

Agenda

MUNICIPAL YEAR 2024-2025

Planning Committee



HYNDBURN

The place to be
an excellent council

Wednesday, 16 April 2025 at 3.00 pm,
Scaitcliffe House, Ormerod Street, Accrington

Membership

Chair: Councillor Dave Parkins

Vice-Chair: Councillor Bernard Dawson MBE

Councillors Joyce Plummer, Heather Anderson, Jodi Clements, Loraine Cox, Clare Pritchard, Ethan Rawcliffe, Kath Pratt, Judith Addison, Peter Edwards, Scott Brerton, Bernard Dawson and Stephen Button

AGENDA

1. Apologies for Absence, Substitutions, Declarations of Interest and Dispensations

2. Minutes of the Last Meeting (Pages 3 - 6)

The Minutes of the last meeting of the Planning Committee held on the 19th of March 2025 were submitted for approval as a correct record.

Reccomended – That the Minutes be received and approved as a correct record.

3. Town and Country Planning Act 1990- Planning Applications for Determination

The Chief Planning and Transportation Officer submitted a series of reports setting out the recommended action on the Planning Applications below.

- a 11/22/0435 - Frontier Park Frontier Avenue/Land north of Blackburn Road, Rishton, Lancashire, BB1 3AL (Pages 7 - 50)



Telephone Enquiries: Holly Townsley, Democratic Services, (01254) 380184

Email: Holly.Townsley@hyndburnbc.gov.uk

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Major Full: Erection of a new food retail store (Use Class E(a)) with associated Car parking, servicing and landscaping.

- b 11/24/0389 - Knuzden Moss Farm, Stanhill Road, Oswaldtwistle, BB5 3RE
(Pages 51 - 94)
Major Full: Development of a Battery Energy Storage System (BESS) and Associated Infrastructure.
- c 11/25/0073 - 4 Blackburn Road, Rishton, BB1 4BS (Pages 95 - 106)
Full: Change of use from dwelling house (Class C3) to residential institution for supported living (Use Class C2)
- d 11/25/0056 - 138 Whalley Road, Accrington, BB5 1BS (Pages 107 - 116)
Full: Change of use from dwelling house (C3) to residential institution (C2) in connection with adjoining care home.

PLANNING COMMITTEE

Wednesday, 19th March, 2025

Present: Councillor Dave Parkins (in the Chair), Councillors Joyce Plummer, Heather Anderson, Loraine Cox, Clare Pritchard, Ethan Rawcliffe, Kath Pratt, Bernard Dawson MBE (Vice Chair), Judith Addison, Peter Edwards, Bernard Dawson and Noordad Aziz

Apologies: Councillors Scott Brerton

383 Apologies for Absence, Substitutions, Declarations of Interest and Dispensations

Apologies for Absence given by Councillor Scott Brerton, Councillor Noordad Aziz was present as Substitute.

A Declaration of Interest was given by Councillor Kathleen Pratt for Item 3a.

384 Minutes of the Last Meeting

The Minutes of the Planning Committee held on the 19th of February 2025 were submitted for approval as a correct record.

Resolved – That the minutes be received and approved as a correct record.

385 Town and Country Planning Act 1990- Planning Applications for Determination

386 11/24/0499 - The Hollins, Hollins Lane, Accrington, BB5 2QY

Councillors Kathleen Pratt and Noordad Aziz stepped down for this item and moved to the public gallery.

Mr Adam Birkett Head of Planning and Transportation informed the committee that this item had been deferred from the previous 19th of February meeting pending a site visit which took place on the 5th of March.

Mr Birkett presented the report to the committee. The application presented a Proposed Lighting Installation to an Existing Hard-Surfaced Sports Court/Pitch located at the Hollins, Hollins Lane, Accrington, BB5 2QY. The application proposed 6, 10 metre high lighting columns, with 14 lights in total. The 4 corner columns will each have 2 lights at the top, and the 2 central columns will each have 3 lights at the top. The lighting design was included with the report.

11 Objections have been received by neighbours.

No objections had been received by Lancashire County Council Highways or Hyndburn Borough Councils Environmental Health Team or the Ecology Advisor.

The application was recommended for approval subject to the conditions laid out in the report by officers.

Members of the committee discussed the importance of sporting facilities for all ages in promoting healthier lifestyles and group activities. Discussions took place regarding the time the lights would be in use in accordance with other local sites and the neighbours' concerns. The committee debated on how much impact reducing the hours of operation by an hour would have and the resulting consequences for the funding.

Resolved – Members voted to follow the officer recommendation and grant approval to the project subject to conditions as presented in the report.

N.B – 1. Stephen Lambert – Spoke against the application.

- Emphasised that the neighbouring residents were not against the application but wanted amendments making to the time the lights will be lit.
- States they are not against the development of the pitch but the impact of the lighting proposed would be the equivalent of having 167 candles on his windowsill when the current view is complete darkness.
- Proposed lights only be in use 3 nights a week.
- Asked the committee to amend the time the lights are lit to 8pm rather than 10pm.
- Stated that the sun only sets after 9pm 3 months of the year so the remaining 9 months the lights will be in use. Not just in winter.

2. Councillor David Heap – Spoke as a representative of the local residents.

- Informed the committee since his election on the 6th of February numerous residents have raised concerns about the project.
- Highlighted that he can see both sides of the argument for and against and proposed that a compromise be made on both sides.
- Asked the committee to consider changing the recommendation to end the lights at 9pm instead of 10pm on weekdays.

3. Carmel Trickett – Spoke in Favour of the application.

- Informed the committee she is the COO of LET Education Trust.
- The Hollins is the only large school in the area without a sports hall which negatively impacts the students of the school, especially in the winter months.
- Due to budget constraints the only way for The Hollins to gain all weather facilities is through external funding.
- This funding is reliant on the benefactors being able to make their money back through external bookings. The 10pm cut off time has been calculated by the provider to ensure that they can do this within the lifespan of the pitch.
- Addressed the parking concern by informing that the car park would be open and available for users of the pitch to park in, preventing road side parking.

387 11/24/0351 - Hyndburn Retail Park, Whitebirk Drive, Blackburn, BB1 3HT

Mr Adam Birkett Head of Planning and Transportation presented the report to the committee.

The application proposed a modification to an existing Section 106 ('S106') legal agreement under Section 106A of the Town and Country Planning Act 1990.

The existing agreement was dated the 23rd of June 2009 and was between Hyndburn Borough Council and Peel Investments (UK) Limited.

The current agreement restricts the range of goods able to be sold on the site and its purpose was to protect the vitality and viability of the adjacent town centres of Blackburn and Accrington.

The application looks to vary the conditions for Unit 3 following a request from the retailer Farmfoods Ltd.

Mr Birkett informed the committee that similar amendments have already been made to other units on the site over the years and an independent Retail Consultant informed that this amendment would still allow vitality of the nearby town centres.

Officers recommend that the item be approved with delegated authority given to the Chief Planning and Transportation Officer to modify the wording of the S.106 agreement dated 23rd of June 2009 accordingly.

Members discussed how important it is to have units filled on the retail park and agreed that the site has changed over time to meet the demands of consumers.

Resolved – The committee voted to follow officer the recommendation and give delegated authority to the Chief Planning and Transportation Officer to modify the wording of the S.106 legal agreement.

N.B. 1. – Rachel White – Representative of the applicant.

- Thanked Mr Birkett for the presentation and asked the committee to consider the similar amendments made to other units on the site.

Signed:.....

Date:

Chair of the meeting
At which the minutes were confirmed

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Application Ref: 11/22/0435

Application Address: Frontier Park Frontier Avenue/Land north of Blackburn Road Rishton Lancashire BB1 3AL

Full Application: Major Full: Erection of a new food retail store (Use Class E(a)) with associated car parking, servicing and landscaping.

Validation Date: 11/11/2023

Date for Decision: 10/03/2025 (extension agreed)

Date Report Written: 10/03/2025

Site and Proposal

A planning application has been submitted for full permission to erect a new food retail store, accompanied by associated car parking, servicing areas, and landscaping at Frontier Park, Frontier Avenue, Rishton. The site spans 0.8 hectares and is situated within the broader Frontier Park development. This area already includes a mix of large employment units, roadside services featuring drive-thru restaurants and a coffee shop, and a hotel.

The Frontier Park development is largely completed, with the exception of the application site. To the north of the site is the Hampton by Hilton hotel with associated car parking; to the east of the site is the BP petrol filling station alongside a number of food and drink establishments including Greggs, Starbucks and Subway; and to the south of the site is a large scale industrial unit with associated car parking. The subject site is mostly flat. The eastern part of the site is currently car parking associated with the adjacent hotel. The western part of the site is undeveloped land.

The proposal comprises the erection of a new food store that would measure 2,011 sq.m gross. The foodstore will comprise 1,424 sq.m of net sales area. The proposed operator for the unit is Marks & Spencer (M&S). The proposed food store is aimed at supporting the M&S business model which seeks to accelerate the number of new M&S Foodhalls, whilst also providing a clothing and home offer via their in-store click and collect facilities.

The proposed building would be located in the south-east corner of the site and would have a square plan form. It would have a flat roof with a maximum height of approximately 9 metres. The main entrance would be located on the north elevation and would be denoted by a projecting glazed entranceway. The proposed building would be finished externally with white panel cladding, curtain walling and low level

black brickwork plinth. The development would incorporate a scheme of soft landscaping to the boundaries and to break up the parking areas.

Access to the site would be taken via the existing arm off the roundabout on Frontier Drive that already serves the adjacent hotel. The proposal includes 154 car parking spaces, including 15 mobility spaces and 6 electric charging spaces. There would be 14 parking spaces for staff and a 16 space cycle shelter.

Background

This planning application was submitted to the Council in November 2022. As submitted, the application named the proposed operator as 'Euro Grocer' who specialise in selling food and fresh produce. However, it later emerged that M&S Food would operate from the proposed store and the size of the food store was reduced from 2,835 sq.m to 2,011 sq.m.

The planning application was reported to the planning committee meeting on Wednesday 17 April 2024. It was recommended that the application be refused for the following reason:

The Council considers that there are sequentially preferable sites which are available, suitable and viable for the proposed development and therefore the application fails to demonstrate compliance with the requirements of the Sequential Test as set out in Policy DM3 of the Hyndburn Development Management DPD and paragraphs 90 to 95 of the National Planning Policy Framework.

However, Councillors resolved that the application be approved due to the economic benefits that would arise from the development and planning permission was subsequently granted subject to planning conditions on 7 May 2024.

On 4 June 2024, the Council were notified of a proposal by an interested party to bring a claim for judicial review of the decision. Three grounds of review were identified as:

- Ground 1: failure to have regards to breach of Core Strategy Policy E2 and NPPF Paragraph 126
- Ground 2: failure to consider the breach of the development; failure to have regard to material considerations in deciding to dispense with the sequential test; and failure to provide adequate reasons.
- Ground 3: error in respect of impact assessment

Whilst it was considered that the Council could contest Grounds 2 and 3, and Ground 1 insofar as it relates to Core Strategy Policy E2, it was conceded that the

Council could not contest a claim in relation to NPPF Paragraph 126 and therefore consented to a judgement quashing the planning permission.

The Court Order, dated 4 September 2024, quashed the decision and the Council must therefore re-determine the planning application, having regard to the grounds of challenge. Since the Court Order, the applicant has submitted further amendments and additional and/or revised supporting information including:

- Amended proposed floor plans, elevation drawings and site plan
- Amended landscape layout
- Updated Retail Impact Assessment
- Revised Drainage Layout and Technical Note
- Revised Biodiversity Net Gain Assessment
- Updated Air Quality Impact Assessment
- Updated Transport Technical Note
- Amended Flood Risk Assessment
- Revised Operator Statement
- Addendum Planning Statement
- Updated Preliminary Ecological Assessment
- Economic Benefits Statement
- RIA Addendum (March 2025)
- Thwaites Brewery Blackburn – Viability Assessment

The changes to the proposed site plan include amendments to the parking arrangements, service yard and staff parking. There are changes to the East and West Elevations which now includes a canopy over the plant area and bin store and the introduction of windows and a door in the east elevation. There is also the introduction of a canopy to the south elevation and alterations to the fenestration on the north elevation.

Consultations

Following the quashing of the decision and the submission of further information by the applicant, all statutory and non-statutory consultees were re-consulted on the planning application in December 2024. All updated consultation responses are shown as underlined below.

Public Consultation: One letter of objection has been received with the following matters of concern raised:

- Extra traffic congestion of the Whitebirk roundabout and surrounding roads
- No local requirement for a food store.

One public representation has been received and supports the application proposal stating that the scheme would benefit Hyndburn residents who would like to visit Marks and Spencers be it by car or by public transport.

A letter of representation, dated 3rd April 2024, has been received from a near-by supermarket chain raising the following broad points.

“We act on behalf of Tesco Stores Limited in respect of the above application. Our client trades from a Superstore on Hill Street. The store was the subject of considerable investment when it opened in 1985 and Tesco continues to invest in Blackburn today.

We make initial representations on the following:

- Breach of the development plan’s requirement to promote employment generating uses on Strategic Employment Sites. The misapplication of Class E to the Use Classes Order (2020) to erroneously seek to justify the acceptability of retail development on this site; and
- Breach of the retail sequential approach arising from the potential suitability and availability of the Former DW Sports Store
- Significant deficiencies undermining the effectiveness of the submitted retail assessment and failure to have regard to the significance of the proposed closure of the existing town centre M&S store”

Further representations were received from the representatives of Tesco Store Ltd on 15th April 2024. In summary, this includes the following points of objection:

- 1) The failure of the critical ‘Town Centre First’ sequential approach test,
- 2) Significant impact on the health and vitality of Blackburn town centre,
- 3) Conflict with the site’s allocation and protection for employment use,
- 4) The unsustainable and largely inaccessible location to accommodate a foodstore, and;
- 5) The application of the wrong test to the assessment of highway safety.

A final letter was received on 7th February 2025. It includes the following:

We make representation on four important considerations relating to:

- The failure of the critical ‘Town Centre First’ sequential approach test,
- Significant impact on the health and vitality, and planning investment of Blackburn town centre,
- Conflict with the site’s allocation and thus protection from employment land use, and
- The planning balance

HBC Environmental Health: The application for a food retail store is supported by the submission of a Phase II Geoenvironmental Assessment, updated Air Quality Assessment and Transport Assessment. These are key documents with respect to Environmental Health.

The Geoenvironmental Assessment only covers a relatively small part of the site and leaves out the areas which are currently covered by hardstanding carpark. With only three borehole locations, no samples in the top 500mm of soil and only one between 0.6-0.9mbgl, the site cannot be said to be characterised with respect to the potential for contamination.

The gas risk assessment is satisfactory and meets with current standards. I am in agreement with the reports suggestions in that either a CS2 category should be assigned or further monitoring/risk assessment should take place.

Further investigation work is clearly required for this part of Frontier Park. It is suggested that this takes place when the carpark has been lifted. A full contaminated land condition should be applied to any granted permission.

The updated Air Quality report is satisfactory and identifies a negligible impact on air quality during the operational phase with the greatest risks to air quality during the construction phase. Normal mitigation measures and good site practice would be satisfactory to manage this such as producing a Construction Environmental Management Plan (CEMP). This can be achieved through the application of a suitably worded condition which will introduce controls on dust and smoke.

Given the distance from the site to the closest sensitive residential receptors I have no concerns over noise from the site either at the construction or operational phase. Standard construction and construction delivery hours should be observed which can be included in the CEMP.

Updated comments: I have reviewed the documentation, as amended, which relates to amenity and would comment as follows.

The air quality impacts of both the construction and operational phases have been considered and three main pollutants associated with vehicle pollution (and groundworks) have been considered. These are Nitrogen Dioxide and two sizes of particulates. The relevant distances to sensitive receptors have also been considered appropriately.

Existing monitored levels, where possible, and predicted current levels of pollutants have been compared to the predicted increases in pollutants, which could arise due to the proposed development. The number of "new" journeys, predicted to be due to the development, compared to existing traffic, which diverts to the site, is proportionally low. As such any increases in pollutants to the area, are predicted to be negligible and I am satisfied with this prediction. I therefore have no objections in principle to the application.

Three of the conditions previously used on the original decision notice are relevant in relation to residential amenity and as such I would respectfully request that numbers 6, 7 and 18 are re-used.

LCC Highways: The amended submitted documents and plans including Dynamic Transport Planning 'Technical Note 2' 3707422-TN2 dated December 2023 and Campbell Driver Partnership 'Site Plan revised scheme' 22.110.010 Rev I have been reviewed and the following comments are made.

Pre-application advice has been provided by National Highways; no pre-application advice was provided by Lancashire County Council.

Application reference 11/17/0340 approved a 150-bed hotel and 1400 capacity conference centre with access and car parking for 316 and a further overspill car park for 184 vehicles totalling 500 spaces.

The hotel is constructed with access from the internal roundabout on Frontier Avenue and with 150 car parking spaces, in accordance with the Hyndburn parking standards for 1 space per bedroom. Application reference 11/20/0169 includes a drawing 'site plan' 18.160.093. Rev J which shows the hotel parking layout.

The conference centre element of the approval has not been constructed.

This application seeks to provide a food retail unit of 2,100sqm using the existing access with 160 car parking spaces including 16 disabled parking bays, 8 electrical vehicle charging points and 16 secure, covered cycle spaces. The parking provision is in addition to the 150 spaces for the hotel in an amended layout to the existing layout.

There is an existing pedestrian and cycle link from Frontier Avenue to the Hotel and this will link to the proposed retail unit entrance through the car park via a series of zebra crossing style facilities. There is a proposed link from the site to Frontier Park next to the existing bus stop.

Sustainability

There is a shared footway/cycle way between the site and the nearest bus stops to the south of the site on Blackburn Road A679 and to the north of the site on Blackburn Road A678, to the Leeds & Liverpool canal towpath and the Knuzden residential estate. There are signal controlled crossing facilities on the Whitebirk M65 J6 roundabout and an uncontrolled central pedestrian refuge on Blackburn Road to the south side.

They are all within 800m from the site which is a 10-minute walk. The site is considered to support walking and cycling, although it is noted that enhancements

for cyclists at M65 J6 have been previously identified and a view taken that once the Frontier Park development was fully occupied that levels of cycling would be reassessed, and monies secured under the outline approval 11.15.0154 would be used to enhance the cycle infrastructure.

The four nearest bus stops have been recently upgraded to quality bus stop standard. The stops are served by commercial services 6, 7, 7A, 59 and 152 which would allow staff and customers to travel sustainably.

There is an existing bus stop (without a shelter) on Frontier Avenue which is not currently served by any services. Service 7 and 152 run past the site along J6 M65 roundabout which may be able to divert into Frontier Avenue and turn at the internal roundabout to drop and collect passengers at the bus stop. These are commercial services operated by Transdev and we would request the applicant to make contact with Transdev to enquire about the feasibility of this once the site is trading, should permission be granted.

The bus stop would benefit from a shelter and if positive feedback is received from Transdev, we would request that a shelter is installed at the cost of the applicant.

Rishton Train Station is located 2km from the site and could be used as part of a multi-modal trip with a bicycle.

