost equally between a raised terrace and a lawn area. To the rear of the barn an area of former farmyard of around 6m x 10m is to form extended parking/turning area for the property. Given the relatively small area and the lack of any likely alternative use for the land the inclusion into the existing domestic curtilage is considered acceptable.

The second element of this proposal is the erection of a single storey building attached to the side of the property, and indicated as being for an ancillary use to its residential occupation. This building is proposed to replace an existing former agricultural building which currently is used for storage of domestic items. The existing building is attached to the host dwelling and forms part of a courtyard group of redundant farm buildings and those which have been converted to a residential use.

Whilst the Parish Council express reservations over the scale of the building that is proposed, it is factually the case that it is of the same footprint and height as the existing barn and so will not have any greater physical scale than that structure. Also its design is simple and in keeping with the adjacent buildings. The development will result in the demolition of a building which is no longer used for any agricultural use, and with the change in the nature of the area with the residential development forthcoming on that agricultural land it is highly unlikely that it would ever be needed for that use again, notwithstanding that it is in a poor state of repair anyway. Its loss as a structure is of no consequence to the character of the area or to allow any on-going agricultural activity to continue.

As a result of the creation of the access road which serves the new dwellings at the rear the existing building is now far more visible in the street scene than was previously the case. The proposed building has no greater impact in terms of its scale but will improve the overall visual amenity through the removal of the existing building which will benefit the character and appearance of the area by removing this run-down structure.

Taken together the design and scale of the building accords with the requirements of criteria d), h) and i) of Policy GD7.

Relationship to Neighbours

Fylde Local Plan to 2032 policy GD7 c) requires that development proposals facilitate good design by “ensuring that amenity will not be adversely affected by neighbouring uses, both existing and proposed”. In addition, criterion h) states that developments should be “sympathetic to surrounding land uses and occupiers”.

Paragraph 130 f) of the NPPF indicates that planning decisions should ensure developments “create places that are safe, inclusive and accessible and which promote health and well-being, with a high standard of amenity for existing and future users.”

Several neighbour letters have been received in regards to this proposal, the comments mainly relate to the scale of the building and concerns over the proposed use.

The issue of scale has been assessed and is considered acceptable for the reasons outlined above.

In regards to the use of the building the applicant proposes to replace the existing building due to its poor condition and intends that the new building is put to a use by himself other members of his family who occupy some of the adjoining dwellings which the applicant also owns. His intention that this is somewhere away from the main dwelling that he and his family can use as a place of recreation and is not proposed for any commercial purposes. As this use is one that would be found in any residential environment it is not considered that there are any reasons to expect that neighbouring amenity will be compromised by this form of use. The recommendation on this application includes conditions to limit the use of the building to a personal use only associated with the occupation of Cobwebs Barn. .

As such the proposal has an acceptable relationship to its neighbours in all regards and complies with criteria c) and h) of Policy GD7.

Parking and Access Arrangements

The existing building is used for domestic storage and so the new building would not result in a loss of availability of car parking provision within the site. The use of the former farmyard s domestic curtilage will effectively regularise the use that it currently has, with the courtyard providing ample parking area for the surrounding residential properties and other agricultural buildings that remain.

Consequently, the proposal retains an appropriate level and location of parking for the site and does not compromise the access arrangements or highway safety. As such it complies with criteria j) and q) of Policy GD7.

Landscaping

The existing dwelling has a small garden area to the south west elevation (as shown on plan) which is enclosed by a low wall and 'picket style' fencing. The applicant proposes to continue this fencing across the plot in front of the new building. In addition a hedge is to be planted to the rear of the fencing to increase the height of the boundary treatment and to provide privacy. The low fencing fronts the new access road into the site currently being developed for housing and will maintain a green, open and attractive approach to the area.

Accordingly the development is considered acceptable having regard to the requirements of Policies ENV1 and GD7 in respect of the visual amenity of the area.

Ecology

The application is accompanied by a Bat survey of the barn. The building was inspected both internally and externally to assess its potential value and suitability for bats, with emergence and re-entry surveys also carried out.

The survey concluded that the proposed development would have no deleterious impact on any European Protected Species or their habitat, either currently, or in the future, or of any surrounding statutory or non-statutory sites. The council's ecologists have confirmed that the results are sound, but have advised that the developer is made aware of the need to seek ecological advice should any protected species be found or suspected. They also advise that the main bird nesting is avoided and that biodiversity net gain should be secured. Accordingly, a condition requiring a

native hedge to be provided and an informative in respect of protected species are added to this recommendation. These will ensure the development accords with Policy ENV2 of the Fylde Local Plan to 2032,

Conclusion

The application relates to extension of the domestic curtilage of a dwelling and the erection of a building for residential purposes to replace an existing dilapidated barn which is situated within the settlement of Newton. Having viewed the proposal and assessed the issues raised, it is considered that the development accords with the relevant policies of the Fylde Local Plan to 2032, the NPPF. Accordingly the application is recommended for approval.

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 permission relates to the following plans:

- Location, floor and elevation plan - Drawing no. 21-17 PL02 REV. A
- Proposed boundary treatment plan - Drawing no. 21-17 PL03

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

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

3. Unless alternative details have first been submitted to and approved in writing by the Local Planning Authority, the development shall be constructed in accordance with the materials detailed on the application form and / or approved plans listed in condition 2 to this planning permission.

Reason: To ensure use of appropriate materials which are sympathetic to the character of surrounding buildings and the street scene in the interests of visual amenity in accordance with Policy GD7 of the Fylde Local Plan to 2032.

4. The building hereby approved shall only be used for extended residential accommodation associated with the residential occupation of Cobwebs Barn, Oak Lane, Newton PR4 3RR as a single dwellinghouse. It shall not be sold, sublet or converted for occupation independently of that dwelling as a separate unit of residential accommodation, or used for any commercial purpose.

Reason: To preserve the character and appearance of the area, to ensure that the curtilage of the dwelling is not overdeveloped or subdivided inappropriately and to achieve a high standard of amenity for existing and future occupiers in accordance with the requirements of policies GD7 and

H2 of the Fylde Local Plan to 2032, and the National Planning Policy Framework.

5. Unless alternative details have first been submitted to and approved in writing by the Local Planning Authority, boundary treatments to the site shall be erected in accordance with the details (including their siting, height, materials, finish and design) shown on drawing nos. 21-17 PL03 before the building hereby approved is first occupied, and shall be retained as such thereafter.

Reason: To ensure clear demarcation of public and private areas, to achieve adequate levels of privacy between neighbouring dwellings and to ensure that the design of boundary treatments is sympathetic to the character and appearance of the area in accordance with the requirements of Fylde Local Plan to 2032 policy GD7 and the National Planning Policy Framework.

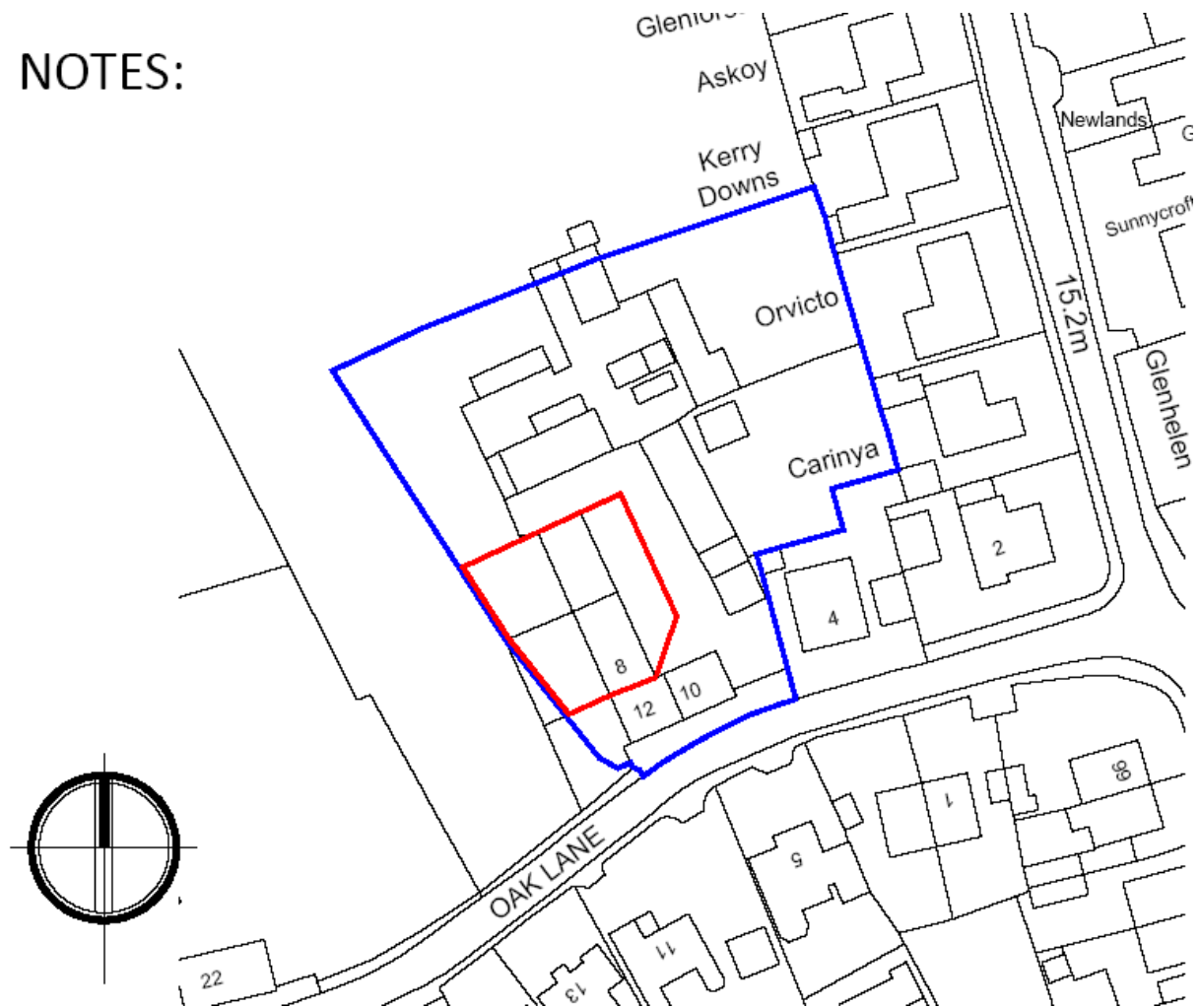
6. Notwithstanding any details shown on the approved plans and the requirements of condition no.2 of this permission, before the building hereby approved is first occupied a soft landscaping scheme for the development shall be submitted to and approved in writing by the Local Planning Authority. The scheme shall include details of the number, size, species, siting, planting distances/densities and the programme of planting of trees, hedges and shrubs. The duly approved soft 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 Fylde Local Plan to 2032 policies GD7, ENV1 and ENV2, and the National Planning Policy Framework.

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

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

NOTES:



Item Number: 6

Committee Date: 08 December 2021

Application Reference:	21/0822	Type of Application:	Full Planning Permission
Applicant:	Mr I Hutchinson	Agent :	Fish Associates Ltd
Location:	TANGLEWOOD, SPEN LANE, TREALES ROSEACRE AND WHARLES, PRESTON, PR4 3TE		
Proposal:	ERECTION OF REPLACEMENT TWO STOREY DWELLING WITH ATTACHED GARAGE FOLLOWING DEMOLITION OF EXISTING BUNGALOW AND DETACHED GARAGE INCLUDING CONSTRUCTION OF FRONT BOUNDARY WALL AND GATES UP TO 1.4 METRES IN HEIGHT - RESUBMISSION OF APPLICATION 21/0445		
Ward:		Parish:	Treales, Roseacre and Wharles
Weeks on Hand:	15	Case Officer:	Alan Pinder
Reason for Delay:	Need to determine at Committee		
Click Here for application site on Google Maps		Click here for application on FBC website	

Summary of Recommended Decision: Grant

Summary of Officer Recommendation

The application site is a detached single story property that is located on the southern edge of the built area of Treales in a row of other detached dwellings. As with the remainder of Treales village and parish the site is washed over by the Countryside allocation under Policy GD4 of the Fylde Local Plan to 2032.

The proposal is for the construction of a two-storey detached dwelling to replace the existing property. It follows an application that was made earlier this year which was refused by officers using delegated powers for reasons relating to the design of the dwelling and the relationship to its neighbours.

In contrast to that scheme the design, scale and finished appearance of the dwelling that is now proposed are considered appropriate for the site and its local context. It is also assessed that the development would not unduly prejudice the amenity of neighbouring dwellings.

With this, and in the absence of other material considerations that might make the proposal unacceptable at this location, the proposal accords with the relevant policies of the Fylde Local Plan to 2032 and the NPPF. Accordingly it is recommended for approval subject to a series of conditions to ensure the appropriate implementation of the scheme.

Reason for Reporting to Committee

The officer recommendation for approval conflicts with the views of the Parish Council and so it is necessary to present the application to the Planning Committee for a decision.

Site Description and Location

The application relates to a detached true bungalow dwelling located on the southern edge of Treales village, at the northern end of Spen Lane where it enters the village. The property is neighboured on both sides and to the rear by two storey dwellings, and to the front lies open countryside.

The site is within the Countryside Area as designated on the Fylde Local Plan to 2032 Policies Map.

Details of Proposal

Planning permission is sought for the following:

- Construction of a detached two storey, four bedroomed dwelling, with a side attached double garage, to replace the existing bungalow. The dwelling would measure 12.8 metres in depth and have a total width of 21.5 metres, with the main body being 15.1 metres wide and the attached garage being 6.4 metres wide. The dwelling would have an 8.2 metre ridge height, with 5.1 metre eaves, and the garage would be 5 metres high with 2.5 metre eaves. In terms of design the front elevation would have a central feature gable and two first floor balconies (one to each side of the gable)
- Construction of a new front boundary wall and vehicle access. The wall would be formed with 1.8 metre high brick piers infilled with brick dwarf wall with iron railings atop with a combined height of 1.4 metres. The new access would be closed by a 1.7 metre high iron rail sliding gate set with timber cladding behind.

In terms of materials the elevations would have white rendered at ground floor level and hardwood timber cladding at first floor. The roof is stated to be covered in either natural or artificial grey slate, and the windows and external doors are to be of aluminium with an anthracite colour finish (RAL 7016).