The site scores a medium accessibility under the Lancashire Joint Structure Plan accessibility questionnaire. This would allow the maximum car parking standards to be reduced as the site is likely to support travel by sustainable modes.

A framework Travel Plan is submitted and is considered acceptable. A condition requiring its implementation in accordance with the timetable contained within it is requested.

Traffic Impact

At J6 M65 Whitebirk roundabout we would request a new configuration, MOVA design and MOVA validation to accommodate the increased flows.

We would request that this work is carried out within 3 months of first trading and under an agreement with Lancashire County Council.

Site access

Frontier Avenue is adopted highway between the signalised Whitebirk J6 M65 roundabout and the roundabout sited 190m south. There is an existing site access arm on the roundabout on Frontier Avenue which serves the Hotel and it is considered suitable to accommodate the development traffic.

Parking and Servicing

Hyndburn parking standards require a ratio of 1 car parking space per 14sqm and 1 cycle and disabled parking space per 10 spaces. For a floor area of 2,100sqm this equates to a maximum of 150 car parking spaces. There are 160 car parking spaces proposed which is a slight overprovision from the maximum however we would raise no objection to this.

The car and cycle parking (covered Sheffield type stands for 16 cycles) are considered acceptable.

A swept path is provided in the Transport Assessment drawing DTP/3707422/ATR101-Rev C for a 16.5m articulated wagon to demonstrate access to the loading bay. It is noted that the vehicle needs to reverse within the aisle of the car park immediately adjacent to the main entrance of the store. Measures to mitigate the conflict arising between customers and reversing HGV's are expected to be required, either timing of deliveries being undertaken when the store is closed or during off-peak periods with a banksman present. These mitigation measures should be set out and submitted by condition prior to first trading in a document named 'Service and delivery management plan' or similar.

Conclusion

Subject to the mitigation measures for the signalised roundabout junction we would raise no objection to the proposed development.

The site access and parking are considered acceptable. The proposed servicing arrangements are considered to require measures to manage the conflict between customers and service vehicles, these measures would be submitted later by condition.

Updated comments: Further to our previous comments dated 12th January 2024 we have been re-consulted on the proposal.

The amended submitted documents and plans including Dynamic Transport Planning 'Technical Note 2' 3707422-TN2 dated August 2024 and Campbell Driver Partnership 'Proposed Site Plan' 22.110.010 Rev P have been reviewed and the following comments are made.

The updated PWA Planning Statement dated November 2024 outlines that this application was approved by Hyndburn BC planning committee in April 2024, against officer recommendation. The decision was challenged by Tesco Stores Limited through judicial review. The High Court quashed the decision, meaning the application is now undetermined, and Hyndburn Borough Council must redetermine it.

Proposal

This application seeks to provide a food retail unit of 2,011sqm (slightly reduced from the previous 2,100sqm) using the existing access with 154 car parking spaces (slight reduction from previous 160 spaces) including 15 disabled parking bays, 6 electrical vehicle charging points and 16 secure, covered cycle spaces. The parking provision is in addition to the 150 spaces for the hotel in an amended layout to the existing layout.

There is an existing pedestrian and cycle link from Frontier Avenue to the Hotel and this will link to the proposed retail unit entrance through the car park via a series of zebra crossing style facilities. There is a proposed link from the site to Frontier Park next to the existing bus stop.

Sustainability

There is a shared footway/cycle way between the site and the nearest bus stops to the south of the site on Blackburn Road A679 and to the north of the site on Blackburn Road A678, to the Leeds & Liverpool canal towpath and the Knuzden residential estate. There are signal controlled crossing facilities on the Whitebirk M65 J6 roundabout and an uncontrolled central pedestrian refuge on Blackburn Road to the south side.

They are all within 800m from the site which is a 10-minute walk. The site is considered to support walking and cycling, although it is noted that enhancements for cyclists at M65 J6 have been previously identified and a view taken that once the Frontier Park development was fully occupied that levels of cycling would be reassessed, and monies secured under the outline approval 11.15.0154 would be used to enhance the cycle infrastructure.

The four nearest bus stops have been recently upgraded to quality bus stop standard. The stops are served by commercial services 6, 7, 7A, 59 and 152 which would allow staff and customers to travel sustainably.

There is an existing bus stop (without a shelter) on Frontier Avenue which is not currently served by any services. Service 7 and 152 run past the site along J6 M65 roundabout which may be able to divert into Frontier Avenue and turn at the internal roundabout to drop and collect passengers at the bus stop. These are commercial services operated by Transdev and we would request the applicant to make contact with Transdev to enquire about the feasibility of this once the site is trading, should permission be granted.

The bus stop would benefit from a shelter and if positive feedback is received from Transdev, we would request that a shelter is installed at the cost of the applicant. Rishton Train Station is located 2km from the site and could be used as part of a multimodal trip with a bicycle.

The site scores a medium accessibility under the Lancashire Joint Structure Plan accessibility questionnaire. This would allow the maximum car parking standards to be reduced as the site is likely to support travel by sustainable modes.

A framework Travel Plan is submitted and is considered acceptable. A condition requiring its implementation in accordance with the timetable contained within it is requested.

Traffic Impact

At J6 M65 Whitebirk roundabout we would request a new configuration, MOVA design and MOVA validation to accommodate the increased flows.

We would request that this work is carried out within 3 months of first trading and under an agreement with Lancashire County Council.

Site access

Frontier Avenue is adopted highway between the signalised Whitebirk J6 M65 roundabout and the roundabout sited 190m south. There is an existing site access arm on the roundabout on Frontier Avenue which serves the Hotel and it is considered suitable to accommodate the development traffic.

Parking and Servicing

Hyndburn parking standards require a ratio of 1 car parking space per 14sqm and 1 cycle and disabled parking space per 10 spaces. For a floor area of 2,011sqm this equates to a maximum of 143 car parking spaces. There are 154 car parking spaces proposed which is a slight overprovision from the maximum however we would raise no objection to this. The car and cycle parking (covered Sheffield type stands for 16 cycles) are considered acceptable.

A swept path is provided in the Transport Assessment drawing DTP/3707422/ATR101-Rev G for a 16.5m articulated wagon to demonstrate access to the dedicated service yard.

Conclusion

Subject to the mitigation measures for the signalised roundabout junction we would raise no objection to the proposed development.

The site access and parking are considered acceptable.

National Highways: Referring to the consultation on a planning application in the vicinity of the M65 motorway that forms part of the Strategic Road Network, notice is hereby given that National Highways' formal recommendation is that we:

a) offer no objection

National Highways has been appointed by the Secretary of State for Transport as a strategic highway company under the provisions of the Infrastructure Act 2015 and is the highway authority, traffic authority and street authority for the Strategic Road Network (SRN). The SRN is a critical national asset and as such we work to ensure that it operates and is managed in the public interest, both in respect of current activities and needs as well as in providing effective stewardship of its long-term operation and integrity.

Dynamic Transport Planning Ltd (DTP) have been appointed by Monte Blackburn Ltd to report on the anticipated highways and transport considerations for a proposed food retail unit development at Frontier Park, Blackburn. A Transport Assessment (TA) and Framework Travel Plan (FTP) have been submitted in support of the planning application for the proposed development.

The site is located on the boundary of Hyndburn and is approximately 2.5km to the east of Blackburn town centre in Lancashire. The site is located to the south of Whitebirk Roundabout, which provides access to the SRN at Junction 6 of the M65. Whitebirk Roundabout also has access arms to the A6119 (North) and (West) and is controlled by Lancashire County Council Highways.

At present, the site is undeveloped land which has planning approval (11/17/0340) for a circa. 1,400 capacity conference centre. On the northern edge of the site there is a 150-bed hotel, which was included within the planning permission granted. This has since been constructed and is now operational. The site is located within the wider Frontier Park development.

The site is proposed to be developed with a circa. 2,787m² GFA food retail unit, with car parking provision and a service access. The food retail unit will have a sales area of approximately 1,858m².

National Highways' previous review of the supporting Transport Assessment (TA) prepared by Dynamic Transport Planning (DTP) for this proposal identified areas where further work or additional information was needed. DTP have responded to the previous points we have raised in a technical note dated 19/04/23

It is welcomed that the majority of the previous issues raised have now been resolved, but there are also two areas where further information is still needed before National Highways is able to be in a position to make its final recommendation on this application.

In summary, our review has identified the following comments outstanding:

- There appear to be some common accident causalities at the junction, particularly on the M65 eastbound on slip.
- The response note mentions three collisions involved pedestrians, though these are not mentioned within Appendix 2. It is requested that DTP clarify this information and incident location.
- The lane lengths on the model should be reviewed, particularly on the M65 slip roads, to ensure they are representative of the current layout.
- The lane configuration between Arms 7 and 8 should be revisited, as the model does not reflect the current layout. The lane connectors should also be reviewed to ensure they are suitable.
- The circulatory carriageway lanes should be updated to apply RR67 to avoid under/overstating capacity.
- The signal specification that was used for the model should be provided to enable the controller and signal settings to be audited.
- A clear validation exercise should be provided alongside the updated model file.

The enclosed Review note by WSP provides further details in respect of these findings, particularly regarding the LinSig traffic modelling which needs to be amended and then resubmitted to us for consideration.

National Highways Comments – 28th July 2023

Since making the comments above, the applicants have provided us with revised LinSig traffic modelling of the M65 Junction 6 Whitebirk roundabout; in particular in response to our findings that the model does not reflect the layout of the roundabout itself. This has enabled the model to be audited by us, which we comment on below.

DTP have provided the following information on the model validation regarding queuing at the junction. They state that:

“The queue survey has recorded relatively significant queue lengths of around 30 PCUs on the Whitebirk Drive north arm during the PM peak, which are not reflected in the model. We are aware, as noted in the WSP report, that there are significant instances of slow-moving traffic perhaps due to network congestion associated with the proliferation of signal-controlled junctions on Whitebirk Drive. It is noted that this queue was also not replicated in the earlier modelling.

Although we acknowledge this queue discrepancy, it should be reiterated that this model had been approved using the previously agreed methodology. We have made all of the requested changes above.”

An assessment of the Whitebirk Drive arm using Google Maps traffic view for the typical PM peak shows, as stated, the appearance of dark red sections of carriageway, representative of slow or stationary vehicles on the approach. Closer to the stop line, however, there is evidence of the vehicles moving through the junction. Therefore, it is possible that the survey queues that have been provided to DTP were of the rolling queue, and not the queue that is present at the stop line, something that we agree is not appropriately represented in the model due to the limitations of LinSig.

Therefore, DTP need to provide evidence of the queue data, in particular on the Whitebirk Drive arm to show evidence that the queues were incorrectly attributed through the surveys.

In summary, our review of the response note and LinSig model file for Whitebirk Roundabout that have been supplied by DTP to address the comments raised in the review of the Transport Assessment and Travel Plan for the proposed development of a supermarket at Frontier Park resulted in the following outstanding comments:

- It is recommended that the layout of the arms and lanes be altered slightly to better represent the layout of the junction – currently, the location of the Frontier Park and M65 J6 west-facing slips are showing potential confusion in their locations relative to the on-ground position. A similar issue is evident at the north of the junction, with the A678 and M65 J6 east-facing slips.
- Whilst lane lengths have been entered, the lanes are modelled as long lanes. Therefore, it is recommended that limiters also be placed on these lanes to appropriately represent the reduced capacity.
- RR67 has been applied selectively around the circulatory links of the junction. Due to LinSig's difficulties in appropriately estimating capacity on circulatory links, RR67 should be applied to all circulatory links, or a standard SAT flow of 1900 should be applied.
- Limiters should also be applied to lanes 7:1, 10:1, and 10:2, as these are likely to be capacity constrained due to upstream movements.
- It is requested that DTP provide evidence of the queue data, in particular on the Whitebirk Drive arm to show evidence that the queues were incorrectly attributed through the surveys.

In the interests of expediency, we have decided to make the changes required to the model that are described above ourselves.

Manual optimisation of Whitebirk Drive makes arm representative of queue that has been recorded. However, we are of the opinion that, without additional confirmation, what has been observed is a rolling queue as opposed to a static queueing situation.

These results indicate that the M65 exit slip roads would remain within capacity, but that the existing queues on the motorway exit arms would likely increase by one vehicle during peak times. In our view, this would not be material change to traffic conditions.

Conclusion & Formal Recommendation

On this basis, we are of the opinion that this would not represent a traffic impact upon the SRN that could be considered as severe or that would have a material impact upon safety, and so on the basis of our own assessments, National Highways offers no objection to this planning application.

Standing advice to the local planning authority

The Climate Change Committee's 2022 Report to Parliament notes that for the UK to achieve net zero carbon status by 2050, action is needed to support a modal shift away from car travel. The NPPF supports this position, with paragraphs 73 and 105 prescribing that significant development should offer a genuine choice of transport modes, while paragraphs 104 and 110 advise that appropriate opportunities to promote walking, cycling and public transport should be taken up.

Moreover, the build clever and build efficiently criteria as set out in clause 6.1.4 of PAS2080 promote the use of low carbon materials and products, innovative design solutions and construction methods to minimise resource consumption.

These considerations should be weighed alongside any relevant Local Plan policies to ensure that planning decisions are in line with the necessary transition to net zero carbon.

[Please note that the above response was based on a now superseded scheme for a larger store. National Highways has confirmed that the above comments remain relevant to the application.]

Updated comments: National Highways previous comments remain unchanged

Blackburn with Darwen BC (BwD): BwD must object to the proposal because, based on the submitted information, it is not possible to conclude that the proposal satisfies either the sequential test or the retail impact test.

An alternative site at Carl Fogarty Way, which is of the size required, is better connected by public transport and therefore more accessible than the application site. Furthermore, there are various omissions regarding the catchment area and an error regarding the retail sales density which has been applied. The applicant should be invited to respond to the detailed observations attached, to allow thorough consideration to be given to the proposal.

Planning approval should not be granted for the scheme without satisfying these matters, and in conjunction with further consultation.

Response dated Wednesday 6th March 2024

Unfortunately, the information does not address the failure to satisfy the sequential test, so the strong objection of BwD remains in place.

The additional information repeats much of what has been provided before. BwD understands the reasons for the proposed move out of the Town Centre and also supports the retention and relocation of jobs within the area.

However, there is a clearly sequentially preferable site available at Carl Fogarty Way, which should be prioritised as it is much more accessible. A high-quality bus route passes the Carl Fogarty Way site, but is not available at the application site, which has a bus stop but no buses using it – a matter which is omitted from the Nexus report. Therefore, the application should clearly be refused in accordance with the NPPF.

The applicant is encouraged to consider the sequentially preferable site at Carl Fogarty Way, which would meet all requirements in a timely manner.

Email dated Monday 25 March

Further to consideration of the above planning application, I must draw your attention to an available site, which materially affects the Sequential Assessment of the above proposal.

The former Thwaites Brewery site, located on the edge of Blackburn Town Centre, has become available because Morrisons has confirmed that they will not be proceeding with their town centre relocation development.

The associated planning application for Morrisons has been withdrawn today. The reference number is 10/23/1066, which includes plans illustrating the site location and showing that the site could accommodate the proposed M&S development in a highly sustainable location, close to the town centre bus station and train station.

The landowner of the site, Maple Grove Blackburn (a joint venture partnership between Blackburn with Darwen Council and Maple Grove Developments Ltd), is keen to progress a development at the site and has already informed the regional agents of the site's availability.

Updated comments: A letter of objection dated 17 December 2024 states:

The latest suite of revised documents, submitted by the applicant in November 2024, unfortunately does not overcome the concerns of BwD, as the proposed development continues to conflict with existing local and national planning policy.

On 31st March 2025, an additional objection letter was submitted by BwD in response to the applicant's Viability Assessment for the Former Thwaites Brewery Site. The letter stated the following:

'The latest information, submitted by the applicant at a very late stage, unfortunately does not overcome the concerns which have previously been raised by BwD, as the proposed development clearly continues to conflict with existing local and national planning policy.

The case remains that the application site is an isolated out-of-centre location, which is only realistically accessible by car by most customers and staff and clearly cannot be supported as there is a sequentially preferable site available within Blackburn Town Centre.

According to Government guidance¹ on planning for retail, "the sequential approach requires a thorough assessment of the suitability, viability and availability of locations for main town centre uses". Therefore, the submitted documents attempt to suggest that the former Thwaites Brewery site in Blackburn Town Centre is not viable.

Unfortunately, comparable information has not been provided by the applicant to demonstrate the viability of the application site, so it's not possible to compare the submitted viability appraisal report against the figures for the proposed development.

The Viability Assessment (Savills, March 2025), asserts that "We have acted with objectivity, impartially, without interference and with reference to all appropriate available sources". However, astonishingly, it's important to note that no contact has been made with BwD as the owner of the site and bearer of all site documentation, data and surveys.

Due to the significant impact which this proposal could have for residents of BwD, consultant advice has been obtained, on behalf of BwD, to review the Savills Viability Assessment within the short timeframe allowed. We attach a copy of the Independent Viability Assessment prepared by our consultant Parkinson Real Estate.

Parkinson's has adopted a similar assessment approach as Savills and retained the key development assumptions other than a few minor differences in opinion on specific items. The key difference we wish to highlight is the estimate of abnormal construction costs. Savills estimated an abnormal cost of £2,330,440 and used this cost in their appraisal which is skewing the appraisal results to show an unviable

site. In our opinion, these estimates are inflated and overstated and represent at best very high-level approximations made without the benefit of site-specific knowledge and understanding.

In estimating a more realistic abnormals cost for the site, BwD has consulted the LK Group, a specialist contractor with experience in remediating brownfield sites. LK has firsthand knowledge of the site and completed several site investigations and surveys since the site was acquired in 2021. LK has prepared for BwD an assessment of abnormals supported by site evidence and calculated £423,180. Using this estimate the updated viability appraisal now returns a residual land value in excess of the benchmark land value and confirms, by some considerable margin, the scheme is viable.

Based on the evidence, it is therefore still concluded that the proposal does not accord with the policy provisions of the statutory development plan or the national planning policy framework, including the requirements of the sequential test as articulated by the NPPF.

For the reasons set out above, and within previous comments by BwD and other representations, the proposal should be refused.'

HBC Ecology: No objection subject to appropriate planning conditions

United Utilities: No objection subject to a planning condition that requires details of a sustainable surface water drainage scheme and a foul water drainage scheme.

Lead Local Flood Authority: The application is acceptable subject to the inclusion of conditions relating to surface water drainage.

Relevant Planning History

Application Site

11/20/0303 - Major Full: Variation of conditions 3 5 7 8 9 11 12 13 25 pursuant to 11/17/0340: Referring to development - referring to the Conference Centre Under s73 of the Town and Country Planning Act 1990 Approved with Conditions. Approved Conditionally 23/02/2021

11/20/0169 - Discharge of conditions 10 (cycle stands/electric vehicle charging points) 19 (lighting scheme) 20 (extraction equipment) 24 (waste and recycling facilities) pursuant to 11/17/0340. 10 19 20 24 discharged Approved unconditionally 13/07/2020.