Relevant Planning History

Application No.	Development	Decision	Date
21/0445	ERECTION OF REPLACEMENT TWO STOREY DWELLING WITH ATTACHED GARAGE FOLLOWING DEMOLITION OF EXISTING BUNGALOW AND DETACHED GARAGE INCLUDING CONSTRUCTION OF FRONT BOUNDARY WALL AND GATES UP TO 1.8 METRES IN HEIGHT	Refused	20/07/2021
05/0500	CONVERSION OF EXISTING GARAGE TO LIVING ACCOMMODATION	Granted	28/06/2005

Relevant Planning Appeals History

None

Parish/Town Council Observations

Treales, Roseacre & Wharles Parish Council notified on 06 September 2021 and provided a detailed letter in response dated 22 October 2021. That letter quotes the wording of Policy H7 of the Fylde Local Plan and its supporting justification text in paras 9.84-9.86 of the Plan. They then provide the Parish Council's views on the application, which are:

"The Parish Council carefully considered this application at their meeting on the 20 October 2021 and resolved to Object to the application because it does not comply with Policy H7 of the FLP2032 in that the proposed dwelling appears to be 50% larger than the original home and because the upper storey rear windows introduce an adverse impact on the amenity of privacy to the users of their gardens in the adjacent properties."

Statutory Consultees and Observations of Other Interested Parties

Lancashire County Council - Highway Authority

LCC Highways does not have any objections regarding the proposed erection of replacement two storey dwelling with attached garage following demolition of existing bungalow and detached garage including construction of front boundary wall and gates up to 1.4 metres in height and are of the opinion that the proposed development will not have a significant impact on highway safety, capacity or amenity in the immediate vicinity of the site.

The applicant is requested to enter into a s184 agreement for the reinstatement of the existing vehicle crossing and the formation of the proposed vehicle crossing

Greater Manchester Ecology Unit

Agree with the findings of the submitted Preliminary Bat Roost Survey. Advise that bats surveys are time limited for 2 years and so request a condition requiring further survey in the event of demolition works not being commenced by April 2023. Also request a biodiversity enhancement (bird/bat boxes) be conditioned to be provided.

Neighbour Observations

Neighbours notified:	06 September 2021
Number of Responses	None

Relevant Planning Policy

Fylde Local Plan to 2032:

GD4	Development in the Countryside
GD7	Achieving Good Design in Development
H7	Replacements and Extensions in Countryside
ENV2	Biodiversity

Other Relevant Policy:

NPPF:	National Planning Policy Framework
NPPG:	National Planning Practice Guidance
JHE	Joint House Extensions SPD

Environmental Impact Assessment

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

Comment and Analysis

Principle of a Replacement Rural Dwelling

The application site is located in the Countryside Area as identified on the Fylde Local Plan to 2032 Policies Map. This policy is a restrictive one towards new development, but does include a series of exemptions. One of these (exemption c)) refers to extensions to replacement dwellings and directs these to accord with the requirements of Policy H7. Whilst Policy GD4c does not refer to replacement dwellings, as is proposed here, Policy H7 does as it is titled 'Replacement of, and Extensions to, Existing Homes in the Countryside'. With this title so explicitly referencing replacement dwellings, and not just extensions, it must be the case that these are acceptable in principle where they satisfy the requirements of Policy H7. This compliance is assessed in the following sections of this report.

It is also necessary to assess the normal planning criteria applicable to scheme of this nature as are controlled by Policy GD7 of the Plan. In this case these will include the design, the relationship to neighbours, the character of the wider area and the access arrangements.

Scale of Replacement Rural Dwelling

Policy H7 imposes strict restrictions on the scale of extensions and replacement dwellings compared to the original dwelling on the site, and imposes controls over their design and character. The reason for this, as explained in the supporting text which the Parish Council quote in their response, is to preserve the stock of smaller rural dwellings in the borough. The justification for this Policy explains that the evidence behind the preparation of the Fylde Local Plan to 2032 found that not only have many of these smaller rural dwellings been lost in recent years, but this is a type of property for which there is a strong need. The justification also highlights that the establishment of large dwellings in rural areas can often be overbearing on the landscape and can dominate it with the result it gains a suburban character. Policy H7 takes a two-pronged approach to assessing applications such as this, by requiring firstly that the replacement dwelling involves no more than a 33% increase in the footprint of the property compared to its original scale (criterion a)), and secondly that the appearance of the replacement home respects the character of the original building and the surrounding rural area (criterion b)).

Since the adoption of the Fylde Local Plan to 2032 in October 2018 the council has taken a consistent approach to determining applications in accordance with this Policy, and this has been borne out through decisions on appeal as follows:

- In cases where the application property remains a small rural dwelling (i.e. it has 3 bedrooms or less) then the council will rigidly apply the quantitative test of Policy H7 a) and will refuse any enlargements that exceed the 33% of ground floor area in that element of the Policy (including by factoring in previous extensions to properties made before the adoption of the local plan, as a cumulative figure). This accords with the approach taken by the Inspector at 2 South View in Lytham (PINS Ref: 3218843).
- In cases where the application property is not a small rural dwelling (i.e. it has 4 bedrooms or more) either as a consequence of previous extensions added to the original dwelling or due to

the scale of the original dwelling, then the council will not apply the quantitative test in Policy H7 a). However, the qualitative test in criterion b) of the Policy will be applied. This accords with the approach taken by the Inspector at Many Views (PINS Ref: 3221121)

Assessment against Policy H7 a)

In this instance the submitted drawings indicate the existing bungalow has four bedrooms. This is in part a consequence of permission being granted in 2005 for the conversion of the garage to habitable accommodation (ref. 05/0500). Hence the existing 4-bedroom property no longer falls within the category of a small rural dwelling and so, having regard to appeal decision 3221121 as referred to above, as the proposal would not result in the loss of an existing small rural dwelling there would be no conflict with the objectives of policy H7 a).

The Parish Council object to the application on the basis of the conflict with this element of Policy H7a) as they believe that the replacement dwelling amounts to a 50% increase in the scale of the property over that of the existing dwelling in its original form and so this establishes a conflict with Policy H7a. Whilst this may be the case, the correct approach is to have an appreciation of the reasoning that lead to the restriction in the scale increase being imposed. This is set out in the justification to the policy and is clearly linked to preserving the stock of smaller properties. The existing property on site is not a small property in that respect. The above quoted appeal decision has been followed as a guide on the interpretation the policy in many decisions since Policy H7 became part of the development plan, and so to refuse this application on that basis would be inconsistent with all those decisions. Indeed, the current application is a resubmission of an earlier scheme which, whilst it was refused, it was not refused due to any conflict with this element of the policy. It would therefore be unreasonable for this application to be refused for that reason, notwithstanding the likely conflict with Policy H7a if it is read literally.

Nevertheless, the qualitative impacts test in criterion b) of policy H7 is of relevance as set out below.

Assessment against Policy H7 b)

Criterion b) of policy H7 requires replacement homes within countryside to respect the character of the surrounding area. In addition, criteria d), h) and i) of policy GD7 require developments to demonstrate good design by:

- Ensuring the siting, layout, massing, scale, design, materials, architectural character, proportion, building to plot ratio and landscaping of the proposed development, relate well to the surrounding context.
- Being sympathetic to surrounding land uses and occupiers, and avoiding demonstrable harm to the visual amenities of the local area.
- Taking the opportunity to make a positive contribution to the character and local distinctiveness of the area through high quality new design that responds to its context and using sustainable natural resources where appropriate.

The application property occupies a prominent position fronting onto a bend of Spen Lane where it turns at right angles entering the village from open countryside. Accordingly, the site is prominently in view on the northbound approach into Treales from Spen Lane and is seen in a semi-rural context on the periphery of the village where it transitions into open countryside.

The existing true bungalow is a modest, low-rise building with a shallow dual-pitched roof following a latitudinal ridge line which settles comfortably and discreetly into the surrounding landscape. The site is bordered on its west side by a two storey dwelling (Toridene) and on its east side by a split level two/single storey dwelling (Charmonte). Nevertheless, the southern frontage of Spen Lane is characterised predominantly by two storey dwellings and the submitted street scene indicates that

the ridge height of the proposed dwelling would follow that of the neighbouring dwellings to either side.

In terms of appearance, the proposed dwelling reflects architectural features of the neighbouring dwellings to each side in terms of gabled roof profiles, a front facing balcony ('Toridene' to the west) and window proportions ('Charmonte' and 'Casita' to the east). The central gable within the front elevation and the hardwood timber clad first floor elevations are not reflective of neighbouring dwellings but these elements are not considered to be unacceptably incongruous architectural features within the context of this semi-urban edge of Treales location.

This is a key difference from the original scheme that was submitted which featured a series of forward projecting glazed gable features that paid little regards to the rural context of the site and accordingly was adjudged to conflict with criteria b) of Policy H7 in the council's refusal of that application.

With regard to the front boundary treatment Spen Lane is a semi-rural road where the prevailing character of frontage boundary treatments to the roadside comprises low-level walls, railings and soft landscaping. The proposed boundary treatment is reflective of the existing low wall and metal railing boundary treatment to the front of the existing dwelling and as such would not materially alter the character and appearance of this stretch of Spen Lane. This is again a change from the previous scheme where a full height wall with sliding gate was proposed and would have closed off the property to the streetscene.

The requirement of Policy H7b) is that "the appearance of a replacement home respects the character of the surrounding rural area". The proposals presented under this application achieve that requirement as set out here and in doing so address the reason that the earlier application on the site was found to conflict with Policy H7. The design and streetscene elements are also of the required standard to achieve compliance with those elements of Policy GD7 that relate to these matters.

Neighbour Amenity

Criteria c) and h) of policy GD7 identify the following requirements in terms of amenity impacts:

- Ensuring that amenity will not be adversely affected by neighbouring uses, both existing and proposed.
- Being sympathetic to surrounding land uses and occupiers.

Paragraph 130 f) of the NPPF indicates that planning decisions should ensure developments "create places that are safe, inclusive and accessible and which promote health and well-being, with a high standard of amenity for existing and future users."

Neighbouring dwellings potentially impacted by the proposed development are those neighbouring directly to each side and to the rear, namely 'Toridene' to the west, 'Charmonte' to the east, and Stanley Farm House to the rear (north).

'Toridene' - The replacement dwelling would feature 2 No. windows at first floor in its west facing side elevation, and which would be angled towards the front of 'Toridene' with a *circa* 16 metre separation. As such these windows have the potential to enable unacceptable views into the front facing habitable room windows of Toridene. However both windows are to serve en-suite restrooms and so a condition requiring both windows to be obscurely glazed would mitigate against potential overlooking. Furthermore the *circa* 16 metre separation between Toridene and the proposed dwelling is sufficient to ensure that no undue impacts by way of overshadowing or

overbearingness would occur.

'*Charmonte*' - This property neighbours directly to the east of, and roughly in line with, the proposed dwelling with a separation distance of *circa* 11 metres between them. Charmonte has a first floor habitable room window in its first floor side elevation facing towards the proposed replacement dwelling. However there are no windows proposed in the side elevation of the replacement dwelling facing towards Charmonte and so loss of privacy is not a concern. Furthermore the *circa* 11 metre separation is sufficient to ensure Charmonte's window is not unduly overshadowed. The remaining spatial relationship of the proposed dwelling relative to Charmonte is such that no other amenity impacts would occur.

'*Stanley Farm House*' - This property lies directly to the rear of the application site and is potentially most likely to be impacted by way of overlooking and loss of privacy. Design Guidance 1D of the council's adopted SPD on residential extensions (the principles of which are equally applicable to applications involving new dwellings) indicates that to avoid unacceptable overlooking and loss of privacy the distance from first floor windows that overlook neighbouring gardens should be 10.5 metres from the boundary they face, and the distance between opposing first floor windows should be a minimum of 21 metres.

In this instance the proposed dwelling would have six windows at first floor in the rear elevation and facing towards the shared rear boundary with Stanley Farm House. Of these windows two would be less than the required 10.5 metres from the boundary. However these two windows would serve an en-suite and a dressing room and so it would be reasonable for both of these windows to be obscurely glazed to prevent undue overlooking to the rear of Stanley Farm House. A condition to this effect would be attached to the permission, if granted. The remaining four windows all serve habitable rooms within the replacement dwelling, but all four are a minimum of 10.5 metres from the shared rear boundary and thus accord with the guidance of the adopted SPD. Thus their relationship with Stanley Farm House is deemed acceptable.

Stanley Farm House has two first floor windows in its elevation that faces towards the rear of the proposed dwelling. One of these windows is obscurely glazed and so is assumed to serve a non-habitable room. However the other window is clear glazed and appears to be the only window serving a first floor habitable room. The separation distance to this window from the closest first floor habitable room window of the proposed dwelling is 21 metres and so just accords with the guidance of the adopted SPD. Furthermore the first floor windows of the proposed dwelling would be angled away from the window of Stanley Farm House thus reducing their impact. Hence the overall relationship of these opposing first floor windows is deemed acceptable.

Overall the proposed dwelling is deemed to have an acceptable spatial relationship with neighbouring dwellings and thus accords with criteria c) and h) of policy GD7, the design guidance of the council's adopted householder development SPD, and paragraph 130 of the NPPF.

The harmful relationship to neighbouring properties lead to a reason for refusal on the earlier application. This was largely related to the relationship to Stanley Farm House to the rear and was caused by the proximity of the dwelling then proposed, and mainly the inclusion of a large rear balcony in the scheme. The current proposal has relocated the property to increase that separation and omits any balcony to the rear elevation. Accordingly the council's concerns in this regard have been satisfied and there are not considered to be any grounds for a reason for refusal on this basis.

The Parish Council do raise objection on this basis with the impact of views from the upper-floor rear

windows of the replacement dwelling to the garden of the property to the rear cited as leading to unacceptable overlooking. Whilst there is some justification in this as the relationship is very different to the current arrangement due to the application site containing a bungalow, the officer assessment of this as set out above concludes that the harm caused is not such that it could justify a reason for refusal.

Access & Parking

County Highways have been consulted on the application and have raised no objection to the proposal, opining that the proposed development will not have a significant impact on highway safety, capacity or amenity in the immediate vicinity of the site. The level of network use will be as existing due to scale of the sit use being the same and the scheme provides adequate parking and turning space.

Ecology

The proposal involves the demolition of a dwelling which, given its countryside location, may have the potential to be used as a roost by bats. Accordingly the application is accompanied by a 'Preliminary Bat Roost Assessment' produced by the ecological consultancy Arbtech Ltd, which found that the building had no evidence of recent or historic usage by bats and concluded that the structure has negligible potential to support bats at other times. The council's retained ecology consultants (GMEU) have been consulted on the application and do not disagree with the findings of the survey. However they advise that as bat surveys are time limited then a condition should be attached to any permission to require a further survey to be carried out in the event of demolition of the existing dwelling not commencing by April 2023. They also request that a condition requiring the installation of a bat box be attached to any permission in order to provide biodiversity enhancement of the site, in accordance with paragraph 180 d) of the NPPF. This will also ensure compliance with Policy ENV2 of the Fylde Local Plan to 2032.

Conclusions

This application proposes the construction of a replacement dwelling located on the southern boundary of Treales hamlet and within designated countryside. The design, scale and finished appearance of the dwelling are considered appropriate for the area and the development would not unduly prejudice the amenity of neighbouring dwellings. No other material matters would arise that might otherwise make the proposal unacceptable at this location. The proposal therefore accords with the relevant policies of the Fylde local Plan to 2032 and the NPPF, and so is recommended for approval.

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 permission relates to the following plans:
 - Location Plan - Scale 1:1250, produced by 'ProMap'

- Proposed Site Plan & Street Scene - Drawing no. 954/PL/02 Rev D
- Proposed Plans & Elevations - Drawing no. 954/PL/04 Rev D
- Proposed Elevations - Drawing no. 954/PL/02 Rev B

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

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

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

Reason: To ensure use of appropriate materials which are sympathetic to the character of surrounding buildings and the street scene in the interests of visual amenity in accordance with Policy GD7 of the Fylde Local Plan to 2032.

4. 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: To prevent overdevelopment of the site, to ensure that satisfactory provision of outdoor amenity space for future occupiers of the dwelling is maintained and to safeguard the amenities of the occupiers of adjacent dwellings in accordance with the requirements of Fylde Local Plan to 2032 policy GD7.

5. Before the dwellinghouse hereby approved is first occupied the first floor en-suite windows shown on the west facing side elevation of the dwellinghouse and the first floor en-suite and dressing room windows shown on the north facing rear elevation, shall be obscurely glazed to a minimum of level 3 on the Pilkington Scale (where 1 is the lowest and 5 the greatest level of obscurity) and shall be non-opening unless the parts of the window which can be opened are more than 1.7 metres above the floor level of the room in which the window is installed. The duly installed windows shall be retained as such thereafter.

Reason: To ensure that appropriate measures are put in place to limit the potential for overlooking between the development and adjacent properties in order to preserve the privacy of adjoining occupiers in accordance with the requirements of Fylde Local Plan to 2032 policy GD7 and the National Planning Policy Framework.

6. Notwithstanding the provisions of Schedule 2, Part 1, Classes A 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 garage attached to the east side elevation of the dwelling hereby approved shall be retained for the parking of vehicles and shall not be converted to or used as additional living accommodation.

Reason: To ensure that appropriate provision is maintained for the parking of vehicles off the

highway in the interests of highway safety in accordance with the requirements of Fylde Local Plan to 2032 policies GD7 and T5, and the National Planning Policy Framework.

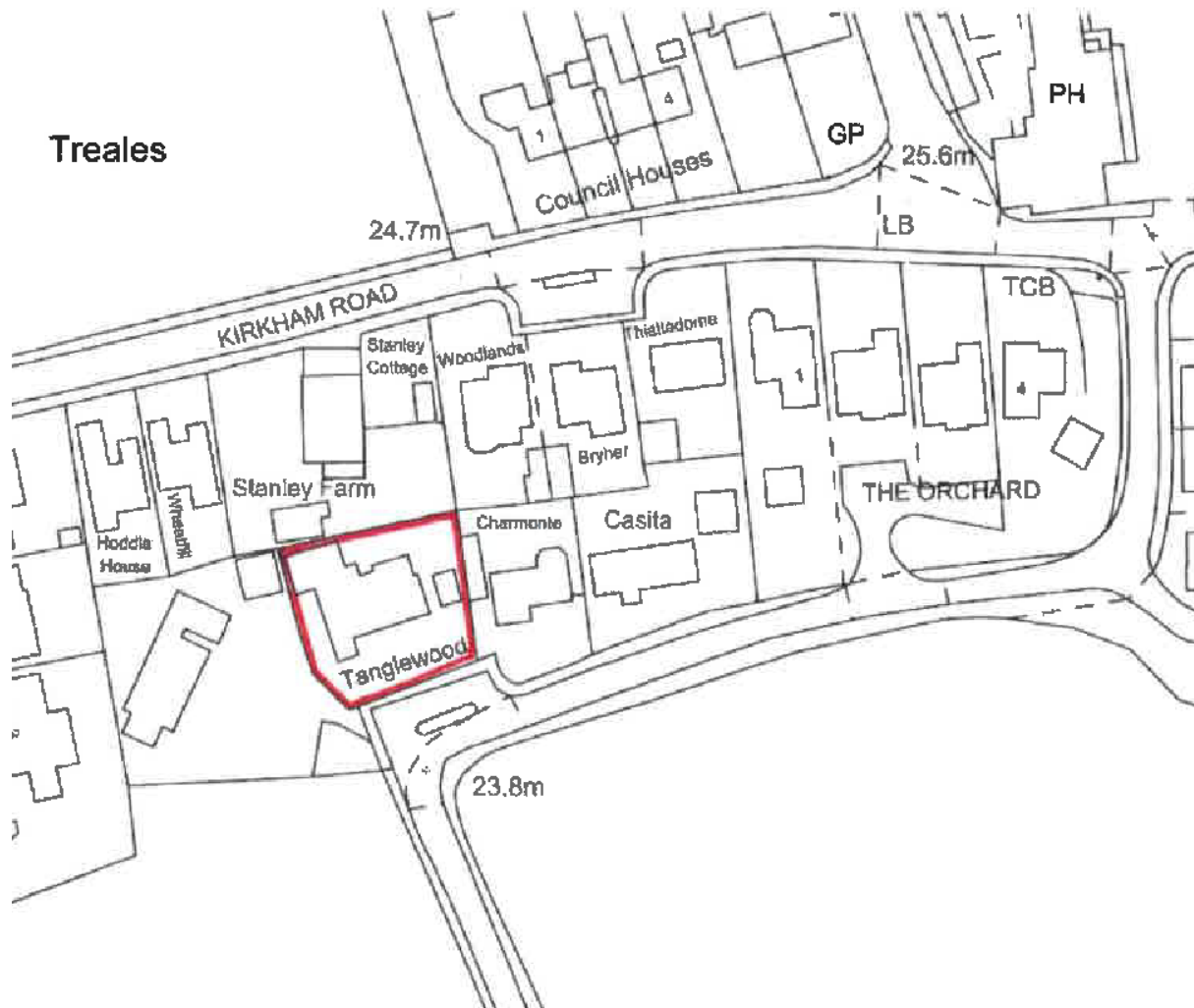
7. The dwelling hereby approved shall not be occupied until a scheme for the installation of bat and bird boxes within the development has been submitted to and approved in writing by the Local Planning Authority. The scheme shall include details of the number, location, height, aspect and specification of the bat and bird boxes, and a timetable for their provision. The bat and bird boxes shall thereafter be installed in accordance with the details and timetable in the duly approved scheme, and shall be retained as such thereafter.

Reason: To ensure that the development delivers appropriate biodiversity enhancements as recommended in section 5 of the document titled "Ecological Assessment" by 'The Environment Partnership' dated February 2020 in accordance with the objectives of Fylde Local Plan to 2032 policy ENV2 and the National Planning Policy Framework.

8. If demolition of the existing dwelling has not commenced by March 2023 then no demolition shall take place until a further bat survey has been undertaken to establish whether features/habitats on the site are utilised by bats and the results submitted to and approved in writing by the Local Planning Authority. Any further survey(s) shall take place during the optimum period for bat activity (between May and August). If such a use is established, then no development shall take place until a comprehensive method statement indicating how bats are to be safeguarded during the construction period and how appropriate mitigation measures (including the siting and design of habitat compensation and enhancement) are to be incorporated into the development has been submitted to and approved in writing by the Local Planning Authority. The duly approved method statement shall be implemented in full accordance with the details, recommendations and timescales contained therein and any mitigation measures shall be fully implemented before any demolition of the existing dwelling is commenced.

Reason: The existing bat surveys undertaken are valid for a limited period of time. In the event that development is delayed, further surveys are required to establish whether habitats on the site which are potentially suitable to support bats are (or have become) used by these species since the initial surveys were carried out. If the additional surveys reveal that such a presence has become established, then there will be a requirement to ensure that adequate mitigation measures are introduced as part of the development in order that it does not adversely affect the favourable conservation status of any protected species in accordance with the requirements of Fylde Local Plan to 2032 policy ENV2, the National Planning Policy Framework, the Conservation of Habitats and Species Regulations 2017 and the Wildlife and Countryside Act 1981 (as amended).

Treales



Item Number: 7

Committee Date: 08 December 2021

Application Reference:	21/0906	Type of Application:	Full Planning Permission
Applicant:	Henco International Ltd	Agent :	Peel Design Partnership Ltd
Location:	PLOT 2 PHASE 2, LAND AT CROPPER CLOSE, WESTBY WITH PLUMPTONS		
Proposal:	CONSTRUCTION OF 10 NO. UNITS FOR USE IN CLASS E (G) (i)-(iii), CLASS B2 OR CLASS B8 WITH ASSOCIATED ACCESS AND CAR PARKING ARRANGEMENTS		
Ward:	WARTON AND WESTBY	Parish:	Westby with Plumptions
Weeks on Hand:	8	Case Officer:	Rob Buffham
Reason for Delay:	Not applicable		
Click Here for application site on Google Maps		Click here for application on FBC website	

Summary of Recommended Decision: Grant

Summary of Officer Recommendation

The proposal for consideration by Members is a full planning application for the construction of 10 small scale industrial units (use Class E G (former B1 light industry), B2 and B8), with car parking and landscaping arrangements on land at Cropper Close, Whitehills Industrial Estate.

The application site is allocated as an Employment site in the Fylde Local Plan to 2032, which offers support in principle for the development applied for.

The development itself is considered to be of appropriate appearance and in-keeping with the character of the area and would not compromise the safe, efficient or convenient movement of all highway users. The proposal will have a satisfactory relationship to neighbours of the site, subject to provision of obscure glazing within rear first floor windows to safeguard those working on the adjacent business premises from potential privacy concerns.

There are no other technical matters of note that would warrant refusal of the proposal.

The development accords with the development plan and therefore constitutes sustainable development. In accordance with paragraph 11c) of the NPPF21, the proposal should be approved and so the officer recommendation is that Members support the application, subject to conditions.

Reason for Reporting to Committee

The application is a Major application and as such needs to be determined by Planning Committee.

Site Description and Location

The site is located within the Whitehills Business Park, south of Cropper Close, on an unused parcel of land. The site is devoid of vegetation, being occupied by surplus spoil from the development of adjacent land parcels, acting to artificially raise land levels in places.

Industrial and office development is located to the north, east and west. A mature landscaped bund is located immediately to the south adjacent to Lytham St Annes Way, affording an element of screening to houses beyond.

The wider Whitehills Employment Park has a mix of industrial development including office space, general industrial use, builders merchants as well as indoor sport/ recreation uses.

Details of Proposal

Planning consent is sought for the erection of 10 industrial units – use Class E (light industry), B2 and B8. The development consists of two blocks of accommodation (605sqm and 826sqm) located to the east and western margins of the site, about a central parking area and accessed via Cropper Close.

Both buildings are identical in appearance, being 2 storey and having a lean-to roof, measuring 7.6m in height to the front elevation falling to 6.6m to the rear. The building footprints measure 9.2m x 38.7m and 9.2m x 51.5m and there are 3 unit sizes available – 121sqm, 154sqm or 210sqm. Construction materials include an Oatmeal coloured brick with mosaic feature cladding to the first floor front and side elevations, dark grey and grey white profiled cladding will be used to the side and rear elevations.

Relevant Planning History

Application No.	Development	Decision	Date
21/0346	APPLICATION TO DISCHARGE DETAILS ASSOCIATED WITH CONDITIONS ON PLANNING PERMISSION 18/0516 - CONDITION 3 (MATERIALS), CONDITION 5 (LANDSCAPING), CONDITION 7 (FOUL DRAINAGE), CONDITION 8 (SURFACE WATER DRAINAGE), CONDITION 13 (HIGHWAY WORKS)	Advice Issued	29/09/2021
21/0291	VARIATION OF CONDITION 2 ON PLANNING PERMISSION 18/0516 (APPROVED PLANS) TO REVISE ELEVATIONS AND ROOF PROFILE.	Granted	20/05/2021
19/0927	CONSTRUCTION OF BUILDING TO PROVIDE THREE BUSINESS UNITS (CLASS B1, B2 OR B8) WITH NEW ACCESS ROAD AND ASSOCIATED PARKING AND SERVICE YARD	Granted	28/02/2020
18/0516	ERECTION OF 8NO. B1/B2/B8 UNITS	Granted	25/09/2018

Relevant Planning Appeals History

None

Parish/Town Council Observations

Westby with Plumpton Parish Council notified on 13 October 2021 and comment that they have

no observations.

Statutory Consultees and Observations of Other Interested Parties

Lancashire County Council - Highway Authority

They made comment on the application which raise no objection to the principle of the access arrangements, or on network capacity but raise objection to the internal layout of the site, with specific reference to:

- The lack of any demonstrable arrangement for an HGV vehicle to access and turn within the site safety
- The lack of any provision for pedestrians to access the site or route for pedestrians to safely navigate the site separate from vehicle traffic.

On this basis they request that the application be refused unless these matters are addressed through additional or revised details. They also suggest a series of conditions in the event that the council does grant planning permission with these related to cleaning the wheels of construction vehicles leaving the site, the construction of the access road, the routing of construction vehicles, and that the parking is provided prior to the use of the units.

Lancashire CC Flood Risk Management Team

No objection subject to condition requiring detailed surface water drainage design, surface water drainage during construction, verification of implemented surface water drainage and management regime of surface water drainage.

The submitted drainage strategy provides for the incorrect climate change allowance of 40%, and further clarification with regards to on site surface water attenuation is needed – thus the need for further drainage details by condition.

United Utilities - Water

No objection, subject to conditions requiring compliance with submitted surface water and foul drainage design, and, management and maintenance of drainage.

GMEU Ecologists

Summary

There are unlikely to be any significant ecological issues associated with this development.

Protected Species and Nesting Birds

The site is heavily disturbed owing to the adjacent development and surrounded by urban development. A pond across the B5410 whilst having the theoretical potential is a relatively recently constructed SUDs pond isolated from other potential Great Crested Newt habitat and even if present the road would create a significant barrier to dispersal. I am therefore satisfied that no further information or measures are required.