11/19/0262 - Discharge of conditions 4 (surface water sustainable drainage scheme) and 6 (management and maintenance plan for water sustainable drainage) pursuant

to 11/17/0340. 4 (surface water suds) not discharged, 6 (suds management and maintenance plan), retrospective discharge 18.09.2019

11/19/0196 - Discharge of Planning Conditions: 4 (SUDS), 6 (SUDS), 18 (Construction Environmental Management Plan), 21 (Contamination) and 23 (Levels) pursuant to 11/17/0340 BB1 3AL Split decision: conditions 4 and 6 not discharged. Conditions 18 21 23 retrospective discharge. 15/07/2019

11/17/0340 - Major Full: Application for 1 No hotel and 1 No conference/banqueting facility with associated parking, service yard internal access and landscaping. A/C 22/03/2018.

11/15/0154 Major Outline: Mixed employment comprising industrial and logistics floor space (Use Classes B1c, B2 and B8) together with a drive through hot food take away (Class A5), Pub/Restaurant (Class A3/A4) a hotel (Class C1), and a petrol filling station including a forecourt shop (sui generis use) together with primary highway access to the Whitebirk Roundabout and secondary access to Blackburn Road and all other matters reserved. The application is including an Environmental Impact Assessment Statement (EIA) Approved conditionally 25/08/2015

15/0032 Scoping Opinion: Town and Country (Environmental Impact Assessment) Regulations 2011. Major mixed employment development.

03/0608 Outline application: Erection of new buildings for: Research and Development (Knowledge Park) (Class B1b) (25,633 sq m); Light Industry(Class B1c) (21,034 sq m); General Industry (Class B2) (5,917 sq m), Distribution (Class B8) (4,438 sq m), Warehousing (Class B8) (4,438 sq m), neighbourhood centre comprising retail shops (Class A1 - maximum 375 sq m per unit to a total of 1,393 sq m), restaurants/hot food (950 sq m), creche (500 sqm) fitness centre (930 sq m) and 5 No apartments with associated car parking, servicing, roads, footpaths and cycle ways, public transport facilities and landscaping/open space. Planning permission has never been granted for this development because the s.106 agreement has not been signed.

Wider Frontier Park Site

11/21/0552 - Major Full: Erection of 3 No. Business Units (Use Class E) and associated Parking, Access Arrangements and Landscaping (Retrospective). (Current app. January 2022)

11/20/0146 - Major Approval of Reserved Matters: Phase 5 - Construction of Industrial Warehouses at plot B to include 4 no. Class B2/B8 units with associated car parking and servicing pursuant to 11/15/0154. Approved with Conditions 11/09/2020

11/19/0401 - Major Reserved Matters: 'Reserved matters Phase 7 for the construction of industrial warehouses (Use class B2/B8) with associated car parking and servicing' pursuant to 11/15/0154 Approved with Conditions 27/02/2020

11/19/0091 - Major Full: Variation of condition no 2 (plans) pursuant to 11/16/0453 (under s73) of the Town and Country Planning Act 1990. a/c 16.07.2019

11/18/0285 - Major Approval of Reserved Matters: Relating to outline 11/15/0154 for erection of 3No industrial units for B2/ B8 Use (flexible) together with associated plant parking internal access road and landscaping Approved with Conditions 25/10/2018

11/18/0230 Reserved matters (phase 3) relating to construction of industrial warehouse to contain 2 No. B2/B8 Units (flexible use) together with associated plant parking, internal access road and landscaping of 11/15/0154. Approved conditionally 30.07.2018

11/18/0158 - Major: Approval of Reserved Matters: (Phase 2 Zone 3) for construction of industrial warehouse to contain 1no B2 unit and 1no B8 unit with associated plant parking internal access road and landscaping works (of outline 11/15/0154). Withdrawn 22/05/2018

11/17/0297 - Major: Phase 3 of reserved matters for the approval of landscaping, appearance, layout and scale pursuant to outline planning permission 11/15/0154, for construction of B8 general storage and distribution unit and associated plant, parking internal accesses and landscaping works. Approved 20.10.2017

11/17/0163 - Major Reserved Matters Phase 2: application for approval of landscaping, appearance, scale and layout of Phase 2 pursuant to outline planning permission 11/15/0154 for the construction of B2 general industrial unit and associated plant, parking, internal road and landscaping works a/c 18/07/2017

11/16/0453 - Phase 1 Reserved Matters application for the approval of landscaping, appearance layout and scale pursuant to outline planning permission 11/15/0154 for 2no drive through restaurants petrol filling station including forecourt shop and internal spine road. A/c 23.07.2017

11/15/0154 - Major Outline: Mixed employment comprising industrial and logistics floor space (Use Classes B1c, B2 and B8) together with a drive through hot food take away (Class A5), Pub/Restaurant (Class A3/A4) a hotel (Class C1), and a petrol filling station including a forecourt shop (sui generis use) together with primary highway access to the Whitebirk Roundabout and secondary access to Blackburn Road and all other matters reserved. The application is including an Environmental Impact Assessment Statement (EIA) Approved conditionally 25/08/2015

15/0032 - Scoping Opinion: Town and Country (Environmental Impact Assessment) Regulations 2011. Major mixed employment development.

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Relevant Policies

Hyndburn Core Strategy (CS)

Policy BD1 Balanced Development Strategy

Policy E1 Future Employment Provision

Policy E2 Protection Modernisation and Development of Employment Sites

Policy Env2 Natural Environment Enhancement

Policy Env4 Sustainable Development & Climate Change.

Policy Env6 High Quality Design

Policy Env7 Environmental Amenity

Policy T2 Cycle and Footpath Networks

Policy KW1 Strategic Regional Employment Site at Whitebirk

Hyndburn Development Management Development Plan Document (DMDPD)

Policy GC1 Presumption in favour of Sustainable Development

Policy DM1 Employment Development

Policy DM3 Development of Main Town Centre Uses

Policy DM18 Protection and Enhancement of the Natural Environment

Policy DM19 Protected Species

Policy DM20 Flood Risk Management and Water Resources

Policy DM24 Contaminated or unstable land and storage of hazardous materials

Policy DM26 Design Quality and Materials

Policy DM29 Environmental Amenity

Policy DM31 Waste Management in all new development

Policy DM32 Sustainable Transport, Traffic and Highway Safety

Policy DM33 Sustainable Transport Infrastructure

Material Considerations

National Planning Policy Framework

National Planning Policy Guidance
DMDPD GN3 Materials and colour
DMDPD GN7 Waste Management
DMDPD GN8 Car Parking, access standards and transport assessment/travel plan thresholds

Observations

Section 38(6) of the Planning and Compulsory Purchase Act 2004 requires that planning applications be determined in accordance with the Development Plan unless material considerations indicate otherwise. The statutory Development Plan for Hyndburn comprises of Core Strategy (2012), Development Management DPD (2018), the Accrington Area Action Plan.

The main issues raised by this application relate to the principle of development; design and appearance; impact on residential amenity; highway safety, access and parking; flood risk and drainage and; ecology. Each of these issues will be considered in turn.

1. Principle of Development - Strategic Employment Site Designation

- 1.1. The development of a large employment site at Frontier Park was initially proposed by the Hyndburn Local Plan which allocated 34ha of land at Whitebirk for employment (B1, B2 and B8) development in 1996. Although a planning application for the development of the site was submitted by the North West Development Agency in 2003, planning permission was never granted because the owner of the site at that time did not sign the s.106 agreement.
- 1.2. The Hyndburn Core Strategy, adopted in 2012, identified the site as a Strategic Regional Employment Site and Policy KW1 states that land at Whitebirk will be developed for employment and provide for higher value business development. The supporting text states that the site will be developed to a high standard, utilising high quality design and attractive landscaping.
- 1.3. The Core Strategy was developed at a time when there was an extant planning application for the development of the site in the manner envisaged by Policy KW1. Policy KW1 refers to “higher value business development”. The aim of the policy framework was to help develop a higher wage economy in Pennine Lancashire through the development of more “higher value” employment uses, with more B1 (office / research and development) uses and manufacturing (B2 uses) than storage and distribution (B8).

- 1.4. However, outline planning permission 11/15/0154 was granted approval in August 2015 to develop the site with a higher proportion of B8 uses (storage and distribution) that were not strictly consistent with the approach set out by Policy KW1. An economic assessment justified the mix of business uses proposed, citing a very limited supply of large sites or very large premises within the region and the creation of significant inward investment opportunities.
- 1.5. The outline permission also included the development of a 60-bed hotel, petrol filling station (PFS) and forecourt shop, and pub/restaurant/hot food take-away in zones 5 and 6. The principal reason for including these uses was to provide facilities for the estimated 2,000 workers that would be employed on the site. No significant retail uses were proposed other than convenience type retail ancillary to the petrol filling station.
- 1.6. The site which is the subject of this planning application forms part of zone 6 of the approved outline permission which was earmarked for development for a hotel and pub, restaurant and hot food take-away uses. The facilities were intended to serve the employees on the new development, visitors to the site and other nearby employment areas and were seen as ancillary and complementary in scale to the wider business park.
- 1.7. In July 2017 a full planning application was submitted at zone 6 for a hotel and mixed-use building to provide conference facilities and a banqueting hall with associated parking, service yard and landscaping. The proposed hotel was to provide 150 beds over five storeys. The mixed use building would be set over three floors with a GFA of 8,850sqm and was considered to fall within use class D1/D2 (Non-residential institutions/Assembly and leisure). The approved floor plans indicate that the mixed-use building was primarily intended to cater for Asian weddings and would accommodate up to 1,400 guests.
- 1.8. The development was estimated to provide around 120 jobs in total (40 full-time and 40 part-time jobs for the hotel; 20 full-time and 20 part-time jobs for the mixed-use building) and it was deemed that it would provide valid supporting uses to the remainder of the site. The development was approved in March 2018 and whilst the hotel has been constructed, the conference centre building to the south was not implemented. Due to other development taking place on an area of land within Frontier Park that was earmarked to provide an overflow car park for the conference facilities and banqueting hall which was required to be implemented in accordance with a scheme agreed by the LPA, it is considered that the banqueting hall can no longer be lawfully implemented. Taking into account the above, there is no current planning permission to develop the site.

- 1.9. There is currently a lack of employment land in the Borough. Whilst the emerging Local Plan 2040 will identify new employment land allocations, it is important to consider the implications of releasing land which could be developed for employment purposes for other uses.
- 1.10. Core Strategy (CS) Policy KW1 allocates the land at Frontier Park as a Strategic Regional Employment Site.
- 1.11. Paragraph 127 of the NPPF states that:
- “Planning policies and decisions need to reflect changes in the demand for land. They should be informed by regular reviews of both the land allocated for development in plans, and of land availability. Where the local planning authority considers there to be no reasonable prospect of an application coming forward for the use allocated in a plan:
- (a) it should, as part of plan updates, reallocate the land for a more deliverable use that can help to address identified needs (or, if appropriate, deallocate a site which is undeveloped); and
- (b) in the interim, prior to updating the plan, applications for alternative uses on the land should be supported, where the proposed use would contribute to meeting an unmet need for development in the area.”
- 1.12. There is no evidence to indicate that there is ‘no reasonable prospect of an application coming forward for the use allocated’. It is considered that the site remains deliverable for employment purposes and is the final parcel of the wider strategic employment allocation. The emerging Local Plan, submitted to the Secretary of State for examination in March 2025, identifies Frontier Park along with Junction 7 Business Park and Altham Business Park, as playing a strategic role in the local economy and retains these sites for employment use.
- 1.13. CS Policy E2 aims to retain existing business parks, major industrial estates and other good quality employment sites for employment uses. Frontier Park is not named in the list of major industrial estates at footnote 44 of the CS as, at the time of the adoption of the CS in January 2012, the site was undeveloped. However, the site is of good quality and would be afforded a high level of protection against its development for non-employment uses.
- 1.14. A letter has been submitted by the applicant from Commercial Property Consultants, Trevor Dawson. This states that the wider Frontier Park site has been marketed continuously since mid-2017 to July 2022 with a national agent and the normal marketing tools including the erection of advertisement

boards at the site frontage. It is stated that there has been no approach as to the availability of this plot for employment use. However, there is no evidence that this parcel of land has been marketed individually and no confirmation that the site has been marketed since July 2022.

- 1.15. The proposed M&S Food store is considered to be a small to medium-sized food store and would result in the creation of approximately 60 full-time and 60 part-time jobs. The Council has previously approved non-employment uses in this location on the basis that they would support and/or be ancillary to the wider employment use of the site. The provision of ancillary retail provision (e.g. newsagents, café, crèche facilities) is recognised as contributing to the creation of a quality employment location and a balance must be sought in the scale of retail offer permitted, ensuring that the success of town centres (in this case principally Blackburn town centre) is not compromised.
- 1.16. Whilst the proposed food retail store would provide a useful and attractive facility for those employed at or visiting Frontier Park, it would provide for a much larger catchment area such that it could not be considered truly ancillary to the employment use of the wider Frontier Park site. The proposed development would result in the loss of part of a regionally significant allocated employment site and it is therefore considered that the proposed development would be contrary to Core Strategy policies KW1 and EM2 and NPPF paragraph 127.

2. Principle of Development - Impact on Town Centres

- 2.1. The National Planning Policy Framework (NPPF) requires that planning policies and decisions should support the role that town centres play at the heart of local communities, by taking a positive approach to their growth, management and adaptation. The application relates to the provision of main town centre use in an out-of-centre location, such that Policy DM3 of the DMDPD is engaged, in addition to relevant town centre policies contained in the NPPF.
- 2.2. The application is supported by a Retail Impact Assessment (RIA) which includes a Sequential Test and Impact Test. During the course of the application, the applicant has submitted the following information:
 - RIA August 2022
 - RIA Addendum (received May 2023)
 - RIA December 2023 (Revised)
 - RIA Addendum (received March 2024)
 - RIA (November 2024)

- RIA Addendum (received March 2025)

- 2.3. The Council has sought specialist advice from a retail planning consultant, Urban Agile, to review the assessments. The neighbouring LPA, BwD, has also employed a professional retail consultant.
- 2.4. Whilst the proposed operator of the store is named as M&S Food, elected members are reminded that the application scheme could be occupied by any food retailer.

Sequential Test

- 2.5. The aim of the sequential test is to guide main town centre uses towards town centre locations first, then, if no town centre locations are available, to edge of centre locations, and, if neither town centre locations nor edge of centre locations are available, to out of centre locations (with preference for accessible sites which are well connected to the town centre).
- 2.6. Point 4) of DM DPD Policy DM3 states that:
- “Proposals for main town centre uses that are not located in defined Town Centres or Local Centres and are not in accordance with specific policies in the Site Allocations DPD, should address the following:
- a) demonstrate that no sequentially preferable site is available or suitable through a proportionate but thorough assessment of more central sites;
 - b) that in the application of the sequential assessment above, developers and operators demonstrate flexibility in terms of scale and format;”
- 2.7. This is consistent with paragraphs 91 and 92 of the NPPF which state:

“Local planning authorities should apply a sequential test to planning applications for main town centre uses which are neither in an existing centre nor in accordance with an up-to-date plan. Main town centre uses should be located in town centres, then in edge of centre locations; and only if suitable sites are not available (or expected to become available within a reasonable period) should out of centre sites be considered.

When considering edge of centre and out of centre proposals, preference should be given to accessible sites which are well connected to the town centre. Applicants and local planning authorities should demonstrate flexibility on issues such as format and scale, so

that opportunities to utilise suitable town centre or edge of centre sites are fully explored.”

- 2.8. The Planning Policy Guidance (PPG) provides further direction. It notes that the application of the sequential test will need to be proportionate and appropriate for the given proposal and that, if there are no suitable sequentially preferable locations, the sequential test is passed.
- 2.9. The submitted Sequential Assessment considers whether there are any suitable and available sites that could accommodate the proposed development in Blackburn and Accrington town centres, within the smaller centres, and on the edges of Blackburn town centre. In conducting the search a number of physical requirements are identified as follows:
- A minimum site size of 0.8 ha, consisting of approximately 80% of the application site’s size and to be able to accommodate a store of a minimum gross floor area of approximately 1,900 sq.m;
 - A site that can allow for the safe manoeuvring of customer vehicles and delivery vehicles;
 - A prominent site with the ability to attract passing trade;
 - A site that is easily accessible by a choice of means of transport;
 - Unhindered access into the site, allowing a good traffic flow in and out of the car park and direct sight lines to the entrance of the store through the car park;
 - A site that is able to offer adjacent surface level car parking, so that customers can easily transfer goods to their vehicles
 - Provision of a suitable service area to enable the ability to accommodate store deliveries.
- 2.10. No sites were identified in Accrington town centre as being currently available and suitable to accommodate the proposed development due to their size, even when demonstrating a sufficient degree of flexibility. In addition, there were no sequentially preferable sites that were available and suitable within smaller centres in Blackburn or Hyndburn.
- 2.11. The assessment considers the following potential development opportunities within Blackburn Town Centre.
- Former Markets Site on Ainsworth Street
The site is located within the adopted Blackburn town centre boundary, located adjacent to Brown Street to the north, Penny Street to the east and Ainsworth Street to the west. The site comprises a surface level car park

measuring approximately 1.3ha in total and was formerly occupied by the market.

As part of the site is in current active use as a car park, and is not being actively marketed with no firm plans for redevelopment, the RIA advises that it is not considered to be available for the purposes of the sequential test.

- Blackburn Cathedral Quarter

The Cathedral Quarter measures a total of 1.5ha and is allocated in the adopted development plan for main town centre uses. The Blackburn Town Centre SPD identifies the quarter to build upon recent development successes as a modern high-grade professional services quarter. This aspiration is similarly taken forward in the Council's latest Blackburn Town Centre East Development Framework.

The RIA states that, "Given the planning policy aspirations set out for this location as set out within the adopted local plan, the proposed development of a single-storey, medium format foodstore with adjacent car parking, would not meet the Council's aspirations for this part of the town centre".

- Former Thwaites Brewery Site

There was previously no indication that this site was available to accommodate the proposed development due to the intention of Maple Grove and Morrisons PLC to develop the site. Maple Grove and Morrisons PLC submitted a planning application in January 2024 for a phased development involving: i) The erection of a convenience retail store (Use Class E), along with ancillary works comprising of access/egress points, car parking, landscaping, boundary treatments, and the creation of new public realm; ii) Demolition and clearance of the existing Morrisons store (off Salford/Railway Road); (iii) Refurbishment of the existing multi-storey car park and improvements to the adjacent public right of way; and iv) Public realm works and remediation of the area of the demolished store.

However, the site became available when Morrisons confirmed that they would no longer be proceeding with their town centre relocation development. The associated planning application for Morrisons (reference no 10/23/01066) was withdrawn on 25 March 2024. The applicant's RIA accepts that the site is now available.

The site is in a highly sustainable location, close to the town centre bus station and train station and is allocated as a Mixed Use Growth Site in the

BwD Local Plan with potential for residential and commercial/community uses, including Class E use (assumed yield of 1,480sqm).

The applicant's RIA states that it is too large for the proposal and that piecemeal development would be unviable as it would not meet the Council's aspirations for the site or the wider town centre masterplan. It also states that the former brewery site would not be available within a reasonable timeframe and that it is subject to constraints in terms of topography and underground utility infrastructure.