Contributing to and Enhancing the Natural Environment

Section 170 of the NPPF 2019 states that the planning policies and decisions should contribute to and enhance the natural and local environment. Prior to disturbance by the adjacent building plot the site appears to have been improved grassland a low ecological value habitat. This has and will be lost to hardstanding. There is therefore a

negative impact to the Natural environment at the site level. An isolated and small area of landscape planting appears to be proposed that will not mitigate for these losses.

Technically to comply with the NPPF some form of mitigation should occur. The ability for this to actually occur is very limited on site unless green roof or green wall measures were applied. I recommend therefore that whilst accepting a net loss in this instance bird boxes are provided on either the new build or located in the trees along the southern boundary of the site. The details can be conditioned.

Environmental Protection (Pollution)

No objection subject to un-expected land contamination condition.

Neighbour Observations

Neighbours notified:	14 October 2021
Site Notice Date:	22 October 2021
Press Notice Date:	21 October 2021
Number of Responses	None

Relevant Planning Policy

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

The Fylde Local Plan to 2032 (the 'FLP') was formally adopted by the Council at its meeting on Monday 22 October 2018 as the statutory, adopted development plan for the Borough. Therefore, the FLP should guide decision taking for the purposes of paragraph 38 (6) of the Planning and Compulsory Purchase Act 2004 and paragraph 2 of the National Planning Policy Framework.

The Council submitted a Partial Review of the FLP (the 'PRFLP') to the Secretary of State for Examination on 21 October 2020. The PRFLP does not seek to delete or add new policies to the existing FLP. It is, instead, concerned principally with matters relating to re-calculating housing need and amending the wording of existing policies to bring these in alignment with the latest (2021) version of the National Planning Policy Framework. In particular, the PRFLP contains modifications to the wording of policies DLF1, GD4, GD7, EC5, H1, H6, ENV1, ENV2 and ENV3, and/or the reasoned justification for those policies.

The Council received the Inspector's report on the examination of PRFLP on 21 October 2021. Paragraph 57 of the Inspector's report confirms that "with the recommended main modifications set out in the Appendix the Partial Review of the Fylde Local Plan to 2032 satisfies the requirements referred to in Section 20(5)(a) of the 2004 Act and is sound". Accordingly, as the emerging PRFLP has been found sound following examination, it is at a very advanced stage and so can be given significant weight in planning decisions in accordance with paragraph 48 of the NPPF (albeit that it will not attract full weight as part of the development plan until it is formally adopted by the Council).

The relevant planning policies associated to the assessment of this proposal are:

Fylde Local Plan to 2032:

EC1	Overall Provision of Empt Land & Existing Empt Sites
EC2	Employment Opportunities
GD7	Achieving Good Design in Development
T5	Parking Standards
CL1	Flood Alleviation, Water Quality and Water Efficiency
CL2	Surface Water Run-Off and Sustainable Drainage
ENV1	Landscape
ENV2	Biodiversity

Other Relevant Policy:

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

Site Constraints

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) Regulations 2017.

Comment and Analysis

Paragraph 38 (6) of the Planning and Compulsory Purchase Act 2004 indicates that development proposals should be determined in accordance with the development plan unless material considerations indicate otherwise. Chapter 2 of the NPPF advocates a presumption in favour of sustainable development, Paragraph 11 c) states that in terms of decision taking, this means approving development proposals that accord with an up-to-date development plan without delay. Paragraph 11 d) states that where there are no relevant development plan policies, or where policies are out-of-date, planning permission should be granted unless any adverse impacts of doing so would significantly and demonstrably outweigh the benefits when assessed against the policies in Framework. It advises that planning decision takers should seek to approve applications for sustainable development where possible.

The main issues pertinent in the assessment of the proposal are:

- Principle of use.
- Design.
- Highways.
- Amenity.
- Flood Risk and Drainage.
- Ecology.

Principle of Use

The site is designated as an Employment Land allocation in the adopted Fylde Local Plan (FLP). FLP Policy EC1 is of relevance and supports industrial land uses including B1(a), B1(b), B1(c), B2 and B8, within such areas.

The proposal seeks consent for construction of business units with the following use classes being specified:

- E (Commercial, Business and Service)
- B2 (general industry).
- B8 (storage and distribution).

Members should note that Class E is a relatively new classification, formed from an amalgamation of a number of the previously classes and so is quite wide-ranging and includes such uses as retail, food and drink (formerly A-Class uses), as well as the former B1 light industrial use class. It is a broad classification and includes town centre uses, which on an Employment Allocation, would not be appropriate as this could undermine Town Centre and Employment strategies and associated policies contained within the Fylde Local Plan to 2032. Given this potential conflict, it is considered necessary to restrict the land uses applied for within Class E to those which fall within the former Class B1 light industrial use, namely Class E (g) (i) office, Class E (g) (ii) research and development of products or processes, and, Class E (g) (iii) any industrial process which can be carried out in a residential area.

The applicant has confirmed that they have no objection to this restriction and so the description of the development is revised to reflect that and a condition imposed to secure it.

Whilst speculative, the proposal will develop an employment allocation and will facilitate job creation. This will help preserve and develop a strong, vibrant and sustainable economy within the Fylde Borough in accordance with the Strategic Objectives of the Fylde Local Plan.

Subject to the imposition of a use restriction by condition, the proposal is consistent with Policy EC1 and the principle of the proposal in this location is therefore considered acceptable.

Design

Policy GD7 requires development to be of a high standard of design, taking account of the character and appearance of the local area, referring to a number of criteria to meet this aim. Those relevant to the current proposal are:

- d) siting, layout, massing, scale, design, building to plot ration and landscaping relate well to surrounding context.
- f) conserving and enhancing the built environment.
- g) applying Secured by design principles.
- h) avoiding demonstrable harm to the visual amenities of the local area.
- i) Positive contribution to the character and local distinctiveness of the area.
- j) parking should be safe, accessible and sympathetic to the surrounding area.
- m) protect existing landscape features.

The site is one of a couple of undeveloped land parcels within this area of Whitehills, representing an infill plot that is surrounded on 3 sides by employment development. It is located to the end of a cul de sac and is largely hidden from external view, due to the presence of neighbouring buildings and mature landscaping to the south. The site does not appear prominent in the street as a consequence. Buildings within the vicinity are of mixed appearance and scale, some being of traditional industrial form being of larger proportion and constructed of brick work and profiled metal sheet, other office developments are of brick construction beneath a tile roof. It is considered that the locality can be defined as having no consistent character.

The buildings proposed are sited to the east and west of the site respectively with central access road and parking to the frontage of each unit. The site is dominated by buildings and hard surfacing with minimal landscaping provided. This is akin to existing development within the locality and the context of the site does encourage this approach. The site is hidden in the street scene with small road frontage, consequently the benefit of providing land to deliver landscaping to the street scene would be minimal. The layout does incorporate good design principles where feasible, indeed the layout provides a set back from the road, encouraging open views into the development with Unit 15 being outward facing to Cropper Close providing an active frontage to the street. The site will be enclosed by a 2.6m secure mesh fence line to aid site security.

The proposed appearance of buildings replicates that adjacent to the west of the site also developed by the applicant, being constructed of mosaic cladding (black/ grey/ white), profiled metal sheet and oatmeal coloured brickwork. The proposed building scale is akin to those smaller industrial premises within the vicinity and would not appear prominent in the street. The building appearance provides a visual interest in the restricted external views and would not look out of character with the appearance of other units in the locality.

Existing off site landscaping to the southern boundary provides a substantial natural barrier to the site, forming part of a much larger linear belt of planting to St Annes Way that softens and reduces the visual impact of the employment allocation. Submitted drawings demonstrate that there will be no encroachment of the development into this landscape area and this will ensure appropriate screening of the proposal from this main road network also.

The proposed design of the development is considered in-keeping with the industrial nature of the locality in accordance with the aforementioned provisions of Policy GD7.

Highways

FLP policy GD7 supports good design that would not prejudice highway or pedestrian safety, and the efficient and convenient movement of all highway user (q), and, encourages alternative modes of transport including walking and cycling (r). Similarly Policy T4 also encourages walking and cycling to improve quality of life and reduce the Boroughs carbon footprint. Policy T5 relates to parking provision and indicates that a flexible approach to the level of car parking provision will be applied dependent on the location of the development.

Paragraph 110 b) of the NPPF states that decision makers should take account of whether safe and suitable access to the site can be achieved for all users, and, 110 d) improvements can be undertaken within the transport network that cost effectively limit the significant impacts of the development. Paragraph 111 of the NPPF states that development should only be prevented or refused on highways grounds if there would be an unacceptable impact on highway safety, or the residual cumulative impacts on the road network would be severe.

The development is to be accessed via a vehicular entrance from Cropper Close, continuing the existing footpath into the development which terminates close to the access arrangement. The central access road accommodates the needs of servicing by larger delivery vehicles and terminates in a turning head which is shown to accommodate the turning manoeuvre of service vehicles, including fire and refuse trucks. A cycle store and 39 parking bays (2 disabled) including larger bays for delivery vehicles located outside loading bays doors are indicated on plan. The proposal is speculative and there are no known end users at the time of application. Employment numbers are not therefore provided in the submission.

An issue with regards the internal layout has been raised by the Highway Authority in relation to whether the site can accommodate HGV turning needs, and have suggested refusal if this cannot be demonstrated by the applicant. No amendments to the layout have been provided since they made those comments, but the matter has been discussed with the applicant. They confirm that the intended occupiers of the units are less likely to require visits from HGV vehicles as the units are of limited footprint, most suited to the smaller business operators who are likely to rely on 2 or 3 axle delivery trucks for their operational and servicing needs. Such vehicles are able to navigate the site and exit in forward gear. The applicant operates a similar scheme on an adjacent site and is proposing this scheme due to the success of that. They are therefore aware of the likely needs of their tenants and would be unlikely to design a scheme that did not allow them to operate conveniently as that is likely to restrict the marketability of the units.

In addition, the Highway Authority have requested that pedestrian access be provided into the site to building entrances, suggesting refusal of the scheme until such a time this is provided. The submitted layout indicates that the existing footpath on Cropper Close will be extended into the site, allowing sustainable travel by pedestrians. It is acknowledged that there are no safe routes through the car parking area for pedestrians to access individual units, though it is considered that visibility of oncoming vehicles is good and road speeds will be low. In addition, the layout of other developments within the employment park do not provide pedestrian routes but appear to operate safely. Indeed the Highway Authority did not raise this concern in comments raised to the adjacent industrial development or another recent approval to the junction of Hallam Way/ Cropper Close. It would therefore be unreasonable to insist that this development complies with the Highway Authority request.

The Highway Authority has no objection to the parking numbers proposed.

It is inevitable that the development will attract additional vehicle movements to the area. Due to the nature and scale of the development the majority of movements will be outside of peak times and would not therefore have a significant impact on present or future highway capacity.

Land use Class E is broad and would encourage general access to the site by members of the public. These additional trips could place greater pressure on the proposed parking on site and displace parked vehicles to surrounding roads. It is therefore considered necessary to restrict Class E to section (G) (i)-(iii) (i.e. the former Class B1 use) so as to discourage public access.

On this basis it is considered that notwithstanding the objections of the local highway authority, the development provides for a safe and suitable access and that impact on the network would not be severe. It is therefore in accordance with the requirements of Policy GD7, and T5 of the Fylde Local Plan to 2032 in this regard.

Amenity

FLP Policy GD7 requires high design standards and supports new development that would be sympathetic to surrounding land uses and occupiers, and that existing uses in the local would not undermine amenity of proposed occupants. This amenity impact includes privacy, dominance, loss of light, over shadowing or disturbance resultant from the development itself on neighbours or those living within the development, or during the construction period.

The site is bound by commercial premises including similar industrial uses to the east and west, and vacant office accommodation to the north. Housing is located to the south, to the opposing side of

Lytham St Annes Way.

The separation distance between the application site and nearest dwellings is approximately 55m at the closest point. There are two mature tree belts to each side of Lytham St Annes way that intervene between houses and the development proposed. Lytham St Annes way is also a heavily trafficked route being one of the main roads providing access to/ from St Annes which acts to increase ambient noise levels in the locality. These factors combined ensure that the amenity of residents in the area, relative to the use applied for as well as the physical presence of structures to be built, is not undermined.

The eastern block of units proposed is sited close to the boundary with a neighbouring industrial premises that has four first floor windows within the rear elevation at a separation of less than 4m. A site visit of the affected units has ascertained that two of these windows serve office accommodation, and two serve a sewing company. The sewing company also uses the first floor as a dressing room, with models regularly trying on clothes and costumes.

There are no separation standards relative to the safeguarding of neighbouring businesses amenity, though this should not mean that this matter is dis-regarded. Members should note that similar relationships between business uses existing on the Whitehills estate, with buildings being located in close proximity of windows within office accommodation. Proposed separation between buildings will be approximately 3.6m which would allow for the passage of natural light into affected windows. First floor windows to the proposed rear elevation will increase overlooking, including windows that serve the sewing company and this relationship could give rise to privacy concerns especially considering the dressing room use. Obscure glazing will be necessary to mitigate this concern and will be conditioned appropriately.

Subject to the obscure glazing condition, the development will have an acceptable relationship to neighbouring premises and would not undermine amenity, in accordance with FLP policy GD7.

Flood Risk and Drainage

The site falls entirely within flood zone 1, as defined by the Environment Agency's Flood Map. The application is accompanied by a Drainage Strategy.

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

The drainage strategy refers to provision of separate surface and foul water discharges into the existing drainage networks. Surface water will have a restricted rate, attenuated by a holding tank situated beneath the surface within the car park.

The Lead Local Flood Authority (LLFA) and United Utilities have not objected to the proposals, confirming that outstanding matters relating to the surface water drainage design can be dealt by condition. On this basis, it is considered that adequate measures can be put in place in order to ensure appropriate drainage provision and that the development poses no unacceptable risk in terms of flooding in accordance with the development plan and NPPF.

Ecology

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

The site has no specific nature conservation designation in the adopted Local Plan. The site is of low ecological interest being occupied by spoil that has been relocated following development of the adjacent plot. There is mature tree planting off site to the southern tree boundary and the development is appropriately sited so as not to undermine this natural barrier. In addition, the Ecological consultee response refers to the presence of a pond to the opposing side of Lytham St Annes Way that has the potential to support great crested newts, although the road itself presents a natural deterrent to the species being present on the application site.