BwD has made a representation to raise objections to the current application and set out its position in respect of the Thwaites Brewery site. BwD states that it has now 'taken 100% ownership and control' of the former brewery site and that it is 'eager to explore a potential development of a new store at the site and is able to deal directly with M&S or their preferred development partner'. It further states that the site is available to commence development now, that there is space within the site for the proposal without being impacted by any constraints and that its architects have produced a layout option showing how a foodstore could be accommodated. The layout drawings that have been provided show a store of approximately 2,805 sq. m (gross) with car parking for 160 vehicles and a dedicated service area. These indicative drawings show that the foodstore could be located in a prominent position adjacent to Barbara Castle Way (A666).

The willingness of the site owner to engage and facilitate the proposed development does not support the applicant's assertion that the former Brewery site would not be available within a reasonable timeframe. In terms of suitability, it also appears that the Council is willing to facilitate piecemeal/phased development of the wider site and that a foodstore could be accommodated as indicated on the submitted drawings. This would appear to meet the requirements for the proposed development that are set out within the RIA (at paragraph 4.20) and M&S Operating Statement, including in terms of access, parking and servicing facilities.

Whilst the foodstore building shown on the indicative plan provided by BwD would be larger than the application scheme, there appears to be no impediment to the provision of a smaller foodstore building within the site. We have no specific information on the utility constraints referenced within the RIA, albeit that these are acknowledged within the representation from BwD. However, BwD also states that the indicative layout, which we have noted shows a different scheme to that proposed as part of planning application ref. 10/23/1066, would not be impacted by these constraints.

Most recently on 3 March 2025 the applicant submitted a RIA Addendum (March 2025) and Viability Assessment ('VA') (by Savills). The VA is based on developing the site for a matching store arrangement to that being proposed at the application site and concludes that the site is unviable for the proposed development due to high abnormal costs of developing the site which returns a negative residual land value.

In reply the landowner, BwD, have commissioned their own independent VA. However, this concludes that development of the site *is* viable. Whilst BwDs and the applicant's VA are similar in terms of the majority of viability inputs, the main difference relates to the abnormal development costs.

The applicant's agent have utilised abnormal costs equating to £2,330,440. The applicant's agent's abnormal costs have been appraised by Aecom. BwD has instructed the LK Group to assess the abnormal development costs stated by Aecom. They considered the stated abnormal costs to be excessive and have concluded that an abnormal cost of £423,180 would be more reasonable.

In estimating a more realistic abnormal cost for the site, BwD has consulted the LK Group, a specialist contractor with experience in remediating brownfield sites. LK has firsthand knowledge of the site and completed several site investigations and surveys at the site since 2021.

The result of reducing the abnormal costs to those estimated by the LK Group is that the site would be viable for the proposed development.

HBC Officers have contacted the Council's own independent viability expert. He has advised that:

- there would be no benefit in commissioning a further VA of the site.
- having briefly reviewed both VAs, the majority of the inputs are very similar in both. The main difference relates to the abnormal costs assumption, with Savills (on behalf of the applicant) using a figure of £2,330,440 and Parkinson Real Estate (on behalf of BwD) applying a figure of £423,180.
- The abnormal costs for the Parkinson Real Estate VA derive from an 'Abnormal Development Costs Report' by LK Consult Ltd who have previously carried ground investigations, site appraisal and provided a Remediation and Enabling works scope and fee proposal for the Thwaites site in 2022

- Given that LK Consult Ltd have considerable knowledge of the site, it is reasonable to conclude that their abnormal costs assumptions are likely to be more accurate.

On the basis of the available evidence, site is considered to be available and suitable for the proposed development.

- Existing M&S town centre store
One of the main objections previously raised by Tesco Ltd relates to whether consideration had been given to the use of the existing M&S store in Blackburn town centre as part of the sequential test.

Paragraph 4.26 of the applicant's RIA (December 2023) includes reference to the town centre store. It states it is no longer fit for purpose for the applicant's business model. The M&S Operator Statement also explains why the existing town centre store is unsuitable for the new foodstore.

In written advice dated 21 January 2025, the Council's Retail Consultant advises:

"We are aware that third parties have suggested that the sequential test should include consideration of the existing Marks & Spencer site in Blackburn Town Centre. This site on King William Street is an in-centre site and is sequentially preferable to the application site. However, the suitability of the site must be considered in the context of the proposed development. We understand that the existing M&S store is arranged over three levels and provides a range of clothing and other comparison goods, together with an element of convenience goods. The proposed M&S will primarily be a foodstore arranged over a single trading floor with a significantly larger convenience retail offer than the existing store.

Whilst there may be potential for M&S to expand its convenience retail offer within the existing store, it is reasonable to assume that in bringing forward proposals for a new store elsewhere, the operator has decided that such a solution is unfeasible (this is confirmed by the latest M&S Operator Statement). As noted within the current RIA, it would not be possible to provide the customer car parking and efficient servicing that would be expected to be provided by a large foodstore at the King William Street site. As such, it would represent a significantly different proposition to the application scheme and would be unlikely to be suitable, taking account of guidance provided by relevant case law including the Supreme Court judgment in Tesco Stores Ltd v Dundee City Council (2012)".

Therefore the existing M&S store is not suitable to accommodate the proposed development.

2.12. One edge-of-centre and 2no out-of-centre sites were also identified and the applicant has subsequently assessed their suitability and availability for the proposed development.

- Former DW Sports Store

The former DW Sports unit has been vacant since the operator vacated it in March 2017, and it has remained vacant since that date. The applicant is of the view that there is no indication that the unit is currently available and is not being actively marketed for such purposes and that there is no indication that the unit will be available within a reasonable timeframe.

The RIA states that, “the unit is considerably larger than the proposed development, and there is no indication that it could be made to be suitable to accommodate the proposal through sub-division or redevelopment”.

Further to this, paragraphs 8-12 of the RIA Addendum (received March 2024) states:

“We have discussed the above further with the intended operator, along with the wider matters associated with the site’s secondary location, and our overarching position in respect of the sequential suitability of the site remains. This is particularly the case when referring to the store requirements published by M&S which state that the operator is looking for prominent locations on key routes and which are highly visible.

In this regard, we reiterate our previous concerns raised in that the site has limited prominence from the arterial route, its visibility to pass-by trade would be limited. If you were travelling along Lower Audley Road in either direction, the unit is hidden by the wider adjacent commercial units and its visibility from the main road is considered to be relatively poor overall.

This is further evidenced by the length of time that the unit has been vacant for and the lack of any obvious demand for the floorspace. Simply put, the unit does not offer the required prominence required by the operator in seeking to draw shoppers into the store. In addition, there are wider concerns in respect of the availability of

car parking in light of the positioning of the unit as part of a wider commercial leisure complex.

We are also of the view that the potential for linked trips from the site to the town centre will be limited overall. The unit is tucked away adjacent to the railway line and the route to the town centre is not direct. Overall, it is our view that the prominence and suitability of the unit has been overstated by Urban Agile.

Given the above, our previous position in respect of the availability and suitability of the site have not altered and we consider that the unit does not represent a sequentially preferable alternative.”

The Council’s Retail Consultant disagrees with the above assessment stating that,

“the property appears to be a modern and flexible retail warehouse unit that has been vacant for some time, we considered that adaptation to meet the applicant’s requirements is likely to be feasible. This is particularly so given the reduction in the size of the proposed foodstore which, at 2,011 sq. m (gross), could now be accommodated within the ground floor of the former DW Sports unit (2,090 sq. m).

Paragraph 4.50 of the URIA (updated Retail Impact Assessment) also states that the former DW Sports site has limited prominence from the arterial route and that there are concerns about the availability of car parking given the adjoining commercial leisure uses, both affecting the suitability of the site. In our view, the site is well related to other retail and leisure uses and any residual concerns about the prominence of the site could be addressed by an appropriate signage strategy (noting that there is a large totem sign for The Peel Centre at the junction of Mayson Street and Lower Audley Street). The site is served by an extensive area of car parking, shared only with the adjoining Vue Cinema whose peak trading hours would likely differ from a foodstore. There are also numerous examples of M&S foodstores operating from retail parks with shared car parking arrangements. Further justification is therefore required to confirm that this site is unavailable and unsuitable.

The URIA goes on to suggest that the former DW Sports site is poorly linked to the town centre and there is ‘no real prospect for a level of linked-trips between the two which would provide any real

benefit to future health of the town centre'. Paragraph 91 of the NPPF makes clear that main town centre uses should be located in town centres, then in edge of centre locations and 'only if suitable sites are not available (or expected to become available within a reasonable period') should out of centre sites be considered'. Paragraph 92 goes on to say that 'When considering edge of centre and out of centre proposals, preference should be given to accessible sites which are well connected to the town centre'.

On this basis, we do not share the applicant's analysis of the relative characteristics of the former DW Sports unit as an edge-of-centre site. It is self-evidently sequentially preferable to the application site in terms of paragraph 91 of the NPPF because it is an edge-of-centre site rather than an out-of-centre site. We note that BwD and its advisors have come to the same conclusion. Furthermore, the former DW Sports unit is also clearly better connected to the town centre than the application site in terms of distance and accessibility. Contrary to paragraph 4.48 of the URIA, there is direct pedestrian access from an underpass to the northern end of the car park to Blackburn Railway Station and the town centre beyond."

BwD's retail consultant also considers that the vacant former DW Sports unit appears to have been ruled out too readily. It is noted that that the site is currently restricted to non-food retail use, although it would be possible to seek to amend such restrictions".

Further to the above, information was received from the DW Sports site management company on 12 March 2024 which confirms that the site is available and that the landlord would be interested in subdividing the unit if necessary.

There are walkable routes into the town centre of Blackburn from the former DW Sports unit via the railway station (c.300m) and towards Darwen Street (c.400m), and therefore there would be a possibility of linked trips into the town centre from this site. This edge-of-centre site is therefore clearly sequentially preferable to the application site which is approximately 2.9km from the town centre boundary.

Notwithstanding the above, the applicant states that unit has now been re-occupied by Body Tech Fitness and is therefore no longer available for the purposes of the sequential test and can be discounted. The Council's retail consultant advises that, "Body Tech Fitness opened in March 2025 and is reported to occupy 24,000 sq. ft at the site. On this basis, we would agree

that the Mayson Street site is now unlikely to be available for the proposed development”.

- Carl Fogarty Way

The site is situated to the north of Carl Fogarty Way, approximately 1.5km to the east of Blackburn town centre and approximately 0.6km to the west of the application site at Frontier Park. BwD adopted a new Local Plan in January 2024 and this site is included as an allocation for Class B (employment) uses. As such, approval of a retail use at this site would be contrary to its allocated use in the BwD Local Plan.

Nonetheless, BwD have stated that, ‘With regards to the proposed Class E use at Carl Fogarty Way, without prejudice to the full assessment of a planning application and based on the details submitted, BwDC as planning authority would support the proposed development due to the decision-making weight to be given to job retention within the borough, along with providing a supporting use for existing employment uses within the immediate vicinity’.

The applicant’s RIA states that the site is no better connected to the town centre than the application site. Conversely, the representations made on behalf of BwD state that the site at Carl Fogarty Way is no less suitable than the application site in planning policy terms and that it is better connected to Blackburn Town Centre via public transport, with a ‘quality bus route’ in close proximity to the site.

Whilst the site is closer to bus stop facilities than the application site (5-minute walk compared with an 8-minute walk), the Council’s Retail Consultant advises that it is not materially better connected to the town centre than the application site and is therefore not sequentially preferable.

It should be noted that as part of the wider development of Frontier Park, infrastructure was provided to facilitate commercial bus services at the site. There is a bus stop at the frontage of the application site on Frontier Avenue, however this is not currently served by any bus services. In early 2023, the applicant’s Transport Consultant wrote to commercial bus service providers but no interest was shown to provide a service to the site at that time. However, there remains the opportunity for bus service providers to serve the site and the provision of a retail store such as the one proposed may trigger some interest.

- Former East Lancashire Coachbuilders site

BwD adopted a new Local Plan in January 2024 and this included an allocation at Whalley New Road under Policy MU091. This site extends to

1.53 ha and is located approximately 450 metres to the north of the town centre boundary. Policy MU091 allocates this site for Class E uses (as well as Class B and Class F uses). It should be noted that this site was not raised as a potential alternative by BwD or its advisors.

The Council's Retail Consultant advises, "It is not clear that the Local Plan allocation requires mixed use or comprehensive redevelopment, although we would accept that piecemeal redevelopment may not be viable given the constraints on the site. Furthermore, the LPA's previous desire to avoid significant retail development at this site and the highways issues that might be raised by food retail use are recognised and could undermine its potential suitability. We also acknowledge that, whilst in our view this site is sequentially preferable to the application site, it has not been raised as a potential alternative by BwD or its advisors."

- 2.13. Having regard to the above site assessments, the former Thwaites Brewery site in Blackburn town centre is considered to be available and suitable for the proposed development and the application fails to satisfy the sequential test, contrary to DM DPD Policy DM3. Where this is the case, paragraph 95 of the NPPF indicates that planning permission should be refused.

Impact Test

- 2.14. In addition to the sequential test, Point 5) of Policy DM3 requires that proposals for new retail floorspace outside of town centres, and that are larger than the prescribed thresholds, must undertake an impact test to consider the impact out of centre and edge of centre proposals on town centre vitality/viability and investment.
- 2.15. The floor space of the proposed food retail store exceeds the thresholds contained in Policy DM3.
- 2.16. Further to this, paragraph 94 of the NPPF states:

"When assessing applications for retail and leisure development outside town centres, which are not in accordance with an up-to-date plan, local planning authorities should require an impact assessment if the development is over a proportionate, locally set floorspace threshold (if there is no locally set threshold, the default threshold is 2,500m² of gross floorspace). This should include assessment of:

- a) the impact of the proposal on existing, committed and planned public and private investment in a centre or centres in the catchment area of the proposal; and

- b) the impact of the proposal on town centre vitality and viability, including local consumer choice and trade in the town centre and the wider retail catchment (as applicable to the scale and nature of the scheme)".

2.17. Again, the NPPG provides further guidance. It states that in applying the impact test,

“A judgement as to whether the likely adverse impacts are significant can only be reached in light of local circumstances. For example, in areas where there are high levels of vacancy and limited retailer demand, even very modest trade diversion from a new development may lead to a significant adverse impact.”

Where evidence shows that there would be no likely significant impact on a town centre from an edge of centre or out of centre proposal, the local planning authority must then consider all other material considerations in determining the application, as it would for any other development.”

- 2.18. For the purposes of the impact assessment, the catchment area of the proposal includes Zones 2, 3, 4, 5, 8, 11 and 12 of the Blackburn with Darwen Retail and Leisure Study (2019).
- 2.19. The Impact Test submitted by the applicant considers the health of the town centre of Blackburn. It concludes that the centre is in a healthy state and will be improved in coming years by planned investment.
- 2.20. Consideration has been given to the closure of the existing M&S town centre store which will inevitably impact on the vitality and viability of the town centre of Blackburn in the short-term. The closure of the store was officially announced in November 2023, with M&S setting out that this was as a result of declining trading performance and changing commercial considerations. Whilst the closure of the existing M&S store will leave a vacancy within the town centre, it will close regardless of the outcome of the proposed development.
- 2.21. Paragraphs 5.43-5.44 and 5.49-5.50 of the applicant’s RIA (dated November 2024) consider the impact of the existing M&S store closure on Blackburn town centre.
- 2.22. On this particular matter, the Council’s retail consultant advises:

“The existing M&S store continues to trade within the town centre and M&S intends to transfer existing staff to the proposed store once

completed. However, as previously noted, we do not consider that the closure of this store is a direct consequence of the current proposal given the information provided by the applicant in respect of M&S's wider estate strategy and M&S's stated intention to close this existing store regardless of the outcome of the current application."

- 2.23. With regard to the impact of the proposed development on public and private investment in the town centres, no material impact is found. Whilst Morrisons withdrew from its planned relocation to the former Thwaites Brewery site in Blackburn, it does not appear that this decision relates to the proposed development.
- 2.24. The November RIA includes some revisions to the sales density figures used to ensure that the impact of the proposed development on town centre vitality and viability, including consideration of the likely diversion of expenditure, is accurately assessed.
- 2.25. The assessment accepts that trade would be diverted from nearby foodstores but considers that the levels of trade diversion would not result in a significant adverse impact, particularly in respect of stores that are afforded policy protection by virtue of their location within town centres.
- 2.26. In relation to Accrington town centre, it indicates that although there is a relatively high vacancy rate there is a reasonable level of activity that is commensurate with its role. It is considered to be relatively healthy overall.
- 2.27. The RIA concludes that the proposed development would not have any significant adverse impacts on the future vitality and viability of any defined centres. The Impact Test has been assessed by the Council's Retail Consultant who concludes, "notwithstanding the impacts of the closure of the existing M&S store on the short-term health of the town centre, we do not consider it likely that the application scheme will have significant adverse impacts on the vitality and viability of Blackburn".
- 2.28. Having had regard to all of the above, and on the basis of advice received from an independent retail consultant, it is considered that although the Impact Test has been met the applicant has failed to demonstrate that there are no suitable and available sequentially preferable sites and therefore, the Sequential Test has not been satisfied contrary to DM DPD Policy DM3 and the NPPF.

3. Design and Visual Appearance

- 3.1. Hyndburn Core Strategy Policy Env6 and Policies DM10 and DM26 of the Hyndburn Development Management DPD, along with the provisions of the NPPF all require development to be of high quality design.
- 3.2. The proposed development would be seen in the context of the surrounding built form at Frontier Park which includes a five-storey hotel and large storage warehousing. The previously approved conference centre building was considerably larger than the proposed food retail building and therefore, in terms of the size and scale of the building, there are no concerns.
- 3.3. The building would have a contemporary appearance, and would be faced externally with a modern cladding system that would be in keeping with the appearance of the surrounding buildings.
- 3.4. The application site has already been partly developed as a car park in association with the approved hotel and conference centre development. The proposed food retail store would be sited on part of the existing car parking area. The access road would go around the southern and western side of the site, before leading into the new car parking area which would follow a ring design.
- 3.5. The proposal includes 154 car parking spaces, including 15 mobility spaces and 6 electric charging spaces. There would be 14 parking spaces for staff and a 16 space cycle shelter. The 150no. car parking spaces for the adjacent hotel would be retained. A HGV turning point is included to provide access to the dock level and refuse pick up point. The layout design also includes a footpath link into the site from the existing pedestrian footway on Frontier Avenue and the existing footway on Frontier Avenue would also be extended into the site alongside the new access road.
- 3.6. Safe pedestrian routes through the car park, including between the existing hotel and proposed food retail store for pedestrians, are also denoted.
- 3.7. The site is currently devoid of any soft landscape planting. The application proposes a soft landscaping scheme including planting along the site's frontage with Frontier Avenue and smaller tree and shrub species within the car parking area to the west of the proposed building.
- 3.8. In summary, the design and layout of the proposed development is considered to be acceptable and would accord with the requirements of Hyndburn Core Strategy Policy Env6 and Policies DM10 and DM26 of the Hyndburn Development Management DPD.
4. Impact upon Residential Amenity

- 4.1. Core Strategy Policy Env7 and Development Management DPD Policy DM29 aim to protect the amenity of other uses adjacent to development. Policy Env7 requires proposals for new development to demonstrate that the material impacts arising by reason of traffic, visual impact, noise, dust, emissions, pollution, odour, over-looking or loss of light, or other nuisances will not give rise to unacceptable adverse impacts or loss of local amenity and can be properly controlled in accordance with best practice and recognised standards.
- 4.2. The proposed use is considered to be compatible with the other existing uses within Frontier Park and the application site is located over 200 metres from the nearest residential area to the west.
- 4.3. The application is accompanied by an Air Quality Assessment which sets out the proposed mitigation to ensure there are no negative effects of the local environment including:
 - Dust and pollution control measures during construction
 - Provision of EV charging points (6no in total)
 - A Travel Plan setting out measures to encourage use of sustainable transport methods
 - Cycle parking provision
- 4.4. There would be a negligible impact on local air quality as a result of operational traffic.
- 4.5. The Council's Environmental Health Officer has raised no concerns stating that, "Given the distance from the site to the closest sensitive residential receptors I have no concerns over noise from the site either at the construction or operational phase".
- 4.6. Subject to planning conditions to manage the construction phase of the development and to ensure implementation of the Framework Travel Plan, the proposal would accord with Core Strategy Policy Env7 and Development Management DPD Policy DM29.
5. Highway Safety, Traffic and Parking
- 5.1. DMDPD Policy DM32 requires all development proposals to actively encourage sustainable travel through walking, cycling and public transport use. Proposals should not give rise to an increase in traffic volumes that exceed local or strategic transport network capacity.

- 5.2. Development proposals that will generate significant amounts of traffic should be accompanied by a Transport Assessment and should be located where the need to travel will be minimised, and is in a location that that is readily accessible by a variety of transport modes.
- 5.3. A Transport Assessment and Framework Travel Plan have been submitted with the application. The Transport Assessment considers the adequacy of the site access, servicing and car parking arrangements. Access by non-car modes is also considered.
- 5.4. Whilst the proposed level of parking is a slight over-provision against the recommended parking standards, LCC Highways raise no objection to this.
- 5.5. In relation to store deliveries, there is a minor conflict between customers and reversing HGVs and it is therefore recommended that this be managed through timing of deliveries and use of a banksman, details of which would be agreed by planning condition. The provision of covered cycle stands and 6no electric vehicle charging points would also be secured through planning conditions.
- 5.6. In terms of its accessibility, the site is in a reasonably sustainable location benefitting from a direct route onto the M65 motorway and a direct route into Blackburn town centre. The closest bus stop into Blackburn Town Centre is on Burnley Road around 600 metres from the site. The site is also within walking distance of residential areas of Blackburn.
- 5.7. The LCC Highways Officer considers the site to support walking and cycling and also notes that the four nearest bus stops to the site have been recently upgraded to quality bus stop standard. Whilst the Highways Officer requested that the developer contact local bus service operator, Transdev, regarding the potential diversion of bus services into Frontier Park, the applicant has confirmed that effort was made to contact Transdev in 2022 with no response. Another local bus service operator confirmed that they had no interest in diverting a bus service through the site at present although, should planning permission be granted, it would be recommended that a planning condition be imposed requiring further investigations to establish whether there is any feasibility for a bus service within the first 6 months of store opening.
- 5.8. A full assessment has been undertaken to ensure that there is no unacceptable impact on highway safety at the junctions A6119/Frontier Avenue/Blackburn Road/M65 Junction 6 Slips Whitebirk Roundabout; and Frontier Avenue/Site Access Roundabout.

5.9. National Highways (NH) and Lancashire County Council (LCC) Highways have sought further information and revision to the technical information submitted. The applicant responded in a further technical note which has been reviewed by NH and LCC Highways. NH and LCC Highways are now generally satisfied with the assessment and state that the results indicate that the M65 exit slip roads would remain within capacity. As such, NH offer no objection to the planning application. LCC Highways raise no objection subject to a planning condition requiring a review of the operation and phasing of traffic signals at the Junction 6 M65 Whitebirk roundabout.

6. Ecology

6.1. In accordance with Core Strategy policies Env1 and Env2 and DMDPD policies DM18 it is necessary to ensure the development is well landscaped and that biodiversity net gain is achieved on the site.

6.2. A Preliminary Ecological Appraisal (PEA) and Biodiversity Net Gain (BNG) Assessment has been submitted. There would be no direct or indirect impacts on statutory or non-statutory sites, or protected species. Having regard to the biodiversity value of the existing site, the BNG Assessment indicates that there would be a net gain of around 61% in the value of the site post development taking into account the landscape layout. This is considered to be acceptable and no concerns have been raised by the Council's Ecologist.

7. Other Considerations

7.1. DMDPD Policy DM20 provides detail on the consideration of flood risk management in developments. The applicant has submitted a Flood Risk Assessment and Drainage Strategy Report. Except for a small area near Knuzden Brook which is Flood Zone 2, the application sites lies with Flood Zone 1 which has a low probability of flooding.

7.2. Surface water drainage for the site follows the approved outline drainage strategy for the wider Frontier Park site. This includes discharge of surface water through an attenuation pond in the north-west corner of Frontier Park. No objections have been made by the Lead Local Flood Authority, Environment Agency or United Utilities subject to the imposition of planning conditions.

7.3. Policy Env6 of the Core Strategy and DMDPD policies DM22 and DM26 all relate to design and the impact on heritage. There is also guidance within the NPPF. There is a listed building to the South West of the site: the Red Lion public house (Grade II). There would be no adverse impact on the setting of the listed building as a result of the proposed development.

- 7.4. A Phase II Geoenvironmental Assessment has been submitted. However, the Environmental Health Officer states that the assessment only covers a relatively small part of the site and leaves out the areas which are currently covered by hardstanding carpark. As such, a full contaminated land condition is recommended.

8. Planning Balance and Conclusions

- 8.1. No objections have been raised in relation to technical matters. In determining this application, the main issues relate to the principle of development of the application site for retail use and whether the application has satisfied the town centre sequential and impact tests.
- 8.2. As set out earlier within the report, the application site is located within an allocated strategic employment site and is the final parcel of the wider Frontier Park site which has been otherwise developed for its intended employment use and has generated over 1,000 jobs.
- 8.3. Whilst a statement of marketing has been submitted, there is no evidence that the site has been continuously marketed nor that there is 'no reasonable prospect' of an application coming forward for employment use. Core Strategy policies KW1 and E2 do not support the development of the site for non-employment uses and contrary to Paragraph 127 of the NPPF, it is proposed that the site will continue to be protected for employment use in the emerging Local Plan 2024. In addition, there is no evidence to demonstrate that the development would contribute towards meeting an unmet need for development in the area.
- 8.4. The proposed development would result in the loss of part of a regionally significant allocated employment site and it is therefore considered that the proposed development would be contrary to Core Strategy policies KW1 and E2 and NPPF paragraph 127.
- 8.5. In terms of compliance with local and national retail policies, the applicant has attempted to satisfy both the Sequential and Impact Tests. Whilst it is accepted that the proposed development would not result in significant adverse impacts on the vitality and viability of centres and therefore passes the Impact Test, sequentially preferable town centre and edge-of-centre sites have been identified which the applicant has failed to demonstrate are not available, suitable and viable for the proposed development. Accordingly, the sequential test is failed and, in such circumstances, NPPF paragraph 95 advises, 'Where an application fails to satisfy the sequential test or is likely to

have significant adverse impact on one or more of the considerations in paragraph 94, it should be refused’.

- 8.6. The proposals are in breach of the NPPF objective that planning decisions should support the role of town centres at the heart of their communities. The NPPF indicates that this in itself means that planning permission should be refused. This is a material consideration which carries substantial weight against the proposals.
- 8.7. Although it is not a requirement to refuse planning permission when the sequential test is failed, the benefits of the proposal would need to override the identified harm (including the conflict with Core Strategy policies KW1 and E2 and NPPF paragraph 127 identified above) in order for development to be supported.
- 8.8. The applicant’s Economic Benefits Statement identifies that the scheme would generate temporary construction jobs on-site and in the wider economy and approximately 60 full-time and 60 part-time jobs, with existing staff from the M&S Blackburn town centre store redeployed to the proposed new M&S Food unit. The scheme would also benefit the local economy and generate business rates once operational (estimated figures contained in the Economic Benefits Statement). Reference is also made to the Hyndburn Core Strategy and Corporate Strategy objectives to improve economic opportunities in the borough.
- 8.9. It should be noted however that given the availability of suitable and available sequentially preferable sites, whilst these abovementioned benefits would weigh in favour of the development, they are not site specific. In addition, the site is allocated for employment use and its development for employment would also generate considerable economic benefits to the local area.
- 8.10. The development would also deliver biodiversity enhancements (a biodiversity net gain of 61%), the proposed food store would be an energy efficient building and would provide a greater retail choice for local residents, although the area is already well-served by a number of retail food stores.
- 8.11. The development plan (comprising the Hyndburn Core Strategy and Development Management DPD) is the starting point for decision-making. Paragraph 12 of the NPPF states that, “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”.

8.12. It is not considered that, taking all of the above into account, the benefits of the development would outweigh the harm arising from the identified conflict with the Development Plan and with the town centre first approach which is enshrined in planning policy at local and national levels. Therefore, the application is recommended for refusal.

Recommendation:

That planning permission be REFUSED for the following reasons:

1. The proposed development would result in the loss of land allocated as a Strategic Regional Employment Site by Policy KW1 of the Hyndburn Core Strategy without sufficient justification which would be detrimental to the economic and social wellbeing of the area and contrary to Core Strategy Policy E2 which seeks to safeguard employment opportunities and support the local economy, and paragraph 15 of the Framework which states that the planning system should be genuinely plan-led.
2. The Council considers that there are sequentially preferable sites which are available, suitable and viable for the proposed development and therefore the application fails to demonstrate compliance with the requirements of the Sequential Test as set out in Policy DM3 of the Hyndburn Development Management DPD and paragraphs 90 to 95 of the National Planning Policy Framework.

Background Papers:

<https://planning.hyndburnbc.gov.uk/Northgate/ES/Presentation/Planning/OnlinePlanning/OnlinePlanningOverview?applicationNumber=11%2F22%2F0435#>

Additional Background Papers:

The National Planning Policy Framework (NPPF)

National Planning Policy Guidance

Report For: Planning Committee

Application Ref: 11/24/0389

Application Address: Knuzden Moss Farm, Stanhill Road, Oswaldtwistle, BB5 3RE

Full Application: Major Full: Development of a Battery Energy Storage System (BESS) and Associated Infrastructure.

Date for Decision: 17/02/2025 (Ext. until 01/05/2025)

Site and Proposal

This is an application for full planning permission for development of a 60MW Battery Energy Storage System (BESS) to provide energy balancing services to the National Grid. This type of facility operates by taking electricity from the Grid at times of low demand, storing it in batteries, and releasing it back to the Grid when demand is high.

Demand for electricity can vary dramatically across the day. Using fossil fuels, it was possible to adjust the amount of power being generated to match the amount required. However, that is much harder with renewable energy sources. When the amount of power being generated exceeds demand, BESS charge up and store the energy, releasing power back into the grid when demand increases. As such, BESS play a key role between renewable energy supplies and responding to energy demands.

The application site (as amended 17th March 2025) is a 2.05ha parcel of agricultural land and woodland to the south of Stanhill Road and to the west of the M65 Motorway. White Ash and Stanhill Barn are located to the north of the site, adjacent to Knuzden Moss Farm. The point of access as originally applied for was a private gate located along Stanhill Road through Knuzden Moss Farm. The proposal was amended on 17th March by submission of new access details, with the new point of access further to the east and therefore further from the motorway. The site is located within the designated Green Belt.

The proposed development would comprise of the following equipment:

- Fenced compound measuring 117m x 50m containing:
 - 14no. Battery Clusters
 - 7no. BESS Transformers on banded foundations
 - 1no. Site Welfare and LV Switchroom placed on paving slabs at the corners

- 1no 33kV BESS switchroom on raised pillars
- 2no. 132kV Substation Switchrooms
- 1no. 33kV/415V Site Supply Transformer on bunded foundation
- 2no. 132kV Substation within a compound. This compound to have a bunded foundation
- 2no. car parking spaces
- 2no. Water Tanks
- 1no. Fire Hydrant

The compound would have two rows of battery clusters and transformers accessed by two internal access tracks with two gates from the access road to the site. There would be one switchroom at the end of a battery cluster row. The substation compound would lie to the south of the rows of battery clusters whilst the remainder of the site would contain a SuDs pond and landscaping.

The compound surface would comprise primarily of permeable ground with the BESS clusters sat on screw piles on concrete foundations. The invertors would have bunded concrete foundations and the switchroom would be placed on paving slabs in the corners. Internal access tracks within the compound would consist of a type 1 (i.e. <40mm) compacted stone. The compound would be surrounded by a 3m high acoustic fence to the north, east and west with a mesh fence which would be 2.4m in height to the south. 24hr CCTV will be located along the compound perimeter.

A screening opinion under the Town and Country Planning (Environmental Impact Assessment) Regulations 2017 was submitted to the LPA in June 2024. The LPA do not consider the proposed development to comprise EIA development.

The operational period described within the application is 40 years from the date of energisation. Prior to this would be a construction period, estimated at between 12 to 14 months, plus an as yet undescribed restoration period following decommissioning. Due to the nature of the proposed use and the requirement to secure a grid connection date at a time appropriate to need, the applicant asks that if planning permission is granted, the standard 3 year conditional period for implementation be replaced by a 7 year period. The applicant proposes that this be a temporary consent for the operational period plus that required for decommissioning and site restoration.

Consultations

Public Consultation:

Residents have been notified of the application by letter and site notice (x3). The planning application has also been publicised in the local newspaper. Following receipt of amended access details a further site notice was erected on 17th March 2025 and letters were sent again to residents.

Sarah Smith MP has expressed her interest in this planning application.

One representation in support of the proposal has been received to date (7th April 2025).

38 objections have been received to date (7th April 2025) and have raised the following concerns:

Principle of Development/ Consideration of Green Belt Policy

- Hyndburn Local Plan states that the West Pennine Moors should be protected from development.
- There are many brownfield sites more readily accessible.
- No very special circumstances required for Green Belt development.

Visual Appearance and Landscape Impact

- The proposed structures, reaching heights of up to 6 meters, alongside imposing 3-meter high acoustic fences and an extensive footprint of 60,000 square feet, would create an industrial landscape that is wholly incompatible with the character and heritage of the surrounding rural environment. Efforts to mask the visual impact of this development are unlikely to mitigate its stark and overwhelming presence.
- Visual amenity gained by 20 years of forest growth and land recovery from former chemical works will be immediately dismissed.

Impact upon Residential Amenity

- Noise pollution and constant humming noise.
- Battery storage facilities can emit constant noise from air conditioning units, inverters, and transformers.
- The proximity of this facility to Brookside Nature Reserve and established Public Rights of Way raises significant concerns regarding visual amenity and noise disturbance.

Site Safety

- High risk of thermal runaway
- Potential for accidental fire, vandalism or terrorism risk.
- Potential lethal toxic nature of gas emissions and water runoff in the event of a fire/explosion and impact on Nature Reserve site, local residents and footpath users.

Highway Safety and Traffic

- The main road is a busy bus route and the location is a potential traffic and accident risk.

- The units will generate extra road traffic because of their high service and maintenance requirements. This will be particularly disruptive while the site is under construction.
- The revised point of access will be closer to dwellings thus exacerbating existing highway danger as a result of poor visibility onto the main road.
- Stanhill Road inadequate for HGVs, with increase use by HGVs likely to exacerbate existing highway danger.
- Size of access road would have to be excessive for location particularly given difference in gradient between the main road and the main body of the site, combined with the proximity to dwellings.

Landscaping, Ecology and Biodiversity Net Gain

- Impact on wildlife including upon bats.
- The proposal is next to a new Nature Park for Hyndburn (Brookside Nature Reserve) with six project partners and community volunteers working to restore the area supported by a grant from the National Lottery Climate Action Fund.
- The new access point will require additional trees to be lost.

Additional Considerations

- The power generated by the development will go straight to the national grid – this will not be a source of cheap electricity for people living in the vicinity of the facility.
- Updated Government Energy Strategy is looking towards small nuclear reactors (SMRs) as the solution to energy production.
- The proposal does nothing to benefit the local community and is for the financial gain of the applicant.
- Lack of consultation with local residents.
- Battery technology is high carbon in manufacture and is mistakenly promoted as being green energy.

An objection has also been received from Stanhill Village Community Association (SVCA) which raises the following concerns:

- The proposal includes significant physical infrastructure that does not represent appropriate development in a rural area, and is also inappropriate development in the green belt.
- The development is sited adjacent to Brookside, a site that is currently under restoration with the main aims of carbon capture, the enhancement of biodiversity, and a place where people can enjoy peace and tranquility. The committee felt that this development would compromise these aims.
- SVCA are a stakeholder and partner in the Brookside project. As such, the committee is of the opinion that this development conflicts with the overall ethos of the Brookside Restoration Project.

- The risk of fire and explosion, albeit small, has the potential to cause serious harm to people and the environment. The composition of such batteries means that in a fire situation, thermal runaway can occur making them almost impossible to extinguish. If such an event was to happen, the potential for serious damage to local residents, the environment and the road network would be catastrophic. SVCA do not want such risks to be introduced so close to the areas mentioned above.

Lancashire Wildlife Trust:

Lancashire Wildlife Trust OBJECT to the application on the following grounds:

In paragraph 3.3.1 of the Preliminary Ecological Appraisal (PEA), the species list provided, although inevitably incomplete, is more closely associated with *Holcus-Juncus* grassland (g3c8 Yorkshire-fog-Soft-rush grassland), which, in the UKHab habitat classification, is other neutral grassland rather than modified grassland (g4), both of which would, however, appear to be in poor condition. The species list includes sheep's sorrel, which is almost certainly a mis-identification for Common Sorrel (*Rumex acetosa*), and the photograph in Figure 2 looks like the grassland also contains Meadow Buttercup and will support additional species.

If the site supports 1.0961 hectares of other neutral grassland rather than modified grassland, the number of baseline habitat units for the grassland is doubled, i.e. from 2.52 to 5.04 units, which means that the Biodiversity Net Gain (BNG) calculations are wrong and the application as it stands may not deliver the mandatory minimum of 10% BNG, hence the application should be REJECTED/REFUSED.

In addition, paragraph 3.3.5 of the PEA, states that field horsetail (*Equisetum arvense*) is an invasive non-native species (known as INNS for short), whereas the plant is in fact a native species. Whilst the species can be considered invasive in gardens and allotments, it isn't normally considered invasive in ditches and certainly isn't an INNS hence, due to this and the misidentifications mentioned above, the competence of the ecologists involved in the PEA can be questioned, hence the application should be REJECTED/REFUSED.

In order for the Council to determine the application in respect of the mandatory requirement for a minimum of 10% BNG, a more comprehensive and detailed survey of the grassland should be undertaken on at least one occasion at an appropriate time of the year hence the application as it stands should be REJECTED/REFUSED.

Lead Local Flood Authority:

No objection subject to flood risk and surface water drainage planning conditions.

Lancashire Fire and Rescue:

LFRS recognise that the developer/applicant has provided an Outline Battery Safety Management Plan (the OBSMP) that incorporates the guidance in the National Fire Chiefs Council guidance document Grid Scale Battery Energy Storage System planning – Guidance for FRS and UK Government guidance document Grid scale electrical energy storage systems: health and safety.