The Ecological consultee also refers to provision of bat and bird boxes in mitigation for a net loss of ecological value on site. This mitigation is based upon an assumed position that the site was occupied by improved grassland prior to the dumping of spoil. There is no means of corroborating this position and the mitigation requested is therefore viewed as being unreasonable. There is an element of landscaping contained within the scheme and that is considered sufficient mitigation in the context of this proposal.

The site itself has little ecological importance and the development provides for the retention of off site features, without need for mitigation. Tree protective fencing will be required to safeguard off site trees to the south and this can be secured by condition. This ensures compliance with Policy ENV2.

Conclusions

The proposed use is acceptable for this industrial land allocation. The development is considered to be of appropriate appearance and in-keeping with the character of the area and would not compromise the safe, efficient or convenient movement of all highway users. There are no ecological issues of note and the development provides for a satisfactory relationship to neighbours, subject to provision of obscure glazing.

The development therefore accords with the development plan and consequently can be considered sustainable development for the purposes of paragraph 11 c) of the NPPF21.

In accordance with paragraph 11 c) development must be approved without delay and the proposal is therefore recommended for approval to Members of the Planning Committee.

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 permission relates to the following plans:

- Location Plan drawing reference: 00-15-06-S2-300.
- Proposed Block plan drawing reference: 00-15-06-S2-302 D.
- Proposed Units D & E Building Plans drawing reference: 00-15-06-S2-305 A.
- Proposed Building D & E Elevations & Section drawing reference: 00-15-06-S2-306 B.

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

3. No development shall commence in any phase until a detailed, final surface water sustainable drainage strategy for the site has been submitted to, and approved in writing by, the local planning authority. The detailed sustainable drainage strategy shall be based upon the site-specific flood risk assessment and indicative sustainable drainage strategy submitted and sustainable drainage principles and requirements set out in the National Planning Policy Framework, Planning Practice Guidance and Defra Technical Standards for Sustainable Drainage Systems and no surface water shall be allowed to discharge to the public foul sewer(s), directly or indirectly. Those details shall include, as a minimum:

a) Sustainable drainage calculations for peak flow control and volume control (1 in 1, 1 in 30 and 1 in 100 + **40%** climate change), with allowance for urban creep.

b) Final sustainable drainage plans appropriately labelled to include, as a minimum:

i. Plan identifying areas contributing to the drainage network, including surface water flows from outside the curtilage as necessary;

ii. Sustainable drainage system layout showing all pipe and structure references, dimensions, design levels;

iii. Details of all sustainable drainage components, including landscape drawings showing topography and slope gradient as appropriate;

iv. Flood water exceedance routes in accordance with Defra Technical Standards for Sustainable Drainage Systems;

v. Finished Floor Levels (FFL) in AOD with adjacent ground levels for all sides of each plot to confirm minimum 150mm+ difference for FFL;

vi. Details of proposals to collect and mitigate surface water runoff from the development boundary;

vii. Measures taken to manage the quality of the surface water runoff to prevent pollution, protects groundwater and surface waters, and delivers suitably clean water to sustainable drainage components;

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

Reason: To ensure that the development is not at risk of flooding and does not increase flood risk elsewhere, and that adequate measures are put in place for the disposal of foul and surface water in accordance with the requirements of Fylde Local Plan to 2032 policies CL1 and CL2 and the National Planning Policy Framework.

4. Prior to occupation of the development hereby approved, a Surface Water Verification Report and Operation and Maintenance Plan for the lifetime of the development shall be submitted to and approved in writing by the Local Planning Authority.

The Verification Report must demonstrate that the sustainable drainage system has been constructed as per the agreed scheme discharged by condition 4 (or detail any minor variations), and contain information and evidence (including photographs) of details and locations (including national grid reference) of inlets, outlets and control structures; landscape plans; full as built drawings; information pertinent to the installation of those items identified on the critical drainage assets drawing; and, the submission of an final 'operation and maintenance manual' for the sustainable drainage scheme as constructed.

Details of appropriate operational, maintenance and access requirements for each sustainable drainage component are to be provided, with reference to published guidance, through an appropriate Operation and Maintenance Plan for the lifetime of the development as constructed. This shall include arrangements for adoption by an appropriate public body or statutory undertaker, and/or management and maintenance by a Management Company and any means of access for maintenance and easements, where applicable. Thereafter the drainage system shall be retained, managed and maintained in accordance with the approved details.

Reason: To ensure that agreed surface water design is implemented so that the development is not at risk of flooding and does not increase flood risk elsewhere, in accordance with the requirements of Fylde Local Plan to 2032 policies CL1 and CL2 and the National Planning Policy Framework.

5. Foul and surface water shall be drained on separate systems.

Reason: To ensure that adequate measures are put in place for the disposal of foul and surface water in accordance with the requirements of Fylde Local Plan to 2032 policies CL1 and CL2 and the National Planning Policy Framework.

6. Unless otherwise agreed in writing by the Local Planning Authority through the discharge of this condition, the development hereby approved shall be constructed in accordance with external materials illustrated on drawing titled 'Proposed Building D & E Elevations & Section' (drawing reference: 00-15-06-S2-306 B).

Reason: To provide sufficient clarity over the construction materials and in the interests of visual amenity for the development, in accordance with Policy GD7 of the Fylde Local Plan to 2032 and the National Planning Policy Framework.

7. If, during development, contamination is found to be present on the site then no further development shall take place on the affected part(s) of the site until a report containing details of an investigation and risk assessment to determine the nature and extent of any contamination on the site (including whether it originates on the site) has been submitted to and approved in writing by the Local Planning Authority. The submitted report shall include:

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

The development shall thereafter be carried out in full accordance with the duly approved

remediation strategy and a verification report submitted to and approved in writing by the Local Planning Authority before any of the buildings on the affected part(s) of the site are first occupied.

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

8. Unless otherwise agreed in writing by the Local Planning Authority through the discharge of this condition, construction of the development hereby approved shall be undertaken in accordance with the submitted Construction Method Statement received on 24th November 2021.

Reason: In order to ensure that appropriate measures are put in place to limit noise, nuisance and disturbance to the occupiers of neighbouring dwellings during the construction of the development, in accordance with Policy GD7 of the Fylde Local Plan to 2032 and the National Planning Policy Framework.

9. No development shall take place until a Construction Exclusion Zone has been formed around the Root Protection Areas of those trees and hedgerows located immediately to the south of the application site. The Construction Exclusion Zone shall be provided in the form of protective fencing of a height and design which accords with the requirements BS 5837: 2012. The Construction Exclusion Zone shall be maintained in the duly installed positions during the entirety of the construction period..

Reason: To ensure that adequate measures are put in place to protect existing trees and hedgerows which are to be retained as part of the development before any construction works commence in accordance with the requirements of Fylde Local Plan to 2032 policies GD7 and ENV1.

10. The approved access design, as well as the landscaped area, pedestrian access points, car parking (including disabled spaces), covered cycle store and vehicular manoeuvring areas as detailed on drawing titled 'Proposed Block plan' (drawing reference: 00-15-06-S2-302 D) must be made available for use prior to first occupation of the development, and retained thereafter.

Reason: For the avoidance of doubt, to ensure that the development is carried out in accordance with the approved plans in the interests of highway safety and visual amenity, in accordance with the policy GD7 of the Fylde Local Plan to 2032 and National Planning Policy Framework.

11. Prior to the occupation of Units 12, 13, 14 and 15 as indicated on drawing titled 'Proposed Block plan' (drawing reference: 00-15-06-S2-302 D), the following windows in those Units shall be obscurely glazed to a minimum of level 3 on the Pilkington Scale (where 1 is the lowest and 5 the greatest level of obscurity) and shall be non-opening unless the parts of the window which can be opened are more than 1.7 metres above the floor level of the room in which the window is installed:

- a) Unit 12 - all first floor windows within the rear elevation of Unit 12 as indicated on drawing titled 'Units D & E Building Plans' (drawing reference: 15-06-S2-305-A).
- b) Unit 13 - all first floor windows within the rear elevation of Unit 13 as indicated on drawing titled 'Units D & E Building Plans' (drawing reference: 15-06-S2-305-A).
- c) Unit 14 - all first floor windows within the rear elevation of Unit 14 as indicated on drawing titled 'Units D & E Building Plans' (drawing reference: 15-06-S2-305-A).
- d) Unit 15 - southern first floor window within the rear elevation of Unit 15 as indicated on drawing titled 'Units D & E Building Plans' (drawing reference: 15-06-S2-305-A).

The duly installed windows shall be retained as such thereafter.

Reason: To ensure that appropriate measures are put in place to limit the potential for overlooking between future occupiers of the approved dwellings and existing properties in order to ensure a high standard of amenity for existing and future occupiers in accordance with the requirements of Fylde Local Plan to 2032 policy GD7 and the National Planning Policy Framework.

12. Prior to the installation of any external lighting at the site, an external lighting scheme shall be submitted to and approved in writing by the Local Planning Authority. Thereafter only lighting contained in the approved scheme shall be implemented at the site.

Reason: To ensure that appropriate measures are put in place to limit the potential for light intrusion to neighbouring properties in order to ensure a high standard of amenity for existing residents in accordance with the requirements of Fylde Local Plan to 2032 policy GD7 and the National Planning Policy Framework.

13. Notwithstanding the provisions of Schedule 2, Part 3 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 development hereby approved shall be used for the following use classes only:

- a) Class E (g) (i) - office.
- b) Class E (g) (ii) - research and development of products or processes.
- c) Class E (g) (iii) - any industrial process which can be carried out in any residential area without detriment to the amenity of the area.
- d) Class B2 - General Industry.
- e) Class B8 - Storage and Distribution.

and for no other purpose (including any other uses falling within Class E of the Town and Country Planning (Use Classes) Order 1987 (as amended) or in any provision equivalent to those classes in any statutory instrument amending or replacing that Order.

Reason: To ensure that the use of the premises remains compatible with the character of surrounding uses, to ensure that the level of parking provided by the development remains sufficient to serve the use in the interests of highway safety; in accordance with the requirements of policies EC1 and GD7 of the Fylde Local Plan to 2032 and the National Planning Policy Framework.

14. Notwithstanding the provisions of the Town & Country Planning (Use Classes Order) 1987 [as amended] and the Town & Country Planning (General Permitted Development) Order 2015 [as amended] or any other legislation that amends or re-enacts those Orders, where premises are in use as Class E (g) (iii) (any industrial process which can be carried out in any residential area without detriment to the amenity of the area) or Class B8 (storage and distribution) any retail sales shall be limited to a level that is ancillary to the main use of the premises for wholesale distribution and under no circumstances shall exceed 15% of the floor area of each unit.

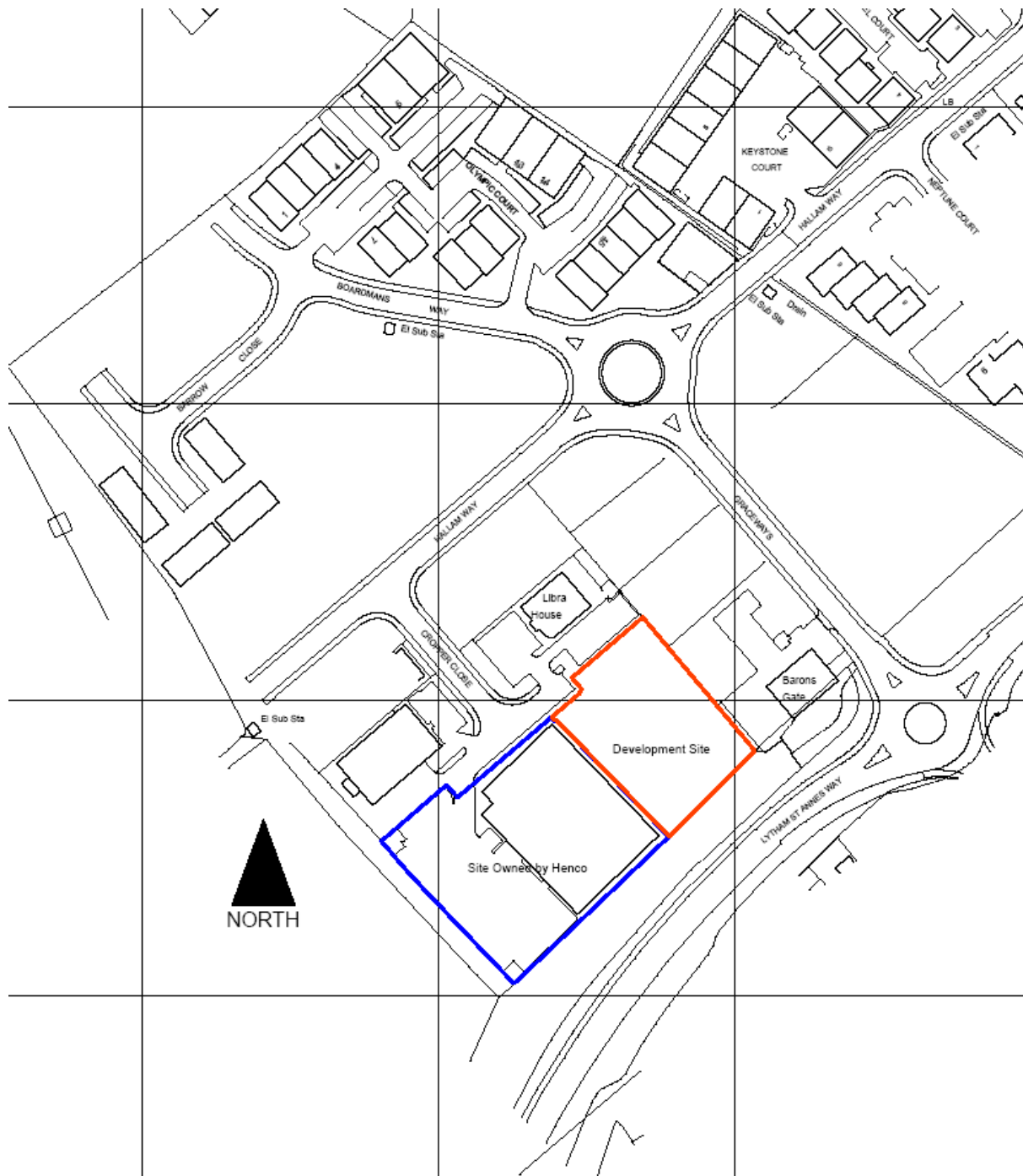
Reason: For the avoidance of doubt and in order to avoid the establishment of a retail operation in this out of centre location, in accordance with Policy EC1 and EC5 of the Fylde Local Plan to 2032 and NPPF21.