At present the documents submitted do not address all the areas that these guidance documents highlight in sufficient detail – this is acknowledged within the OBSMP, and reference is made to the Detailed Battery Safety Management Plan (DBSMP) that will be drawn up after planning consent has been obtained - and therefore LFRS would request that the Local Planning Authority do not grant planning permission for the site without imposing suitable conditions that will ensure that the DBSMP and Emergency Response Plan (ERP) are subsequently developed to the satisfaction of LFRS and the Planning Authority.

LFRS cannot design the safety system for the developer/applicant, so they should engage competent persons to assist them, as the ultimate responsibility for the safe design and running of these facilities rests with the developer/applicant.

The following observations are based on the proposed measures contained in the outline plan where there are recognised gaps in the available information pending such matters as selection of battery type. As this information becomes available there will need to be the ongoing collaboration between LFRS and the developer alluded to in the OBSMP to allow further observations to be raised and addressed effectively.

Access to the site

The rationale to justify the suitability of the access road layout, including a wind rose indicating observed wind conditions for the site, is noted.

Separation of BESS units

The updated OBSMP indicates that the separation between BESS units is intended to be maintained at a minimum of 3m, in line with LFRS recommendations.

Water supplies

The intended means of delivering the water from the storage tanks for FRS use is through a gravity-fed outlet on the tank itself; the concern is that the location of the tanks is more likely to be affected by products of combustion from a BESS unit fire based on the prevailing wind data provided elsewhere in the submission, and so an additional outlet location would help to ensure safe access to water regardless of wind conditions. The optimum solution, and one which has been adopted at other sites in Lancashire, is a system of pump-fed hydrants at points around the compound. In addition the DBSMP will need to address how the water levels will be

maintained.

Emergency plan

Elements of this including how and when LFRS will be alerted, how affected BESS units will be indicated, and other practical aspects of the ERP should be determined in consultation with LFRS, and it should be a condition of the planning permission that the developer/applicant does so.

LCC Archaeology:

We have considered this application with its supporting Archaeological Desk Based Assessment. We do not consider that any further archaeological work is required on this site.

LCC Highways (in response to the amended details submitted 17th March 2025):

Further to our previous comments dated 24th October 2024 and our meeting on the 23rd January 2025, the revised access location has been reviewed and the following comments are made.

The application seeks to place a 60MW battery storage site with a new access on Stanhill Road in a revised location approximately 52m east of the M65 bridge parapet. The construction period is expected to take 12-14 months.

Access

Stanhill Road is classified and subject to a 40mph speed limit, visibility splays can be provided to both sides of the access along Stanhill Road with X2.4m and Y120m which is in accordance with the Design Manual for Roads and Bridges.

Access to the site is proposed via a new access located approximately 52m east of the bridge parapet and approximately 18m east of the end of the vehicle restraint barrier.

The M65 motorway itself and the bridge which crosses the motorway carrying Stanhill Road are the responsibility of National Highways. The vehicle restraint barrier is the responsibility of Lancashire County Council. The revised site access location removes the requirement to alter the length or design of the existing barrier and therefore there is no requirement to undertake any assessment in this regard.

There has been unauthorised alterations and the removal of a 13m long section of the vehicle restraint barrier adjacent to the bridge and there are temporary concrete blocks located adjacent to the bridge. Lancashire County Council are responsible for the vehicle restraint barrier and will reinstate it as the earliest time for highway safety reasons.

The overhead high voltage power lines have been added to the drawing as requested, we would expect to see further details of this in the detailed design of the site access.

Drawing 'Proposed access preliminary design' LTP/5979/P1/01.01.Rev B shows the site access will be formed with a 7m wide carriageway with 12m radii on the west side to prevent an articulated vehicle exiting the site and turning left from straddling the carriageway onto the opposing lane. This is acceptable and following completion of the construction phase the site access radii can be reduced to a suitable width as required for the maintenance access vehicle.

There are no temporary or permanent gating arrangements proposed for the site access. Details should be submitted by condition and the gates need to be set back sufficiently to allow the longest vehicle to clear the carriageway of Stanhill Road.

During the construction period we would likely require temporary traffic management to be placed on Stanhill Road in the form of 'slow turning large vehicle' warning signage and potentially a temporary reduction of speed limit for highway safety reasons. This will be assessed during the S278 and street permit application process with Lancashire County Council.

The proposed gradient of the first 15m is 1:25 and then sloping continuously for 55m at 1:10. A significant amount of fill is required to construct the access road and the supporting embankment and there is an existing retaining wall indicated on the drawing along the highway boundary. A detailed design of the embankment and assessment of the impact upon the highway supporting infrastructure are required by condition.

The site access road will need to be paved with a bound material to avoid loose material being deposited onto the highway and a full construction traffic management plan will be requested to include a turning area, wheel washing facilities and operative car parking within the site.

The formation of the access on Stanhill Road will require a S278 agreement with Lancashire County Council whereby a technical approval and safety audit process will need to be undertaken. Early engagement with Lancashire County Council is recommended to prevent any delays, no works to form the access can be commenced until the legal agreement is signed which can be prolonged.

Highway trees

There are two highway trees to be removed within the highway verge and an amount of vegetation to cut back which lies within the visibility splay to the east side of the new access on Stanhill Road. Four new trees will be replaced within the site. The removal of the trees and trimming of vegetation will be agreed under the S278

agreement with Lancashire County Council. A scheme for the replacement trees can be submitted by condition.

Layout

It is noted that Lancashire Fire and Rescue are satisfied with the proposed layout in accordance with the 'National Fire Chiefs Council Guidance on Grid scale Battery Energy Storage System Planning' subject to conditions that will ensure that the Outline Battery Safety Management Plan (OBSMP) and Emergency Response Plan (ERP) are subsequently developed to the satisfaction of LFRS and the Planning Authority.

The layout allows all vehicles to enter and exit the highway in forward gear which we consider is necessary for highway safety.

There are no public rights of way recorded as crossing the site.

Conclusion

Lancashire County Council acting as the Highway Authority does not raise an objection regarding the proposed development and are of the opinion that the proposed development will not have a significant impact on highway safety, capacity or amenity in the immediate vicinity of the site.

Conditions suggested are:

- Submission/approval of a Construction Method Statement
- Submission/approval of detailed designs for embankments and access
- Submission/approval of temporary gate arrangements
- Replacement trees
- Height restriction on items/planting within visibility splays

National Highways (in response to the amended details submitted 17th March 2025):

Access

National Highways has reviewed the revised access arrangements drawing: LTP/5979/p1/01.01 A, and from National Highways' perspective we would be satisfied that this revised access proposal addresses our concerns over access, but that if for whatever reason the revised proposal were to suddenly be found not acceptable to LCC Highways (for whatever reason), we would then expect to be reconsulted on the application.

Drainage

National Highways is satisfied with the recommended Pre-commencement condition to be put in place to resolve the concern regarding the site drainage route.

Conclusion

Recognising the recent engagement and latest proposals, National Highways offers no objection subject to the informative below.

Informative

There should be no inference that the National Highways Planning Response supports the routing of any cabling to establish a grid connection most notably in relation to the M65 Stanhill overbridge. Nor does the National Highways planning response provide advice or guidance in respect to the requirements of the New Roads and Street Works Act 1991 (NRSWA) or other relevant legislation including any necessary agreements/easements.

CPRE Lancashire:

CPRE supports sustainable energy and understands that for Hyndburn and the surrounding areas to meet their energy needs in a sustainable way this might mean battery storage facilities coming forward. However, in this case we believe that this proposal is inappropriate and CPRE objects to the proposed development on the grounds that it does not meet relevant planning policy especially Local Plan Policy DM34: Development in the Green Belt and Countryside Area and there is insufficient ecological information to enable your authority to determine it especially with respect to the proximity of the site to a SSSI, Site of Local Natural Biological Importance and wildlife corridor.

Local democracy and community engagement

According to the Council's planning application webpage for the application, there is no statement of community involvement associated with the proposal or any other evidence of any community involvement. We do not think that sufficient community consultation has been undertaken in this case. Given the proximity, benefit and importance of the green space to local residents such engagement would have added value especially given the proximity to wildlife and recent loss of green belt to M65.

Climate and sustainable development

To ensure carbon zero development, CPRE encourages sustainable energy and recognises the contribution that energy storage can make. However, the proposed facility is in an inappropriate location given the existence of plenty of brownfield land in both Hyndburn and neighbouring Blackburn with Darwen. There is no need for it to be located in the middle of green belt and its location would be contrary to the overall aim of the green belt i.e. to prevent urban sprawl by keeping land permanently open as set out in the National Planning Policy Framework (NPPF); The NPPF gives great weight to Green Belts and states that its essential characteristics "are their openness

and their permanence” and these would be compromised by the proposal. The Green Belt at this point is very narrow; the last house in Oswaldtwistle that is not in the green belt is only around 700m from edge of the Green Belt in Blackburn and crosses a section of Green Belt whose main aim has already been compromised by the M65.

Biodiversity and nature’s recovery

CPRE campaign for biodiversity and nature recovery. The proposal would lead to a loss of greenspace which would mean a loss of biodiversity and reduced capacity for nature recovery. The Preliminary Ecological Survey (PES) recommends a bat survey between April and October but no report of the findings of such a survey accompanies the application. It also recommends an eDNA survey of the onsite pond for the presence of Great Crested Newt (*Triturus cristatus*) which would need to have been undertaken between mid-April and the end of June but no report of the findings of such a survey accompanies the application as submitted. As such there is insufficient ecological information to enable your authority to determine it especially with respect to the proximity of the site to a SSSI, Site of Local Natural Biological Importance and wildlife corridor.

Beauty and heritage

CPRE has long campaigned for better designed places to maintain local character and distinctiveness. The proposed storage would be behind fencing to screen noise and the view. However, even with the screening, the proposal, would, by virtue of its location in a green landscape, represent a deterioration of the visual amenity of the landscape. The proposal would, from the point of view of Beauty, be more appropriately located on previously developed land such as an industrial estate. Hyndburn’s Local Plan Policy Development Management DPD – DM34: Development in the Green Belt and Countryside Area states that all proposals involving the development of new buildings in either Green Belt must be capable of being developed without adversely affecting the character of the rural landscape and as such the proposal is contrary to this policy.

Health and wellbeing

CPRE is committed to protecting and enhancing our rural places and green spaces for the benefit of all in the future. Our health is inextricably linked to the health of our natural and built environments so we need to encourage more access to nature and green space and the degradation of the site runs against this principle and is contrary to Local Plan Policy Development Management DPD – DM34: Development in the Green Belt and Countryside Area which requires all proposals involving the development of new buildings in either Green Belt to protect and enhance nature conservation features and species, including the area’s soils.

United Utilities:

We request that the applicant provides a detailed drainage plan, and that United Utilities has the opportunity to review and comment on this plan prior to determination of this application. Should planning permission be granted without the provision of this information we request a planning condition be attached.

HBC Environmental Health:

A Battery Energy Storage System (BESS) allows energy from renewable energy sources to be stored and released when power is needed most. As such, green energy is available for use, when no green energy source is available. For example, stored solar energy could be released at night. However, market forces can also dictate when energy is released. It is generally expected that less energy is needed at night and therefore the equipment is in use less at these times.

Although this is generally regarded as a rural area, it is predictably noted in the report that the dominant noise source is the M65.

The noise report has utilised the correct methodology, in that the existing noise climate has been monitored over a period almost 3 days, incorporating a whole weekend, plus almost 24 hours. The equipment to be used has then been assessed, taking account of proposed mitigation measures (a three sided barrier and the use of inverters). The calculations also take account of the distance to the receptors, and the predicted noise levels at several noise receptor premises have been calculated. When a new noise source exceeds an existing background noise level, it can be noticeable. The greater the exceedance, the more noticeable it is. Normally, no increase is expected or requested. The modelling indicates that there will be a marginal increase of 1 decibel in excess of the background levels, which is normally classed as not noticeable. However, it is pointed out that the figures are based on BESS usage of 100% of the time (worst possible case). As mentioned, this is normally not the case with usage after 23.00 reduced, as the demand for electricity naturally reduces.

As such, I have no objection in principle to this proposal, but given the predicted figures have been produced with mitigation measures in place, these should be utilised and maintained for the duration of the development.

HBC Ecology (in response to the amended details submitted 17th March 2025):

The applicant has submitted a DEFRA Statutory Biodiversity Metric, Biodiversity Net Gain Report, Preliminary Ecological Appraisal and Arboricultural Impact Assessment, which includes details and photographs of the pre-development site condition and habitat baseline.

The submitted SBM and BNG Report demonstrates a habitat unit gain of +10.31%, hedgerow unit gain of +0.79 Units, and water course unit gain of +14.94%.

Nevertheless, despite achieving a BNG gain of +10.31%, the scheme results in trading down (the loss of higher distinctiveness habitat to lower distinctiveness habitat). The scheme will result in the loss of 3.75 habitat unit, medium distinctiveness deciduous woodland, which is not replaced onsite. The loss of 3.75 habitat units must be compensated offsite through the purchase of woodland habitat units from a suitable habitat unit provider.

This scheme requires both onsite habitat creation and offsite habitat compensation, in accordance with the Biodiversity Gain Regulations 2024.

The significant onsite habitat creation must be maintained for a 30 year period following completion of development. A 30 year Habitat Management and Monitoring Plan (HMMP) must be approved and secured by S106 agreement.

Conditions suggested are:

- BNG conditions including 30 years management and monitoring
- Arboricultural Method Statement and Tree Protection Plan
- Ditch protection
- Ecological Construction Plan
- Landscaping Scheme
- Incorporation of features for hedgehogs plus log piles and bat boxes
- Restriction on timing for removal of planting to avoid nesting season
- Post-completion Statement of Good Practice
- Control of external lighting

Relevant Planning History

11/24/0275 Request for Environmental Impact Assessment (EIA) Screening Opinion for Proposed Battery Energy Storage System. Decision: Observations made 08/08/2024.

Relevant Policies

Hyndburn Core Strategy (CS)

Policy Env1 Green Infrastructure

Policy Env2 Natural Environment Enhancement

Policy Env3 Landscape Character

Policy Env4 Sustainable Development & Climate Change

Policy Env5 Renewable Energy

Policy Env6 High Quality Design

Policy Env7 Environmental Amenity

Policy T2 Cycle and Footpath Networks

Hyndburn Development Management Development Plan Document (DMDPD)

Policy GC1 Presumption in favour of Sustainable Development

Policy DM17 Trees, Woodland and Hedgerows

Policy DM18 Protection and Enhancement of the Natural Environment

Policy DM19 Protected Species

Policy DM20 Flood Risk Management and Water Resources

Policy DM22 Heritage Assets

Policy DM25 Pollution Control

Policy DM26 Design Quality and Materials

Policy DM29 Environmental Amenity

Policy DM32 Sustainable Transport, Traffic and Highway Safety

Policy DM34 Development in the Green Belt and Countryside Area

Material Considerations

National Planning Policy Framework

National Planning Policy Guidance

National Policy Statements (NPSs) for Energy Infrastructure

Noise Policy Statement for England

Observations

Section 38(6) of the Planning and Compulsory Purchase Act 2004 requires that planning applications be determined in accordance with the Development Plan unless material considerations indicate otherwise. The statutory Development Plan for Hyndburn comprises of Core Strategy (2012), Development Management DPD (2018), the Accrington Area Action Plan.

The main issues raised by this application relate to the principle of development (including its impact on the Green Belt); its design and appearance; impact on the amenity of the appearance; highway safety, impact on the character of the landscape, flood risk and drainage and; ecology.

1. Principle of Development

1.1. Core Strategy Policy Env5 is relevant to the proposed development. The policy supports the development of new sources of renewable energy subject to considerations a) to f). This includes:

- a) the requirement for the development to provide measures to avoid and where appropriate mitigate any negative impacts of the effects on local amenity resulting from development, construction and operation of the schemes, and;

- b) the visual impact can be accommodated within the landscape and the development would not give rise to an unacceptable adverse cumulative impact when considered in the context of other existing or consented developments, and;
- c) measures are taken to avoid and where appropriate mitigate any negative effect of the development on nature conservation features, biodiversity and geodiversity, including habitats and species, and;
- d) the site is accessible and the development of supporting infrastructure does not itself result in unacceptable adverse impacts, and;
- e) developers have engaged with the community and local authority at an early stage prior to the formal submission of any proposals, and;
- f) large scale renewable energy developments make provision for direct community benefits over the period of the development.

1.2. Although BESS sites do not generate electricity in and of themselves, it is accepted that BESSs fall to be considered under Policy Env5. Recent amendments to Section 4 of the Electricity Act 1989 (as amended) clarified that electricity storage, such as BESS, is a distinct subset of generation within the Act. Planning Practice Guidance (PPG) in relation to renewable and low carbon energy now contains a dedicated BESS section.

1.3. The NPPF, at paragraph 168, offers support to renewable and low carbon energy and associated infrastructure. Paragraph 168 states:

When determining planning applications for all forms of renewable and low carbon energy developments and their associated infrastructure, local planning authorities should:

- a) not require applicants to demonstrate the overall need for renewable or low carbon energy, and give significant weight to the benefits associated with renewable and low carbon energy generation and the proposal's contribution to a net zero future;
- b) recognise that small-scale and community-led projects provide a valuable contribution to cutting greenhouse gas emissions;
- c) in the case of applications for the repowering and life-extension of existing renewable sites, give significant weight to the benefits of utilising an established site.

1.4. The National Policy Statements (NPS) set out national policy for energy infrastructure. NPSs may be a material consideration in decision making on planning applications. The Government's vision is to transition to a net zero economy and to ensure a secure, reliable and affordable energy supply. The

government set a legally binding target to reduce the UK's greenhouse gas emissions by 100% by 2050, compared with 1990 levels. Meeting these objectives will necessitate a significant amount of new energy infrastructure including infrastructure to store and transport primary fuels to respond to fluctuations in supply and demand.

Consideration of Green Belt Policy

- 1.5. The application site is located within the Green Belt and therefore Section 13 of the NPPF and Policy DM34 of the DMDPD are relevant to the consideration of the application. Since the application was submitted the NPPF has been amended. Of particular relevance to this proposal is the addition of the concept of Grey Belt. Whilst not a Local Plan designation, a determination of whether the site is within 'Grey Belt', i.e. whether that site meets certain parameters stated in the NPPF, is fundamental to whether planning permission should be granted.
- 1.6. Consideration of whether the proposal meets Green Belt policy is divided into four sections within this Report;
 - 1) Whether it meets the fundamental aim of the Green Belt and in particular the five purposes described in NPPF Para. 143.
 - 2) Whether it can be treated as an appropriate exception as described in NPPF Para.154.
 - 3) Whether the proposal can be considered acceptable as a 'very special circumstance' as per NPPF Para. 153 and with reference to Para. 160.
 - 4) Whether the site can be considered Grey Belt as described in NPPF Para. 155 and the NPPF glossary, definition, and the proposal can be treated as acceptable as a result.

Note that balanced consideration is required for each of the four elements. Note also that Hyndburn's adopted Local Plan Policy DM34 encompasses elements 1,2 and 3, but doesn't include reference to Grey Belt.

1.7. NPPF Para. 143 – Fundamental Aims

The fundamental aim of Green Belt policy is to prevent urban sprawl by keeping land permanently open; the essential characteristics of Green Belts are their openness and their permanence. The five purposes of Green Belt are set out at paragraph 143 of the NPPF as follows:

- a) to check the unrestricted sprawl of large built-up areas;
- b) to prevent neighbouring towns merging into one another;
- c) to assist in safeguarding the countryside from encroachment;

- d) to preserve the setting and special character of historic towns; and
- e) to assist in urban regeneration, by encouraging the recycling of derelict and other urban land.

To test against each aim in order:

- a) The closest settlements are Knuzden 450m to the north-west and the main body of Oswaldtwistle 750m to the east. There is no common, accepted definition of 'large built-up area' in planning terms, however in my view it is reasonable to include Knuzden and Oswaldtwistle within the conurbations of Blackburn and Accrington respectively and to describe those conurbations each as a 'large, built-up area'. As such it is reasonable to describe the site as between two large built-up areas for the purposes of assessment against the provisions of the NPPF and in particular (a) of Para.143.

Siting a 2.05ha development in the Green Belt between two large built-up areas cannot be considered as checking 'sprawl', therefore the proposal fails point (a).

- b) Likewise locating a development of this size between two towns can only assist in them merging into one. The proposal fails point (b).
- c) The proposal is located in the countryside albeit it won't be overly visible from public vistas, and in this sense the Green Belt purpose of safeguarding from encroachment isn't met, therefore the proposal fails point (c).
- d) The site will have no impact upon the setting and special character of historic towns. All towns are 'historic' in a sense, however the site is sufficiently distanced from Knuzden and Oswaldtwistle to not affect their setting nor their character.
- e) The Green Belt assists in urban regeneration by virtue of the limitation it places upon development in non-urban areas. The proposal will not prevent the remaining Green Belt from doing this.

The applicant has acknowledged that the development proposal is inappropriate development in the Green Belt and does not meet the requirements of Para. 143.

1.8. NPPF Para.154 – Appropriate Exception

Para.154 states that development in the Green Belt is inappropriate unless one of a list of exceptions applies. The list is lengthy, however a BESS or similar proposal isn't included. Therefore the proposal doesn't accord with Para.154.

1.9. NPPF Para. 153 – Very Special Circumstances

Para.153 states that when considering any planning application, local planning authorities should ensure that substantial weight is given to any harm to the Green Belt, including harm to its openness. Inappropriate development is, by definition, harmful to the Green Belt and should not be approved except in very special circumstances. 'Very special circumstances' will not exist unless the potential harm to the Green Belt by reason of inappropriateness, and any other harm resulting from the proposal, is clearly outweighed by other considerations.

Para.160 states that when located in the Green Belt, elements of many renewable energy projects will comprise inappropriate development. In such cases developers will need to demonstrate very special circumstances if projects are to proceed. Such very special circumstances may include the wider environmental benefits associated with increased production of energy from renewable sources.

The need for battery storage provision to save surplus electricity and to enable its controlled release back into the grid is well documented and is not in dispute. The matter of whether this need constitutes a 'very special circumstance' that outweighs potential harm to the Green Belt has been tested repeatedly on appeal, and a typical view given by the Inspectorate (e.g. Appeal Ref: APP/C4615/W/24/3345744 determined 2nd April 2025 at Dudley Metropolitan Borough Council) is:

"The proposal would constitute inappropriate development in the Green Belt and should not be approved except in very special circumstances. The Framework at paragraph 153 requires the decision maker to give substantial weight to any harm to the GB, including harm to its openness, which is one of the purposes of including land within the Green Belt. Moreover, very special circumstances will not exist unless the potential harm to the Green Belt by reason of inappropriateness, and any other harm resulting from the proposal, is clearly outweighed by other considerations.

The very significant weight attached to the contribution to mitigating climate change and to energy security, the significant weight attached to the absence of alternative sites and to the potential for permanent

BNG and the moderate weight that the economic benefits generated by the proposal clearly outweighs the temporary harm, to the character and appearance of the area. Accordingly, overall, very special circumstances exist which justify the development.”

Therefore, following the view of the Inspector in the Appeal decision quoted above, the principle of BESS in the Green Belt can be considered a ‘very special circumstance’ that can be acceptable under Para. 153 provided that, on balance, the degree of ‘other harm’ is acceptable. The degree of ‘other harm’ is considered further this Report.

1.10. NPPF Para. 155 – Grey Belt

The latest version of the NPPF (published December 2024) introduced the concept of ‘Grey Belt’. Para.155 states that the development of homes, commercial and other development in the Green Belt should also not be regarded as inappropriate where all the following apply:

- a. The development would utilise grey belt land and would not fundamentally undermine the purposes (taken together) of the remaining Green Belt across the area of the plan;
- b. There is a demonstrable unmet need for the type of development proposed;
- c. The development would be in a sustainable location, with particular reference to paragraphs 110 and 115 of this Framework;
- d. Where applicable the development proposed meets the ‘Golden Rules’.

To test each point in turn:

- a. The definition of Grey Belt land contained within the Glossary of the NPPF is ‘land in the Green Belt comprising previously developed land and/or any other land that, in either case, does not strongly contribute to any of purposes (a), (b), or (d) in paragraph 143.’ In this instance the site isn’t previously developed land and it does strongly contribute to (a) and (b) of Para.143 (see 1.7. above). It doesn’t strongly contribute to Para.143 (d), however by virtue of its contribution to purposes (a) and (b), the site cannot be considered Grey Belt.

It should be noted that an assessment of Green Belt boundaries was completed by the Council in July 2019 to support the emerging Hyndburn Local Plan. The application site is located within General Area 6 which

was assessed as making a moderate contribution to Green Belt purposes overall. A more specific assessment of small parcels of land close to the site identified them as making a strong contribution to the purposes of the Green Belt, therefore it is highly likely that should this site have been assessed in isolation at the time, the same view would have been reached.

- b. There is a demonstrable unmet need for this type of development.
- c. The site is in a sustainable location if one considers that post-construction phase the anticipated number of vehicle journeys to and from site will be relatively few in comparison with other more vehicle-intensive forms of development. The Transport Statement submitted with the application estimates the number of HGV journeys during the construction phase as 486 two-way movements plus smaller vehicle journeys for an estimated 15 construction staff. The estimated number of vehicle journeys during the operational phase, an estimated 40 years, is 10-20 small vehicle journeys per month, which is sustainable given the proximity to the road linking nearby settlements.
- d. The 'Golden Rules' are not relevant to this form of development.

The site is not therefore considered to be 'Grey Belt' for the purposes of determination of this planning application nor does it meet all the Para.155 requirements.

1.11. In respect of Green Belt and the NPPF therefore, the proposal isn't acceptable under the tests in Paras. 143, 154 and 155, however is acceptable as a 'very special circumstance' under Para. 153 provided that, on balance, the weight attributed to its positive factors outweighs any temporary harm caused to the character and appearance of the area and to other interests of acknowledged importance. These are considered below.

1.12. The site is currently undeveloped with an absence of any built form. The proposed development would result in a range of buildings and equipment being placed at the site including:

- 14no. Battery Clusters (footprint of 6.1m x 2.5m and 2.5m in height)
- 7no. BESS Transformers on banded foundations (maximum dimensions of 9.8m x 5m and 2.3m in height)
- 1no. Site Welfare and LV Switchroom placed on paving slabs at the corners (footprint of 7.5m x 2.3m and 2.9m in height)

- 1no 33kV BESS switchroom on raised pillars (footprint of 12.3m x 3.3m and height of 4.4m)
- 2no. 132kV Substation Switchrooms (3.3m in height)
- 1no. 33kV/415V Site Supply Transformer on bunded foundation (3.3m x 2.3m and height of 3.2m)
- 2no. 132kV Substation Transformer (9.3m x 5.5m and 6.8m in height)
- 2no. car parking spaces
- 2no. Water Tanks (11m wide and 4.5m in height)
- 1no. Fire Hydrant

1.13. Due to the size of the compound, the equivalent of an adult football pitch, and volume of the proposed buildings and equipment, the proposed development would result in harm to the spatial dimension of Green Belt openness. However it is acknowledged in Appeal decisions that harm to spatial openness can be tempered by visual perception. In other words, the fact that something may occupy ground isn't in itself sufficient reason to refuse an application on Green Belt grounds, as the impact of a development is also determined by how prominent it is in the landscape.

1.14. Having regard to the visual dimension of Green Belt openness, the application site is relatively well-screened by existing woodland from viewpoints from the public footpath (FP1105016) to the east and bridleway (BW1105015) to the south. Stanhill Road to the north overlooks the site and the proposed development would be perceptible from this viewpoint although the applicant proposes some landscape planting to screen the development.

1.15. The most prominent elements of the scheme would be the substation transformers which extend to a height of 6.8m. However, the site is well contained by existing landscape features. The submitted Landscape and Visual Appraisal notes that the visual envelope of the site is relatively limited, although during the months when vegetation loses its foliage, visibility of the site would increase. The harm to the visual dimension of openness is considered to be moderate subject to appropriate mitigation (i.e. landscape screening and the use of appropriate materials and colours).

1.16. There would be considerable activity during the construction phase of the development, both on and off site. However, this would be temporary and once operational the number of vehicle movements to and from the site would be low. The BESS would operate on an unmanned basis with an estimated 10-20 vehicle trips to site per month. This factor albeit relating to vehicle journeys and vehicles parked on site rather than to fixed plant, fencing etc. does contribute to the impact of the proposal on the Green Belt.

- 1.17. The development would have a lifespan of 40 years from energisation after which the site would be decommissioned and the land restored to its previous condition. The duration of the development and its remediability must be taken into account. Whilst the impact would be for 40 years only, this would still be a significant period for the harm identified to persist. However, this is a matter considered in recent Appeal decisions, and in those instances, the Inspectorate has accepted BESS development to be 'temporary' and this has weighed in their favour within the planning balance.
- 1.18. The applicant has submitted an Alternative Sites Assessment (ASA) and Brownfield Analysis Report. In selecting a viable BESS site there is a need to both import and export energy from and to the grid as required. A grid connection point must have available capacity with the ability to connect the BESS without the requirement for significant upgrades to the network to facilitate the connection. There is spare capacity at Blackburn grid supply point (GSP). The feasibility of projects is said to be constrained to within a 3km cable route of the grid point of connection that in this case would be made into a pylon to the north west of the site.
- 1.19. The applicant states that within urban areas, sites meeting such criteria are not commonplace, as well as having competition from other land uses such as residential and commercial development which make those locations unviable. The search area is in this case limited to within 3km of Blackburn GSP which is located close to junction 6 of the M65 motorway.
- 1.20. The ASA contains a map indicating suitable site options where landowners were contacted by the applicant. The majority of these are within the Green Belt and extend into the boroughs of Blackburn and Ribble Valley.
- 1.21. It is noted that a number of other low carbon energy facilities have been permitted and implemented within the borough of Hyndburn. Gas fuelled energy reserve plants have been built within established industrial areas at Land off Barons Way, Great Harwood, and Land off Petre Road, Clayton-le-Moors. Whilst these sites operate differently to BESS sites insofar that they are gas-fuelled power plants that produce their own electricity to feed into the grid, the requirement for spare capacity on the network and for the site to be close to a grid point of connection remains.
- 1.22. A 25MW BESS site at Land at Davies Road, Blackburn, was granted planning permission in March 2022. The site is located directly adjacent to the M65 junction 6 roundabout next to an existing industrial estate.
- 1.23. The approach of locating new energy facilities within, or adjacent to, existing industrial or commercial uses is considered a suitable approach. The above

cases demonstrate the availability of such sites and the Council's willingness to support these within urban areas. If no suitable sites are available within the urban boundary, consideration should be given to the redevelopment of previously developed land (PDL) in the rural areas, including the Green Belt.

- 1.24. The applicant's Brownfield Analysis Report states that brownfield sites are prioritised for development wherever possible. This includes consideration of all sites on the Council's Brownfield Site Register and a review of satellite imagery. 7no Brownfield Land sites were identified but were not large enough to accommodate the proposed development. All of these sites were also located in residential areas and were therefore too close to residential properties.
- 1.25. 5no industrial sites, all located within the Borough of Blackburn with Darwen, were also considered but were ruled out for numerous reasons including:
 - Public footpaths running through the site
 - Proximity of occupied buildings
 - Requirement for cable routes and construction traffic to move through urban and residential areas
- 1.26. Further research into these sites has found that they either already benefit from existing planning permission for residential or employment development or are allocated in the Blackburn with Darwen Local Plan for future employment development.
- 1.27. In summary, the proposal would be inappropriate development in the Green Belt that would conflict with the Green Belt's purpose to safeguard the countryside from encroachment and encourage the recycling of derelict and other urban land and would result in harm to openness in spatial terms and a moderate loss of visual openness. In accordance with the provisions of the NPPF, this harm attracts substantial weight and unless very special circumstances exist, the proposal should not be approved. Given recent Appeal decisions and changes to the NPPF in December 2024 however, the balance has swung in favour of BESS sites in the Green Belt and the 'bar' at which harm is considered to be sufficient to require refusal has been raised considerably, to the point where what was not acceptable pre-December 2024 is acceptable now. On balance and in particular taking into account recent Appeal decisions supporting similar proposals in Green Belt, the level of harm likely resultant from this temporary proposal isn't considered sufficient to require refusal of this planning application on Green Belt grounds.

2. Visual Appearance and Landscape Impact

- 2.1. Hyndburn Core Strategy Policy Env6 and Policy DM26 of the Hyndburn Development Management DPD, along with the provisions of the NPPF all require development to be of high quality design. Core Strategy Policy Env3 requires new development to be appropriate to landscape character type, ensuring that new development is well integrated into its surroundings.
- 2.2. The applicant has submitted a Landscape and Visual Appraisal (LVA) to assess the visual impact of the development and its impact on the character of the landscape.
- 2.3. In terms of the site's sensitivity, the area locally is affected by traffic noise from the M65 Motorway to the west and there a number of man-made elements include the motorway, roads and electricity pylons. The LVA has assessed the visual impact of the proposed development from 5no viewpoints from Stanhill Road and nearby public footpaths.
- 2.4. The woodland surrounding the site would provide visual enclosure and the LVA assesses the impact as being minor when viewed from Stanhill Road. There would be no views directly into the site from the Public Rights of Way to the east and south due to intervening woodland.
- 2.5. However, the proposed development would change the character of the site, resulting in an adverse impact on the visual amenity of the site and its immediate locality. The proposed soft landscaping would take some time to mature during which the site would be more prominent from Stanhill Road and as discussed below, the proposed landscaping may be considered unsafe due to its proximity to the BESS units.
- 2.6. It is also important to note that the area of land immediately to the east and south of the site forms part of a wider 87-acre site known as Brookside (Bury Meadows). The Council, in partnership a number of other organisations, have purchased the site and earmarked it for restoration, transforming the land into a new country park. A concept 'Masterplan' for the site has been produced and indicates provision of new desire lines and paths close to the application site boundary. Development of the application site for the proposed use is at odds with the Council's aspirations for Brookside and would impact on the amenity and tranquillity of those areas of land close to the application site.

3. Impact upon Residential Amenity

- 3.1. Core Strategy Policy Env7 and Development Management DPD Policy DM29 aim to protect the amenity of other uses adjacent to development. Policy Env7 requires proposals for new development to demonstrate that the material

impacts arising by reason of traffic, visual impact, noise, dust, emissions, pollution, odour, over-looking or loss of light, or other nuisances will not give rise to unacceptable adverse impacts or loss of local amenity and can be properly controlled in accordance with best practice and recognised standards. DMDPD Policy DM25 'Pollution Control' is also relevant.

- 3.2. The NPPF, at paragraph 187, requires decisions to ensure that new development is appropriate for its location taking into account the likely effects of pollution, including that from noise, on the natural and local environment and existing development.
- 3.3. A noise assessment has been undertaken to predict the potential impact of noise from the development on the nearest noise sensitive receptors, with the most affected likely to be residents of Stanhill Barn, Stanhill Road. The assessment concludes that the impact on noise is likely to be low subject to appropriate mitigation, specifically the erection of a 3m acoustic barrier to the west, north and east compound boundary and attenuation to the inverters.
- 3.4. The Council's Environmental Health Officer has raised no objection in relation to the noise impacts of the development and is therefore satisfied that whilst the proposed development may slightly affect the acoustic character of an area it would not be to the extent that there is a change in quality of life for nearby receptors.

4. Site Safety

- 4.1. A number concerns have been raised in relation to the safety of BESSs, with a common concern being the use of lithium-ion batteries and potential fire risk. This issue is considered in detail in the House of Commons Library Research Briefing 19 April 2024, 'Battery energy storage systems'. Lithium-ion battery fires are very rare and occur when part of a battery is damaged or has a manufacturing fault. Battery fires can be difficult to extinguish because batteries contain a lot of fuel to sustain a fire and the gases produced are toxic. There are also concerns that toxic metals and chemicals can leach into the water used to fight the fire which could then end up in water systems, posing a risk to wildlife.
- 4.2. However, the understanding of the cause of battery fires has improved in recent years with better and more flame-resistant battery designs. The NPPG encourages applicants and local authorities to consider guidance produced by the National Fire Chiefs Council (NFCC).
- 4.3. The application is supported by an Outline Battery Safety Management Plan (OBSMP) setting out safety management processes and procedures including

24/7 remote monitoring and control capability, segregation of containers to help reduce the risk of fire spread and protection of the site with security fencing and CCTV cameras. The applicant also proposes the siting of two water storage tanks on-site.

- 4.4. The Lancashire Fire and Rescue Service (LFRS) has been consulted on this application. Initially concerns were raised relating to the site access, separation distances between battery clusters and availability of water for the Fire Service. Following submission of further details in response to LFRS's concerns, no objection is raised by LFRS subject to imposition of Conditions requiring that a Detailed Battery Safety Management Plan (DBSMP) and Emergency Response Plan (ERP) are developed to the satisfaction of LFRS and the Planning Authority.
- 4.5. The NFCC Guidance states that suitable facilities for safely accessing and egressing the site should be provided, which should include at least two separate access points to account for opposite wind directions. The application site is served by a single point of access from Stanhill Road which splits to give alternative access points into the compound. The scheme as originally submitted had the split directly adjacent to the compound which was unacceptable to the LFRS. The scheme as amended shows the split a further 25m approx. to the west.
- 4.6. The NFCC Guidance also suggests a standard minimum spacing between BESS units of 6 metres (m) unless suitable design features can be introduced, which are supported by a clear evidence base. The scheme as proposed with minimum spacing of 3.0m is acceptable to the LFRS, subject to the Conditions suggested in (4.4.).
- 4.7. The NFCC Guidance states that areas within 10m of BESS units should be cleared of combustible vegetation and any other vegetation on site should be kept in a condition such that they do not increase the risk of fire on site. It continues that areas with wildfire risk or vegetation that would result in significantly sized fires should be factored into this assessment and additional cleared distances maintained as required.
- 4.8. The Soft Landscaping Proposals originally submitted in support of the application indicated soft landscaping within 10m of the units and this was unacceptable to the LFRS. Revised landscaping details submitted show trees further away from the units plus areas of 'hay meadow' to the west and east of the battery units to provide the required separation distance.
- 4.9. The NFCC Guidance states that suitable environmental protection measures should be provided, including systems for containing and managing water

runoff. The system capability and capacity should be based on anticipated water application rates, including the impact of water based fixed suppression systems. Runoff from the development would be contained with a SuDS system to ensure that any potentially contaminated runoff does not enter the water environment. This would be designed to prevent the escape of any firewater which would subsequently be tested for contamination. In the event that no contamination is found, the water would be allowed to runoff as normal. In the event harmful contamination is present, appropriate disposal measures would be arranged. United Utilities has requested that a drainage plan be submitted and agreed via a pre-commencement Condition.