15. No goods of any description shall be stored on site other than within the buildings.

Reason: In the interests of the visual amenity of the area in accordance with Policy GD7 of the Fylde Local Plan to 2032.

16. Prior to the first occupation of each unit hereby approved the parking spaces associated with that unit as shown on the approved site plan listed in condition 2 of this permission shall be provided and shall thereafter remain available for use for the parking of vehicles associated with the trading of that unit

Reason: To ensure the provision of adequate parking levels and allow for the effective use of the parking areas in accordance with the provisions of Policies T5 and GD7 of the Fylde Local Plan to 2032 and the aims of the National Planning Policy Framework.



INFORMATION ITEM

REPORT OF	MEETING	DATE	ITEM NO
DEVELOPMENT SERVICES DIRECTORATE	PLANNING COMMITTEE	8 DECEMBER 2021	5
LIST OF APPEALS DECIDED			

PUBLIC ITEM

This item is for consideration in the public part of the meeting.

SUMMARY OF INFORMATION

The council received the following attached appeal decisions between 23/10/21 and 26/11/2021.

SOURCE OF INFORMATION

Development Services

INFORMATION

List of Appeals Decided

WHY IS THIS INFORMATION BEING GIVEN TO THE COMMITTEE?

To inform members on appeals that have been decided.

FURTHER INFORMATION

Contact Andrew Stell, Development Manager, 01253 658473

Appeal Decisions

The council received decisions on the following appeals in the period 23 October 2021 to 26 November 2021. Copies of those decisions are appended to this report for information, including the costs decision on the first two appeals.

Rec No: 1 30 June 2021	20/0439	STANLEY VILLA FARM FISHING AND CAMPING, BACK LANE, WEETON WITH PREESE, PRESTON, PR4 3HN VARIATION OF CONDITIONS OF PLANNING PERMISSION 17/0572 TO ALLOW USE OF PART OF SITE AS TENTING FIELD. CONDITION 2 TO BE VARIED TO ENABLE TENT CAMPING, CONDITION 3 TO BE VARIED TO ENSURE TENT CAMPING IS FOR HOLIDAY PURPOSES ONLY, AND CONDITION 6 TO BE VARIED TO ENSURE SITE MANAGEMENT PLAN RELATES TO TENT CAMPING	Informal Hearing Case Officer: RT
---------------------------	---------	--	--

Fylde Dec. Level Appeal Decision:	COMM Allowed: 01 November 2021
--------------------------------------	-----------------------------------

Rec No: 2 02 August 2021	20/0670	135 WARTON STREET, LYTHAM ST ANNES, FY8 5BH FORMATION OF VEHICLE ACCESS WITH REMOVAL OF FRONT BOUNDARY WALL.	Householder Appeal Case Officer: BW
-----------------------------	---------	---	---

Fylde Dec. Level Appeal Decision:	DEL Dismiss: 15 November 2021
--------------------------------------	----------------------------------

Rec No: 3 18 August 2021	20/0788	55 SHEPHERD ROAD, LYTHAM ST ANNES, FY8 3JN ERECTION OF ONE ADDITIONAL DWELLING AND ASSOCIATED EXTERNAL ALTERATIONS TO EXISTING DWELLING	Written Representations Case Officer: RT
-----------------------------	---------	--	--

Fylde Dec. Level Appeal Decision:	DEL Dismiss: 11 November 2021
--------------------------------------	----------------------------------



Appeal Decision

Hearing held on 15 September 2021

Site visit made on 15 September 2021

by B Davies MSc FGS CGeol

an Inspector appointed by the Secretary of State for Communities

Decision date: 1 November 2021

Appeal Ref: APP/M2325/W/21/3270115

Stanley Villa Farm Fishing and Camping, Back Lane, Weeton with Preese, Preston PR4 3HN

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a refusal to grant planning permission under section 73 of the Town and Country Planning Act 1990 for the development of land without complying with conditions subject to which a previous planning permission was granted.
- The appeal is made by Mr Alex Young against the decision of Fylde Borough Council.
- The application Ref 20/0439, dated 21 June 2020, was refused by notice dated 7 October 2020.
- The application sought planning permission for *use of the land for camping, including mobile pod accommodation for use both associated with and un-associated with the use of the existing fishery; the general use of the facilities building for use associated with the camping and fishery uses, along with ancillary facilities including office building, mobile toilet, car parking and footpaths; formation of a new fishing lake* without complying with conditions attached to planning permission Ref APP/M2325/W/18/3197600, dated 4 April 2019.
- The conditions in dispute are Nos 2, 3 and 6 which state that:
 - (2) The use of the site for camping hereby approved shall be limited to the area annotated as camping pods as detailed on drawing number You/708/2178/01 Amendment B. Overnight stays shall only be undertaken within the 25 camping 'pods' within this area. No additional forms of camping in the form of tents, caravans, caravettes or any other form of motorhome will be allowed.
 - (3) No 'pods' or other building/structure on the site shall be occupied as a person's permanent, sole or main place of residence.
 - (6) The development hereby approved shall be managed in strict accordance with the Stanley Villa Farm Camping – Camping Management Plan of 19 March 2019 (CMP), or any revision of the CMP subsequently agreed in writing by the Local Planning Authority.
- The reasons given for the condition are:
 - (2) and (3) specify the approved plans and the area in which camping is permitted and preclude permanent occupation of the units.
 - (6) secures compliance with the submitted management plan and any revisions to this.

Decision

1. The appeal is allowed planning permission is granted for *use of the land for camping, including mobile pod accommodation for use both associated with and un-associated with the use of the existing fishery; the general use of the facilities building for use associated with the camping and fishery uses, along with ancillary facilities including office building, mobile toilet, car parking and footpaths; formation of a new fishing lake* at Stanley Villa Farm Fishing and Camping, Back Lane, Weeton with Preese, Preston, PR4 3HN in accordance with the application Ref 20/0439, dated 21 June 2020, without compliance with

condition numbers 2, 3 and 6 previously imposed on planning permission Ref 17/0572 dated 4 April 2019, but otherwise subject to the conditions set out in the attached schedule.

Application for costs

2. An application for costs was made by Mr Alex Young against Fylde Borough Council. This application is the subject of a separate Decision.

Preliminary matters

3. Only conditions 2 and 6 are referenced on the application form. However, it was agreed by the main parties at the hearing that the application also relates to compliance with condition 3 and I have determined the appeal on this basis.
4. The extant permission was granted on appeal¹, so detailed reasons do not sit alongside the conditions. The reasons for conditions in the banner above reflect the explanation given by the Inspector in the appeal decision.
5. The appellant submitted a noise assessment during the appeal. The Council and interested parties have had the opportunity to review this and I am satisfied that no party would be prejudiced by my consideration of these documents.
6. The Council withdrew its objection during the appeal because it considered the noise assessment sufficient to demonstrate that the development would not be harmful. This was on the presumption that any permission would secure appropriate management of the site.
7. The National Planning Policy Framework (the 'Framework') was revised on the 20 July 2021, during the appeal period. Both parties had the opportunity to comment on the implications of this for their case at the hearing.
8. The Council provided an update on the partial review of the Fylde Local Plan to 2032 at the hearing. I am satisfied that the proposed changes do not have a bearing on the case.

Main issues

9. While the Council no longer contests the reasons for refusal of planning permission, there continue to be strongly held views expressed by local interested parties. In this context, the main issues are the effect of the proposal on:
 - the living conditions of neighbours with particular regard to noise and disturbance, and
 - the character of the area with regard to noise and disturbance.

Reasons

Site context

10. The appeal site is part of the Stanley Villa Farm fishery and camping site, located in the flat, open countryside of rural Fylde. The site was originally centred around recreational fishing, and has two lakes for this purpose, one of which has been recently constructed, but not been brought into use yet. There

¹ APP/M2325/W/18/3197600 (4 April 2019)

are 24 small wooden accommodation 'pods' on a grassed area towards the centre of the site between the two lakes, and a facilities block and small shop near the entrance.

11. The proposal is to add 10 bell tents in the field beyond the pods. A small car park would be created along the open side of the field for users of the tents. The other three sides of the site are largely enclosed by hedging and woodland. There is an access gate in the south east corner adjacent to the end of a large earth bund, which continues along the southern boundary of the pod field.
12. The nearest neighbours are the occupants of the Little Orchard Caravan Park approximately 100 metres south of the pods and proposed tent area. The caravan park has 57 pitches and caravans are permitted to be there on a seasonal basis. Beyond this are two houses occupied by the owners of Little Orchard Campsite and three holiday lets.

Noise

13. The area was quiet at the time of my site visit on a weekday evening outside of school holidays. Ambient noise from the distant M55 could be heard, in addition to sporadic noise from a power generator and a nearby clay pigeon shooting range.
14. However, I consider that a reasonable baseline noise level for the purpose of this appeal would be the school holiday periods when the wider site would be in fuller use. This is because the tents are largely intended for families and I would expect to be used most heavily during these periods. Baseline data have been presented for the summer of 2018² as an average hourly and daily noise level.
15. At the hearing, Mr Heyes presented indicative calculations for the noise levels experienced from occupants of the proposed tents at the nearby caravans, which I concur is the most sensitive receptor given the potential for seasonal occupation of these. I have reviewed the various concerns raised regarding the underlying dataset and subsequent calculations, but they have been prepared by a qualified noise specialist and overall, I am satisfied that they can be relied upon as a reasonable guideline.
16. Based on the figures provided the hourly average noise level generated by occupants of the tents at the nearest caravans would be approximately 41 dB and therefore well below the WHO daytime threshold of 55 dB. When the predicted average noise level from occupants of the tents is combined with the highest daytime noise levels from the 2018 dataset, I am satisfied that the cumulative average noise would still likely result in a level below the threshold.
17. The calculated average noise level from occupants of the tents would also remain below the proposed acceptable level of increase of 3 dB. Legitimate concerns were raised during the hearing regarding the applicability of this threshold given that the area can be quiet and change therefore more keenly felt. However, for the reasons above I am content that the increase in noise should be compared against that generated by the existing development rather than when the area is quietest. When viewed in the context of it being a slight increase and the cumulative noise remaining below the WHO threshold, I am

² Noise Impact Assessment report 20/0275/R1, Cole Jarman, December 2020

- satisfied that the increase in average noise from the occupants of 10 bell tents would not cause unacceptable harm at the nearest receptor.
18. However, the noise generated by the proposal and the wider site would include sporadic periods of impulsive, elevated noise that in character has the potential to be intrusive. The occupants of the nearby houses recorded that they have found such noise from the existing site to be highly intrusive, to the extent that they have avoided going outside in the evenings and at weekends, and not spent as much time in the garden. The owners of the caravan park have also reported that they have had to give refunds because of an unacceptable level of disturbance and that their business has been damaged.
 19. The introduction of up to 10 additional 'families' to tents on the site is likely to lead to more noise of this character, in addition to potentially 24 'families' in the pods. I have reviewed concerns that the overall occupancy of the site could be roughly doubled. However, the Camping Management Plan contains guidance that 'normal occupancy' of the tents is defined as no more than 6 people. Although I consider full occupancy of each tent to be a worst case scenario, I have undertaken an assessment of the harm on this basis.
 20. I acknowledge that tent walls are thin, but I would expect most occupants of the pods to also remain outside in the evenings and all would be subject to the same level of curfew. I would also expect the occupants to use the site in the same way, including spending time at the small, wooded area containing some chickens. I also see no reason to expect the demographic of those using the pods and tents to be significantly different. For these reasons, I do not consider that the occupants of tents are more likely to generate impulsive noise than those of pods. The issue is therefore that there could be up to 60 additional people generating sporadic noise over the same period as the occupants of the pods.
 21. There is no quantitative methodology available to calculate the degree of harm from noise of this character, which to some extent is also dependent on the receiver. Paragraph 185 of the Framework states that decisions should avoid noise giving risk to significant adverse impacts on health and quality of life. This is defined through the significant observed adverse effect level (SOAEL) as defined in the Explanatory Note for the Noise Policy Statement for England³. Such a threshold can include having to keep windows closed most of the time and sleep disturbance.
 22. While I do not doubt some distress has been caused to the neighbours by the introduction of the new noise source allowed by the extant permission, I do not find that it meets the high threshold required for significant adverse impacts on health and quality of life. It is also of relevance that the Council class the existing noise as an annoyance rather than a statutory nuisance. Given that the overall character and timing of the noise would remain the same as that already permitted through the extant permission, I am satisfied that the additional noise generated by occupancy of 10 additional tents would not cause this high threshold to be breached, even allowing that there may be more instances of sporadic noise

³ Noise Policy Statement for England (Department for Environment, Food and Rural Affairs, 2010)

23. Based on the testimony of the neighbours and with reference to the Planning Practice Guidance (PPG)⁴, I am however persuaded that the cumulative noise would be 'present and intrusive' and above the 'observed adverse effect level'. This is the level of noise exposure above which adverse effects on health and quality of life can be detected.
24. In this event, the PPG⁵ and paragraph 185 of the Framework require that noise is mitigated and reduced to a minimum. The PPG⁶ also recommends that the risk of conflict between new development and existing business should be addressed through suitable mitigation measures.

Mitigation measures

25. It is proposed to prevent anyone accessing the field and lake between the tent field and caravans other than people fishing, to optimise the distance between the source and noise sensitive receptors. I note the claims that such an arrangement has not always been adhered to in the past, but I observed that clear signage has been erected stating that the area is not for general access and a barrier fence has been erected to which only people fishing and management would have a key. I am satisfied that this is a reasonable and enforceable level of control to maximise the distance between the source and nearest receptor of noise.
26. A high earth bund has been constructed along the side of the southern boundary of the pod field to mitigate noise travelling towards the receptors. This would also intercept some noise from the tent field, in addition to the woodland to the south. I note concerns that two gaps have been left in the bund that could funnel noise towards the caravan site. Overall, I am content that the bund, which is immediately adjacent to the source of noise, would provide a degree of mitigation and it is reasonable that small gaps are retained for access.
27. I am satisfied that controls can be put in place via conditions on a planning permission to prevent music being played and that a limit on group sizes can be imposed to prevent parties or events. A curfew can also be imposed regarding timing of noisy activities. However, curtailing the noise generated by the occupants of the site from socialising and playing during the day would not be compatible with the proposed use and in this context, I do not consider it would be reasonable or indeed necessary to impose such a control.
28. I conclude that the additional noise from occupancy of the tents would not cause cumulative noise from the site to have a significant adverse impact on the health and quality of life of neighbours. Suitable mitigation measures would be employed to reduce the noise to a reasonable minimum in line with the requirements of paragraph 185 of the Framework and the PPG. For this reason, I also conclude that the site meets the requirements of Policy GD7 of the Fylde Council Local Plan (October 2018) (LP), which seeks to ensure that amenity will not be harmed by neighbouring uses, both existing and proposed.

⁴ Paragraph: 004 Reference ID: 30-004-20190722, Revision date: 22 07 2019

⁵ Paragraph: 005 Reference ID: 30-005-20190722, Revision date: 22 07 2019

⁶ Paragraph: 009 Reference ID: 30-009-20190722, Revision date: 22 07 2019

Character of the area

29. The PPG⁷ states that for an area to justify being protected for its tranquillity, it is likely to be relatively undisturbed by noise from human sources. The surrounding noisescape has been established through the extant permission on the campsite and through the caravan park, albeit the latter is quieter by virtue of their different business model. This is in addition to nearby clay pigeon shooting, a generator associated with nearby agricultural enterprise and the distant hum of the motorway.
30. While I do not doubt that the area can be tranquil at times, in general it is not undisturbed by noise from human sources. For this reason, and taking into account my findings above, I do not consider that occupation of an additional 10 bell tents would have a harmful effect on the character of the area and do not find conflict with Policy ENV1 of the LP, which protects landscape character, amenity and tranquillity.

Other matters

31. Reference has been made by interested parties to a separate application for a new facilities block. This was withdrawn and I have therefore not had regard to this in my reasoning, which is solely on the merits of the appeal before me. A new permanent facilities block would require a separate planning permission.
32. An objection to the scheme was raised by a local Councillor because of the risk to highway safety from additional traffic. There has been no objection from the highway authority and, given the very modest number of additional vehicles from occupation of 10 bell tents, I see no reason to come to a different conclusion or to impose conditions in this respect.
33. The neighbours have also brought concerns regarding unsatisfactory implementation of the previous permission to my attention, including construction of bunds, an elevated footway adjacent to their site and drainage problems. I have taken these into consideration when imposing conditions on the permission to ensure that the Council can still enforce these matters as needed.
34. I was also presented with numerous concerns regarding the operation of the site. A copy of a typical campsite licence was submitted at the hearing, and based on this, I am satisfied that the matters raised fall under the remit of the site licence and therefore beyond the scope of this appeal.
35. My attention has also been drawn to potential trespassing in the woodland between the sites. This, and matters to do with disposal of waste, are also matters for other regimes.
36. Interested parties have expressed a concern that the proposal goes beyond that allowed by the previous Inspector and is therefore is not valid. For the avoidance of doubt, Section 73 of the Act expressly allows a developer to apply to remove or vary a condition and in this case the proposals do not depart materially from the original description of development.

⁷ Paragraph: 008 Reference ID: 30-008-20190722, Revision date: 22 07 2019

Conditions

37. The PPG⁸ recommends that the grant of permission under section 73 of the Act should set out all of the conditions imposed on the new permission, and restate the conditions imposed on earlier permission that continue to have effect. New conditions can be imposed provided they do not materially alter the development that was subject to the original permission and must be conditions that could have been imposed on the earlier permission.
38. There were 13 conditions on the original permission. 16 conditions with several sub-sections were proposed by the Council for the current appeal and these were discussed in detail at the hearing. The final conditions are based on these discussions, with minor changes where necessary for clarity.
39. Condition 1 references the plans and is required in the interests of certainty. I have removed reference to the original planning statement because this is no longer required. I have also removed reference to the camping management plan because this is secured by condition 6. I have added reference to the new plans annotating the tent area and removed the superseded layout plan. I have included the part of condition 1b relating to the layout of any temporary and ancillary facilities buildings. I have not included proposed conditions 1a and 1c as they relate to appearance of the tents and any temporary facilities buildings, which I do not consider necessary.
40. Condition 2 is necessary to control the location of camping on the site. I have not included part of proposed condition 2a relating to occupancy figures because I consider it more appropriate to secure this via the camping management plan, which will allow a degree of flexibility. I have however included condition 2a so far as it controls the number and size of tents.
41. Condition 3 prevents anybody using the site as their main residence because this would constitute a different use of the land.
42. Condition 4 is retained from the original permission. I have amended the wording because the fishing lake has been constructed and a landscaping scheme submitted. The condition secures the agreed scheme, which is yet to be completed. I have combined this with proposed condition 4a relating to the bund between the tent field and the caravan park. The bund constructed is longer and lower than that originally proposed, and this condition is therefore required to regularise this and secure the planting scheme.
43. I have retained condition 5 of the original permission to explicitly withhold consent for the 5 metre wide bund along the southern boundary, but in agreement with both parties have removed the section relating to construction of the lake, which has been completed.
44. Condition 6 secures compliance with a camping management plan (CMP). This is required to provide a framework for management of number of occupants at the site, activities, and type and timing of the noise generated. I have not included proposed condition 6a because the requirements are secured via the CMP. At the hearing it was agreed that the date and/or version must be clearly shown on the front of the CMP, and the definition of 'event' and guidelines regarding occupancy of the tents agreed.

⁸ Paragraph: 040 Reference ID: 21a-040-20190723, Revision date: 23 07 2019

- 45. Condition 7 and 8, which control access and use of the fishing lake, are retained. These ensure that the lake can only be used for fishing and public access restricted to prevent the source of noise moving closer to the receptors. The wording of condition 8 has been slightly amended to also allow access for management of the area.
- 46. I have not retained condition 9 of the original permission because it relates to excavation of the lake, which has been completed. The Council confirmed that conditions 11 and 12 have been discharged, so these are also not included.
- 47. The drainage management scheme originally required has been submitted. I have retained the requirement to meet this scheme in condition 9. Condition 10 is also necessary to meet the drainage requirements and to prevent flooding.
- 48. Condition 11 is necessary to reduce the visual impact of the development because of a reduction of natural screening during the summer months.
- 49. I have not included proposed conditions 15 and 16 to prevent organised events and amplified music because these requirements are secured as part of the CMP.

Conclusion

- 50. The additional average noise generated by occupants of the tents would not be harmful to the living conditions of neighbours and would not harm the character of the area. However, the additional occupancy would add to the observed adverse effects on neighbours from sporadic noise. This would not be to the extent that the SOAEL would be exceeded and mitigation measures to counter the adverse effects are proposed in line with national policy and guidance. For this reason, I have not found conflict with policies of the local development plan from the proposal that protect the amenity of neighbours.
- 51. The appeal should therefore be allowed.

B Davies

INSPECTOR

Schedule of Conditions

1. This consent relates to the following plans:
 - Site plan YOU/708/2766/01 Amendment A (15 June 2020)
 - Location plan YOU/708/2766/02 Amendment A (15 June 2020)
 - Site plan You/708/2178/01 Amendment B (June 2017)
 - Public access restriction YOU/708/2178/01 Amendment C (June 2017)
 - Cross Section Information Elevations of Existing Pods YOU/708/2178/03 (June 2017)
 - Site Plan YOU/708/2730/01 Amendment G (16 July 2019)
- 1b) Prior to the commencement of any development hereby approved a site layout plan illustrating the location of the temporary facilities buildings shall be submitted to and approved in writing by the local planning authority. The development shall be carried out in accordance with the approved details.
2. The use of the site for camping hereby approved shall be limited to the areas annotated as camping pods and bell tents as detailed on drawing numbers You/708/2766/01 Amendment A You/708/2766/02. Overnight stays shall only be undertaken within the 25 camping 'pods' and 10 bell tents within these areas. No additional forms of camping in the form of caravans, caravettes or any other form of motorhome will be allowed.

2a) The number of tents on site at any time shall not exceed 10 bell tents each of up to 5 metres in diameter.
3. No 'pods', tents or other building/structure on the site shall be occupied as a person's permanent, sole or main place of residence.
4. Within the first planting season following the granting of this planning permission, the approved landscaping detail on reference YOU/708/2730/01 Amendment G (16 July 2019) shall be undertaken. The planting scheme shall be maintained in accordance with good arboricultural practice as set out in BS2248 and BS5837 for a period of not less than the 10 years following its planting, with any specimens that fail during that period replanted during the first available planting season.
5. Notwithstanding the details of the approved drawings, this approval notice does not grant consent for the 5 metre wide bund located to the southern boundary of the site as detailed on drawing number You/708/2178/01 Amendment B.
6. The development hereby approved shall be managed in strict accordance with the submitted Stanley Villa Farm Camping - Camping Management Plan of 15 September 2021 (CMP), or any revision of the CMP subsequently agreed in writing by the Local Planning Authority
7. Notwithstanding the approved drawings or provisions of the General Permitted Development Order 2015, the lake hereby approved shall be used as a fishing lake only.

8. There shall be no access to the land located south of the camping pods and hatched brown on drawing titled 'Public Access Restriction' You/708/2178/01 Amendment C, other than for the purposes of fishing, maintenance and ordinary management.
9. The sustainable drainage system shall be managed and maintained in accordance with the approved details in the Management and Maintenance Plan previously submitted to and approved in writing by the Local Planning Authority.
10. All attenuation basins and flow control devices/structures are to be constructed and operational prior to the commencement of any other development and prior to any development phase.
11. The tenting areas hereby approved shall only be utilised for the siting and occupation of tents during the months of March to the first Sunday in November in any year, with all tents and associated temporary facilities removed from the site outside of those months.

Appearances:

FOR THE APPELLANT:

Alex Young, Appellant
Colin Bradley, Owner
Martin Carter, Barrister
Gary Hoerty, Agent
Fiona Patterson, Agent
Matthew Heyes, Noise consultant

FOR THE LOCAL PLANNING AUTHORITY:

Mark Evans, Head of Planning, Fylde Council
Ruth Thow, Planning officer, Fylde Council

INTERESTED PARTIES:

Councillor Linda Nulty, Fylde Council
Jonathan Johnson, Kirbys Farm Back Lane, Weeton
Katarzyna Kuczyńska, Kirbys Farm Back Lane, Weeton
Dr Richard Johnson and Linda Johnson, Sharrocks Barn, Back Lane, Weeton

Documents submitted at the hearing:

- Stanley Villa Farm Camping & Fishing Camping Management Plan, 15 September 2021
- Signed Statement of Common Ground between Mr Alexander Young and Fylde Borough Council (signed by both on 15 September 2021)
- Example of a licence to use land as a site for moveable dwellings (tents) under the Public Health Act 1936
- Partial Review of the Fylde Local Plan to 2032, Schedule of Revisions (March 2020)
- Partial Review of the Fylde Local Plan to 2032, Draft Schedule of Proposed Main Modifications for Consultation (July 2021)

Costs Decision

Hearing held on 15 September 2021

Site visit made on 15 September 2021

by B Davies MSc FGS CGeol

an Inspector appointed by the Secretary of State

Decision date: 1 November 2021

Costs application in relation to Appeal Ref: APP/M2325/W/21/3270115 Stanley Villa Farm Fishing and Camping, Back Lane, Weeton with Preese, Preston PR4 3HN

- The application is made under the Town and Country Planning Act 1990, sections 78, 322 and Schedule 6, and the Local Government Act 1972, section 250(5).
 - The application is made by Mr Alex Young for a full award of costs against Fylde Borough Council.
 - The hearing was in connection with an appeal against the refusal to grant planning permission under section 73 of the Town and Country Planning Act 1990 for the development of land without complying with conditions subject to which a previous planning permission was granted.
-

Decision

1. The application for an award of costs is refused.

Reasons

2. The Planning Practice Guidance ('PPG') advises that costs may be awarded against a party who has behaved unreasonably and thereby caused the party applying for costs to incur unnecessary or wasted expense in the appeal process.
3. In summary, the reasons given for the appellant incurring unnecessary expense are that the Council did not have a sound basis for refusing planning permission and delayed reviewing the case promptly at appeal.
4. No assessment of the potential harm from additional noise from the proposal was provided with the application. Given the importance of this issue at the recent appeal and awareness of on-going complaints to the Council in this regard, I am satisfied that the importance of addressing this matter cannot have come as a surprise to the appellant.
5. In the absence of any assessment from the applicant, the Council made a judgement that there would be harm from the additional noise and provided adequate reasoning for coming to this conclusion. Although I concur that there were some flaws in the Council's case, at its heart was the undeniable argument that significantly increasing the number of occupants at the site would increase the noise generated. Subsequent assessment of the harm from this was necessarily a matter of judgement given the lack of quantitative evaluation. I conclude that the Council had a reasonable basis for refusing planning permission.

6. I do not find that the case officer disregarded the advice of the Environmental Health Officer. Both were consistent in raising concerns regarding the potential level of noise from the proposal. Sufficient reasoning was provided to explain why the officer judged that it was not appropriate to control this using a condition.
7. The claimant also suggests that too much reliance was put on the objections of interested parties. I am unclear how much weight was put on them, but ultimately this is a matter of planning judgement. Notwithstanding this, I have no evidence that this was determinative.
8. The Council responded to the noise assessment submitted as part of the appeal within the formal timescale. I acknowledge that the report was sent to the Council several months prior and that it could therefore have potentially responded sooner. However, independent submission to the Council occurred on the same day that the appeal was lodged. By this stage the appeal could not have been avoided because of the significant objections raised by interested parties.

Conclusion

9. In light of the above I find that unreasonable behaviour resulting in unnecessary or wasted expense, as described in Planning Practice Guidance, has not been demonstrated. An award for costs is therefore not justified.

B Davies

INSPECTOR



Appeal Decision

Site Visit made on 28 September 2021

by Sarah Manchester BSc MSc PhD MEnvSc

an Inspector appointed by the Secretary of State

Decision date: 15th November 2021

Appeal Ref: APP/M2325/D/21/3273324

135 Warton Street, Lytham St Annes, Lancashire FY8 5BH

- 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 Acton-Reid against the decision of Fylde Borough Council.
 - The application Ref 20/0670, dated 11 September 2020, was refused by notice dated 1 March 2021.
 - The development proposed is described as re-removal of front garden wall to give access to existing flagged garden for parking purposes.
-

Decision

1. The appeal is dismissed.

Applications for costs

2. An application for an award of costs was made by Mr John Acton-Reid against Fylde Borough Council. That application is the subject of a separate Decision.

Preliminary Matters

3. I have adopted the description of the development from the application form in the banner heading above. Section 8 of the application form states that it would be the creation of off-road parking and it is described in the decision notice as formation of vehicular access with removal of front boundary wall. I have determined the appeal accordingly.
4. In 2008, planning permission was refused and it was upheld on appeal (ref APP/M2325/A/08/2084321) for the formation of off-street parking in the front garden.

Main Issue

5. The main issue is the effect of the proposal on the character and appearance of the area.

Reasons

6. The appeal property is a 2 storey mid terrace dwelling with a flagged front garden and a low front boundary wall. It is in a residential area characterised by regularly arranged traditional terraced dwellings finished in brick with ground floor bay windows and slate roofs with repeating decorative gables. Properties are set back from the street behind front gardens, predominantly with mature planting, enclosed by low brick walls. Notwithstanding the nearby

hospital timber boundary fence, the appeal property forms part of a uniform and harmonious residential street scene.

7. The front boundary wall of No 135 makes a positive contribution to the character and appearance of the area. Its removal would erode local distinctiveness and the strong sense of place of the terrace and the townscape. The adverse visual impact would be compounded by the increased visibility of the hardstanding frontage, which contrasts unfavourably with the vegetated front gardens in the street. The parking of a vehicle would dominate the small frontage. In a part of the street where there is no on-street or off-street parking, the proposal would be visually obtrusive and discordant. It would not be sympathetic to local character or the surrounding built environment and it would detract from the overall quality of the area.
8. Therefore, I conclude that the proposal would significantly harm the character and appearance of the appeal property and the area. It would conflict with Policy GD7 of Fylde Council's Local Plan to 2032 Adopted October 2018. This requires, among other things, that development should take account of local character and appearance, relating well to surrounding context, and conserving and enhancing the built and historic environment. It would also conflict with the National Planning Policy Framework including in relation to the creation of high quality, beautiful and sustainable places, which is fundamental to what planning and development should achieve.

Other Considerations

9. My attention has been drawn to properties elsewhere including 55-57 Warton Street which are adjoining properties with front boundary walls removed and hardstanding frontages in use for parking. These had been similarly drawn to the attention of the Inspector in the previous appeal. Far from providing a justification for the proposal, he considered that the adverse visual impact of the paving of the frontages and the absence of boundary walls was clearly something to be avoided. I see no reason to disagree.
10. There are 4 disabled persons, including a wheelchair user, living at the appeal property. The appellant's particular medical conditions limit his mobility. Section 149 of the Equality Act 2010 sets out that disability, defined as a physical or mental impairment that has substantial and long-term adverse effects on a person's ability to carry out normal day-to-day activities, is a relevant protected characteristic for the purposes of the Act. Consequently, it is necessary for me to have regard to the Public Sector Equality Duty (PSED) contained in the Equality Act. This includes having due regard to the need to advance equality of opportunity between persons sharing a relevant protected characteristic and persons who do not share it, including by taking steps to meet the needs of such persons that are different from the needs of persons who do not share the relevant protected characteristic.
11. While the occupiers of the terraced dwellings in this area park their vehicles on the street, No 135 is on a part of the road subject to waiting restrictions and the appellant is therefore unable to park directly outside his property. There is however unrestricted parking elsewhere in the area, including on the opposite side of the road where I understand the appellant currently parks his vehicles. Nevertheless, given the family's personal circumstances and their reliance on private car journeys, the ability to park close to the property and the certainty that parking would be available would clearly be a benefit.

12. The Council has suggested an alternative solution by way of blue badge holder parking outside of the property in the restricted waiting zone and the creation of a disabled person's parking space on the opposite side of Warton Street. The appellant appears to have discounted this alternative on the basis that it would be unacceptable to the Council rather than because it would not meet his needs. However, it has not been demonstrated that badge holder parking outside the property, which would enable family members to get in or out of a vehicle and which is not dependent on the grant of planning permission, would result in congestion or that it would compromise highway safety.
13. Furthermore, I am not aware that the street is under high parking pressure or that the appellant is currently unable to park close to his property. Therefore, while a disabled person's parking space would not be a personal parking space, there is little to suggest it would not be available for use by the appellant. On the basis of an alternative that would appear to deliver similar benefits, and while I am sympathetic, the appellant's personal circumstances do not therefore outweigh the significant harm that I have found. In reaching this conclusion, and while the PSED did not exist at that time, I am also mindful that the previous Inspector took account of the appellant's personal circumstances in reaching the earlier decision.
14. Following the refusal of the planning application, a certificate of lawfulness (ref 21/0378) for the demolition of the front boundary wall was applied for and it was granted on 16 June 2021. Therefore, the removal of the wall benefits from permitted development rights. However, in the absence of a vehicle crossover, which would not be permitted development and which has not been demonstrated, the front garden could not be used for parking. The fallback position would harm visual amenity, but it does not provide a justification for the harm that would arise from the proposal.

Conclusion

15. Section 38(6) of the Planning and Compulsory Purchase Act 2004 requires that the determination of planning applications and appeals must be made in accordance with the development plan unless material considerations indicate otherwise.
16. For the reasons set out above, I conclude that the proposal would conflict with the development plan and there are no material considerations, including the lawful development certificate and the appellant's personal circumstances, that would outweigh that conflict.
17. Therefore, I conclude that the appeal should be dismissed.

Sarah Manchester

INSPECTOR

Costs Decision

Site visit made on 28 September 2021

by Sarah Manchester BSc MSc PhD MEnvSc

an Inspector appointed by the Secretary of State

Decision date: 15th November 2021

Costs application in relation to Appeal Ref: APP/M2325/D/21/3273324 135 Warton Street, Lytham, Lancashire FY8 5BH

- The application is made under the Town and Country Planning Act 1990, sections 78, 322 and Schedule 6, and the Local Government Act 1972, section 250(5).
 - The application is made by Mr John Acton-Reid for a full award of costs against Fylde Borough Council.
 - The appeal was against the refusal of planning permission for re-removal of front garden wall to give access to existing flagged garden for parking purposes.
-

Decision

1. The application for an award of costs is refused.

Reasons

2. The Planning Practice Guidance (the PPG) advises that, irrespective of the outcome of the appeal, costs may only be awarded against a party who has behaved unreasonably and thereby caused the party applying for costs to incur unnecessary or wasted expense in the appeal process.
3. The applicant considers the Council behaved unreasonably in a number of ways including by failing to advise that the removal of the wall did not require planning permission, by refusing development that did not require permission, and by suggesting alternative solutions that were unacceptable to it.
4. The applicant is frustrated that the Council was unaware of the permitted development rights. However, he did not engage with its pre-application advice service. Once the planning application was made, the Council considered the planning merits of the proposal in accordance with the development plan, taking into account material considerations. At that time, the lawfulness of removing the wall had not been established and the permitted development rights were not raised as a material consideration during the processing of the application.
5. The parties acknowledge that, as stated in the Council's self-assessment form, the creation of the vehicular access would not be permitted development. While the applicant would need to enter into a s184 agreement for the formation of the vehicle crossing, I am not aware that this would be independent of planning permission. Therefore, irrespective that part of the proposal benefits from permitted development rights, there is little to suggest that the Council behaved unreasonably in considering the scheme or by refusing it.
6. There is little substantive evidence that the alternative solution suggested by the Council would be unacceptable to it or that it could not be achieved. While

there may be other alternative solutions, there is no evidence that the Council deliberately withheld information. From what I have read, it appears that the Council sought to work proactively with the applicant to explore alternative forms of development.

7. As can be seen from my appeal decision, I took account of the material considerations, including the lawful development certificate, in reaching my decision. Even so, I found, as did the Council and the previous Inspector, that the proposal would conflict with the development plan. I dismissed the appeal accordingly. While the Council's decision will have been a disappointment to the applicant, permission was not unreasonably withheld for development that should clearly have been permitted. The appellant exercised his right of appeal and, while he has incurred expense, it does not follow that this resulted from unreasonable behaviour by the Council.
8. For these reasons, I find that unreasonable behaviour resulting in unnecessary or wasted expense as described in the PPG has not been demonstrated.
9. Therefore, an award of costs is not justified.

Sarah Manchester

INSPECTOR



Appeal Decision

Site visit made on 12 October 2021

by C Rafferty LLB (Hons), Solicitor

an Inspector appointed by the Secretary of State

Decision date: 11th November 2021

Appeal Ref: APP/M2325/W/21/3277845

55 Shepherd Road, Lytham St Annes FY8 3JN

- 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 Leonard Gentile against the decision of Fylde Council.
 - The application Ref 20/0788, dated 27 August 2020, was refused by notice dated 28 January 2021.
 - The development proposed is an additional dwelling.
-

Decision

1. The appeal is dismissed.

Procedural Matter

2. The Government published on 20 July 2021 a revised version of the National Planning Policy Framework (the Framework). Accordingly, and in light of the reference made to the previous iteration of the Framework within the submitted evidence, the parties have been provided with a further opportunity to make submissions in respect of the publication. Where received, these comments have been taken into consideration in this decision.
3. The appellant has submitted additional plans with the appeal, with amendments to the scheme to include an altered roof profile, additional bay window element at first floor level and provision of private amenity space. I have considered the implications of accepting these in light of the 'Wheatcroft' judgement.
4. These changes alter the layout, scale and appearance of the proposal and in that respect represent substantial differences. It is evident that they would alter the basis for assessment of the appeal from the development that was originally proposed to, and assessed by, the Council, prejudicing the interests of those who commented on the proposal at the application stage and who may wish to comment upon the revisions. It is therefore my conclusion that the additional plans should not be accepted, and they have not therefore formed any part of my assessment of the proposed development. I have therefore dealt with the appeal on the basis of the plans submitted at application stage.

Main Issues

5. The main issues are the effect of the development on: the character and appearance of the surrounding area; the living conditions of future occupiers and neighbouring occupiers at No. 55 Shepherd Road, with particular regard to provision of external amenity space; and the living conditions of neighbouring occupiers at No. 53 Shepherd Road, with particular regard to outlook, overshadowing and privacy.

Reasons

Character and Appearance

6. The appeal site comprises a detached dwelling at the junction of Shepherd Road and Singleton Avenue. It shares a uniform building line with the neighbouring property at No. 53 that continues along Singleton Avenue. The wider area is primarily residential, with dwellings sharing a regularity in garden size. However, due to its corner plot the appeal property benefits from additional garden space to the side and shorter gardens to the rear.
7. The proposal would project beyond the side of the appeal property closer to Singleton Avenue, upsetting the consistent building line along this street. In addition, its positioning alongside No. 55 would create a more closely spaced pattern of development than is typical in the immediate area. As such, it would fail to respect the regularity of built form in the immediate setting.
8. The site would be divided between No. 55 and the proposal, resulting in notably smaller plots than surrounding properties. The back garden of the proposal would be limited in size, while No. 55 would have its rear space removed. As a result, the proposal would read as an excessive level of built form, cramped within the site.
9. The appellant opined that corner plots usually feature a terraced house with additional storey, and that nearby terraces have small rear gardens. However, the appeal site sits among semi-detached and detached properties with larger back spaces, and corner properties that largely blend with surrounding development. In its immediate context the proposal would read as an incongruous addition which fails to respect the development pattern.
10. I find that the development would have a significant adverse effect on the character and appearance of the area. As such, it would fail to accord with Policies GD7 and H2 of the Fylde Local Plan to 2032, October 2018 (the Local Plan); Policy DH1 of the Saint Anne's on the Sea Neighbourhood Development Plan; and the Framework, which together seek to promote good design.

Living conditions – future occupiers and occupiers of No. 55

11. Private outdoor amenity space at both No. 55 and the appeal property would be limited by the proposal. Although no minimum standards are suggested by the Council, any such space would need to be functional. In this regard, due to the prevailing density and grain of residential development suggesting a suburban feel, I do not share the appellant's view that the appeal site is in a town centre location.
12. With regards to No. 55, the rear gardens would be removed such that the outdoor space would be significantly reduced. Although the remaining front and side gardens would provide amenity space, due to their positioning and the prominent corner plot, these would lack the necessary privacy that would be expected for garden use. While hedging is present, passing views remain from both Singleton Avenue and Shepherd Road. The amenity space at No. 55 would therefore be inadequate for the reasonable enjoyment of occupiers.
13. The proposed dwelling would benefit from an area of private garden space. However, this would be restricted to a modest area at the rear, the size of which would limit its useful function. The constrained dimensions would be

unlikely to comfortably support the range of uses reasonably expected of such space such as sitting out and drying washing. This space would therefore be both cramped and impractical in the context of the associated dwelling.

14. I find that the development would have a significant adverse effect on the living conditions of future occupiers and neighbouring occupiers at No. 55 Shepherd Road, with particular regard to provision of external amenity space. As such, it would fail to accord with Policies GD7 and H2 of the Local Plan, and the Framework, which together seek to promote adequate living conditions.

Living conditions – occupiers of No. 53

15. The proposal would be close to the boundary with No. 53. Together with its height and mass this would create a dominant feature when viewed from the back garden and facing windows of No. 53. From here the proposal would erode the visual gap between No. 55 and No. 3 Singleton Avenue, creating an expanse of solid brickwork. It would appear overbearing, substantially affecting the enjoyment of No. 53's rear garden and impacted rooms.
16. For similar reasons the proposal would result in unacceptable overshadowing of No. 53. Its scale and positioning relative to this property and garden would reduce the amount of light reaching these spaces. This would cause additional overshadowing and increase the length of time during the day when the closest parts of the garden and rear elevation of No. 53 would lack direct sun. While the appellant argues any shadow would be intercepted by a garage, no substantive evidence has been provided. It is likely that, due to the proximity and bulk of the proposal, shadows would be cast beyond this garage.
17. While the first floor rear windows of the proposal would be obscured, ground floor rear glazing would be close to, and facing, the rear garden of No. 53. Overlooking is common in residential areas, and screening is provided here by fencing. However, the limited height of the fence would still allow clear views of this garden in a manner that is uncharacteristic in the immediate area. Furthermore, given the dimensions and proximity of the proposal's rear gardens, its use is likely to harm the privacy of No. 53's occupiers, particularly during good weather when they are also likely to be outside.
18. I find that the development would have a significant adverse effect on the living conditions of neighbouring occupiers at No. 53 Shepherd Road, with particular regard to outlook, overshadowing and privacy. As such, it would fail to accord with Policies GD7 and H2 of the Local Plan, and the Framework, which together seek to promote adequate living conditions.

Conclusion

19. For the reasons given, the proposal would not accord with the development plan when taken as a whole. There are no material considerations that indicate the appeal should be determined other than in accordance with the development plan. I therefore conclude that the appeal should be dismissed.

C Rafferty

INSPECTOR