5. Highway Safety and Traffic

- 5.1. DMDPD Policy DM32 requires that development should not give rise to an increase in traffic volumes that exceed local or strategic transport network capacity and should ensure that any new development would not have an adverse impact on highway safety.
- 5.2. A Transport Assessment has been submitted and considers the impact of construction traffic on the highway network indicating a proposed route for HGVs during the construction phase. Consideration has also been given to the suitability and safety of the proposed site access for larger vehicles. The location of the point of access has been revised during the application process to take account of concern on the part of National Highways and Lancashire County Council regarding the proximity to the motorway to the west, and subject to Conditions, both consultees are satisfied with the site access.
- 5.3. Construction is anticipated to be over a 12-14 month period during which it is estimated that there would be approximately 486 two-way HGV movements. During the operation phase around 10-20 trips by cars or LGVs would take place per month.
- 5.4. Based on the above, the Highway Authority 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.
- 5.5. National Highways (NH) has also been consulted on the planning application and confirms that the level of traffic generated by the development would not be likely to have a severe impact on the strategic road network. NH did note that a section of the safety barrier on approach to the M65 Stanhill Road bridge parapet had been removed and an access into the field created. The safety barrier is a safety requirement and therefore it is not possible for a new access to be opened up at the proposed location. As a result of this a new point of access further to the east has been incorporated into the design.

6. Landscaping, Ecology and Biodiversity Net Gain

- 6.1. In accordance with Core Strategy policies Env1 and Env2 and DMDPD Policy DM18, it is necessary to ensure that development is well landscaped and that Biodiversity Net Gain (BNG) is achieved on the site.
- 6.2. BNG is an approach to development, and/or land management, that aims to leave the natural environment in a measurably better state than it was beforehand. The Environment Act states that habitats should be secured for a minimum of 30 years. The Biodiversity Gain Hierarchy requires that in relation to all onsite habitats which are adversely affected by the development, the adverse effect should be compensated by prioritising in order, where possible, the enhancement of existing onsite habitats, creation of new onsite habitats, allocation of registered offsite gains and finally the purchase of biodiversity credits.
- 6.3. DMDPD Policy DM17 (Trees, Woodland and Hedgerows) states that “Development proposals must seek to avoid the loss of, and minimise the risk of harm to, existing trees, woodland, and/or hedgerows of visual or nature conservation value”.
- 6.4. A site survey identified a total of 15 individual trees, one tree group and one woodland on or adjacent to the site. The proposed development would require the removal of one category ‘B’ woodland and 5no category ‘C’ trees. In addition to this National Highways identify two trees on highway land that would have to be removed to create necessary visibility splays to Stanhill Road.
- 6.5. There are no ecological designations at the application site although survey results indicated opportunities for amphibians including the potential presence of great crested newts within waterbodies in proximity to the site. The site also has foraging potential for bats. Accordingly, additional survey work has been completed including a bat activity survey and great crested newt survey.
- 6.6. The bat activity survey found that the development may impact of foraging bats initially although compensation habitat planting is proposed. There would also be a requirement to implement a sensitive lighting scheme. A survey of nearby waterbodies tested negative for the presence of great crested newts. In event that the application is approved, there would be a requirement to ensure that mitigation measures set out in the Preliminary Ecological Appraisal Report are adhered to and the HBC ecology consultee has suggested a range of Conditions to ensure that opportunities for wildlife are enhanced.

- 6.7. With regard to BNG, the 10% required uplift can be achieved on site in relation to hedgerow and watercourse units and the development would achieve an on-site BNG gain of 10.31% overall. However, the net effect of the proposal would be a loss as the scheme results in trading down (the loss of higher distinctiveness habitat to lower distinctiveness habitat). The scheme will result in the loss of 3.75 habitat units, medium distinctiveness deciduous woodland, which is not able to be replaced onsite. The loss of 3.75 habitat units must therefore be compensated off-site through the purchase of woodland habitat units from a suitable habitat unit provider. Any permission granted would be subject to the statutory BNG condition with a requirement for the on and off-site BNG to be subject to 30-year management and monitoring as enshrined within an appropriate legal agreement.
- 6.8. Representations have been submitted by Lancashire Wildlife Trust (LWT) which raise a number of criticisms relating to the ecological surveys submitted in support of the application. Officers are satisfied that the applicant's surveyor is suitably qualified and a response has been provided to the points raised in the LWT's objection.

7. Drainage and Flood Risk

- 7.1. DMDPD Policy DM20 provides detail on the consideration of flood risk management in developments. The site is located within Flood Zone 1 and an assessment of all flood risk sources considers the site to be low risk.
- 7.2. The site would be developed using permeable surfacing materials to allow rainwater to infiltrate into the ground where it would be intercepted by pipework and carried to a controlled storage structure which would provide suitable treatment and attenuation prior to discharge.
- 7.3. No objections have been received from United Utilities or the Lead Local Flood Authority and a Condition is requested requiring submission/approval of a drainage plan.

8. Additional Considerations

- 8.1. The application is supported by a Heritage Statement. There are no designated heritage assets within the Site. Within 1km of the Site there are five Grade II Listed Buildings and the Stanhill Conservation Area. It is considered that the proposed development will not adversely affect the significance of any of the designated heritage assets

- 8.2. A number of additional considerations have been raised in representations. These relate primarily to the type of facility proposed and its benefits to the local community.
- 8.3. Current government guidance indicates that energy storage facilities such as the one proposed form part of the government's energy strategy to support the transition to low carbon and renewable energy sources.
- 8.4. Whilst the proposed development would not benefit the local community directly through the provision of low cost energy for example, it would provide a benefit to the wider network to ensure that network capacity can meet demand as the country relies more heavily on green energy.

Planning Balance and Conclusion

- 8.5. It is acknowledged that this is inappropriate development in the Green Belt and does not accord with DM DPD Policy DM34. However the DM DPD was drafted and adopted prior to introduction of the December 2024 NPPF. Chapter 13 of the NPPF describes development that is acceptable in the Green Belt under 'very special circumstances' and recent Appeal decisions have made it clear that BESS facilities are, subject to the planning balance applied to other harm, acceptable development.

Given that the balance is weighed heavily favour of battery storage presently and that 'other harm' is both limited within the proposal and will be mitigated by suggested Conditions, my conclusion is that this planning application should be approved.

Recommendation:

- i. That the application be approved subject to the conditions set out below; and,
- ii. That delegated authority be given to the Chief Planning and Transportation Officer to modify the wording of the conditions as necessary; and,
- iii. That delegated authority be given to the Legal Officer to enter into a s.106 Agreement to secure BNG.

Background Papers:

<https://planning.hyndburnbc.gov.uk/Northgate/ES/Presentation/Planning/OnlinePlanning/OnlinePlanningOverview?applicationNumber=11%2F24%2F0389>

Additional Background Papers:

The National Planning Policy Framework (NPPF)
National Planning Policy Guidance

Appeal References:

APP/C4615/W/24/3345744
APP/D3640/W/24/3347530
APP/N1920/W/23/3320599
APP/Q4625/W/24/3348223
APP/V4630/W/24/3347424

Conditions

1. The development hereby approved shall be commenced before the expiration of three years from the date of this permission.

Reason: To ensure that the Local Planning Authority retains the right to review unimplemented permissions and to comply with Section 91 (as amended) of the Town & Country Planning Act 1990.

2. The development shall be carried out in accordance with the following documents unless otherwise required by the conditions below:

The planning application form received by Hyndburn Borough Council on 26th September 2024

The following Plans and Documents received by Hyndburn Borough Council on 26th September 2024:

Drawing No. YLM-BESS-GEN-001.11 Rev. A – Water Tanks proposed
Root Power Transport Statement Ref. LTP/24/5979 dated August 2024
Topographical Survey sheets 1-3
Drawing No. YLM-BESS-GEN-001.4 Rev. A – Site Supply Transformer proposed
Drawing No. YLM-BESS-GEN-001.3 Rev. A – Site Cabin/LV Switchroom proposed
Drawing No. YLM-BESS-GEN-001.5 Rev. A – BESS Transformers and Inverters proposed
Drawing No. YLM-BESS-GEN-001.8 Rev. A – Wooden Fence proposed
Drawing No. YLM-BESS-GEN-001.6a Rev. A – BESS Battery Cluster proposed
Drawing No. YLM-BESS-GEN-001.2 Rev. A – Switchroom proposed
Drawing No. YLM-BESS-GEN-001.1a Rev. A – Substation proposed
Arboricultural Impact Assessment Ref. 81-840-R2-2 dated August 2024
Millar Goodall Noise Assessment Ref. 103162 dated 9th August 2024
Pegasus Group Heritage Assessment Ref. P24-1227 dated 30th July 2024
Gondolin Flood Risk & Drainage Assessment Report Ref. GON.0506.0268 dated 31st July 2024

PWA Planning Statement Ref. EP-24-138 dated September 2024
PWA Alternative Site Assessment Ref. EP-24-138 dated September 2024
E3P Great Crested Newt EDNA Survey Ref. 81-840-L1-1 dated July 2024
Construction Traffic Management Plan Ref. LTP/24/5979 dated August 2024
The following Plans and Documents received by Hyndburn Borough Council
on 19th November 2024:
Bat Activity Survey Report Ref. 81-840-R4-1 dated November 2024

The following Plans and Documents received by Hyndburn Borough Council
on 21st November 2024:
Drawing No. YLM-BESS-GEN-001.10a Rev. A – Substation Switchroom
proposed
Drawing No. YLM-BESS-GEN-001.10 Rev. A – Substation Transformer
proposed

The following Plans and Documents received by Hyndburn Borough Council
on 29th November 2024:
Outline Battery Safety Management Plan Ref. ARC-1223-005-R4 Issue 2
dated October 2024
Local Economic Benefits Statement undated
Root Power Supporting Cover Letter dated 26th November 2024
Root Power Brownfield Analysis dated November 2024

The following Plans and Documents received by Hyndburn Borough Council
on 4th December 2024:
Landscape and Visual Appraisal Ref. YLEM1488lva dated July 2024

The following Plans and Documents received by Hyndburn Borough Council
on 13th January 2025:
Visual Representations and AVR Non-Technical Methodology dated
December 2024

The following Plans and Documents received by Hyndburn Borough Council
on 17th January 2025:
The Statutory Biodiversity Metric -Technical Annex 1 dated July 2024

The following Plans and Documents received by Hyndburn Borough Council
on 13th March 2025:
Drawing No. LTP/5979/P1/04.01 Rev.B – Proposed Eastern Internal Access
Route
Drawing No. LTP/5979/P1/03.01 Rev.A – Proposed Western Internal Access
Route
Drawing No. YLEM1488-11 – Soft Landscape Proposals
Drawing No. KNZ-BESS-001.6 Rev.3 – Proposed Elevations

Drawing No. KNZ-BESS.001.5 Rev.3 – Proposed Layout

Drawing No. KNZ-BESS-001.4 Rev.1 – Location Plan

Drawing No. LTP/5979/P1/02.01 Rev.B – Proposed Visibility Splays

Drawing No. LTP/5979/P1/01.01 Rev.B – Proposed Access Design

The following Plans and Documents received by Hyndburn Borough Council on 17th March 2025:

Statutory Biodiversity Metric

Biodiversity Metric Report Ref. 81-840-R3 dated March 2025

Preliminary Ecological Appraisal Report Ref. 81-840-R1-3 dated March 2025

Arboricultural Impact Assessment Ref. 81-840-R2-3 dated February 2025

Reason: For the avoidance of doubt and to enable Hyndburn Borough Council to adequately control the development and to minimise its impact on local amenity, character of the countryside and the Green Belt. To conform with Policies Env2,3,4,5,6,7 and T2 of the Hyndburn Core Strategy, Policies GC1, DM17,18,19,20,22,25,26,29,32 and 34 of the Development Management DPD, and the National Planning Policy Framework.

3. This permission shall be for a limited period of forty (40) years from energisation, after which it shall be discontinued and all built form, including all hard surfacing and access tracks, and all planting/landscaping for screening purposes, removed from the site in accordance with a restoration scheme to be submitted to and approved in writing by the Local Planning Authority 12 months prior to decommissioning. The submitted restoration scheme shall detail the site's restoration to its previous use. The first operation date shall be notified to the LPA within 12 months of that date.

Reason: In the interests of visual amenity and the openness of the Green Belt in accordance with Hyndburn Core Strategy Policy Env3 and DMDPD Policy DM34 and Section 13 of the NPPF.

4. In the event the development ceases to export electricity to the grid for a continuous period of 12 months, a scheme of restoration for the removal of the Battery Energy Storage Facility and any associated equipment, shall be submitted to and approved in writing by the local planning authority within 3 months from the end of the 12-month period. The restoration scheme shall include details of the retention of any approved boundary treatment(s) and planting. The approved scheme of restoration shall then be fully implemented within 6 months of written approval being given.

Reason: In the interests of visual amenity and the openness of the Green Belt in accordance with Hyndburn Core Strategy Policy Env3 and DMDPD Policy DM34 and Section 13 of the NPPF.

5. The pre-commencement statutory Biodiversity Gain Plan shall be prepared in accordance with the approved Biodiversity Net Gain Assessment, Statutory Biodiversity Metric, Preliminary Ecological Appraisal, Arboricultural Method Statement, baseline habitat plan and post development habitat and landscape plan.

Reason: To ensure delivery of biodiversity gains in accordance with the requirements of Schedule 7A to the Town and Country Planning Act 1990 and the NPPF.

6. Prior to commencement of all works, including enabling works, a Habitat Management and Monitoring Plan (HMMP), prepared in accordance with the approved Biodiversity Gain Plan, shall be submitted to and approved in writing by the Local planning authority. The HMMP shall include:
 - a. A non-technical summary;
 - b. The roles and responsibilities of the people or organisations delivering the HMMP;
 - c. The planned habitat creation and enhancement works to create or improve habitat to achieve the biodiversity net gain in accordance with the approved Biodiversity Gain Plan;
 - d. The management measures to maintain habitat in accordance with the approved Biodiversity Gain Plan for a period of 30 years from the completion of development;
 - e. The monitoring methodology and frequency in respect of the created habitat or enhanced habitat to be submitted to the local planning authority. The frequency of monitoring shall be no less than 1, 2, 3, 4, 5, 10, 15, 20, 25, 30 years following the completion of development.

Notice in writing shall be given to the Local Planning Authority when the habitat creation and habitat enhancement works, as set out in the HMMP, have been completed. A completion report, setting out details and supporting evidence to demonstrate the completed habitat creation and habitat enhancement works, has been submitted to and approved in writing by the Local Planning Authority.

The created habitats and enhanced habitats specified in the approved HMMP shall be managed and maintained in accordance with the approved HMMP. Monitoring reports shall be submitted to local planning authority in writing in accordance with the methodology and frequency specified in the approved HMMP.

Reason: To ensure delivery of biodiversity gains in accordance with the requirements of Schedule 7A to the Town and Country Planning Act 1990 and

the NPPF and to ensure that works detailed in the HMMP have been undertaken and are retained and maintained to the satisfaction of the LPA, in the interests of the ecology of the site.

7. Prior to commencement of construction, including enabling works, engineering works, grassland removal, scrub removal, tree felling, other groundworks an Arboricultural Method Statement and Tree Protection Plan to BS5837:2012 'Trees In Relation To Construction' shall be submitted and approved in writing by the Local Planning Authority. All tree work shall be completed to the British Standard BS3998: 2010 Recommendations for Tree Work. All trees to be retained shall be protected by a Construction Exclusion Zone with fencing in accordance with BS5837:2012 'Trees In Relation To Construction'. Within the protected area(s) there shall not be carried out or permitted, during the construction period, any building or other operations, parking or passage of vehicles, or storage of building or other materials or any other object. The protection measures shall be retained for the duration of the works, and only removed once the development is complete and all machinery and work material removed from the site.

Reason: To facilitate the protection of trees on and adjacent to the site.

8. Prior to commencement of construction, including enabling works, engineering works, grassland removal, scrub removal, tree felling, other groundworks, an ecological Construction & Environmental Management Plan (Ref: Chartered Institute Ecology & Environmental Management) for the avoidance of harm to biodiversity during construction, including Pollution Prevention Measures and Reasonable Avoidance and Mitigation Measures (small mammals, including Badger, Hedgehog, Water Vole, Fox, amphibians, including Great Crested Newts, reptiles, nesting birds & other appropriate species), shall be submitted to and approved in writing by the Local Planning Authority. The approved work described therein shall be carried out in accordance with the approved details.

Reason: To facilitate the protection of notable/sensitive habitats and species within the local area.

9. Prior to commencement of construction, a satisfactory programmed landscaping scheme to achieve the measured Biodiversity Net Gain in accordance with the approved Biodiversity Gain Plan and Habitat Management and Monitoring Plan, which shall include soft and hard landscaping, means of enclosure, planting of the development, and annual maintenance shall be submitted to and approved in writing by the Local Planning Authority. The content of the planting scheme shall include the number of plants, species, planting size, planting and seed sowing

methodology, British Standards, and location of the planting. The work described in the scheme, shall be carried out strictly in accordance with the approved details and shall be retained in this manner thereafter. The approved landscape scheme shall be implemented during the first planting season following completion of the main construction phase, inclusive access roads, buildings, and SUDs completed in entirety.

The approved scheme shall thereafter be kept in this manner, and any tree, shrub, plant or bulb/seed sown area which dies or is felled, uprooted, wilfully damaged or destroyed in the period described within the approved Biodiversity Gain Plan and Habitat Management and Monitoring Plan, and no less than 30 years, commencing with the date of first planting shall be replaced by the applicants or their successors in title. The landscape scheme shall be managed and monitored for the period described within the approved Biodiversity Gain Plan and Habitat Management and Monitoring Plan, and no less than 30 years, to ensure that the Biodiversity Gain Plan target condition shall be achieved.

Reason: To ensure the proposal is satisfactorily landscaped and appropriate to the locality.

10. Prior to the commencement of construction, a scheme and programme to ensure that all external boundary structures, inclusive fences and walls, must be made fully permeable to hedgehogs through the provision of 13x13cm gaps at regular intervals (every 30-40m) across the whole development site shall be submitted to and approved in writing by the Local Planning Authority.

Reason: To take account of and enhance the biodiversity and wildlife interest of the area, and to be in accordance with Paragraphs 187-195 of the NPPF (2024) to contribute to and enhance the natural and local environment by minimising impacts on, and providing net gains for biodiversity, including establishing coherent ecological networks that are more resilient to current and future pressures.

11. Prior to the commencement of construction, details for the installation of 3 log piles and 3 hibernacula (amphibians, reptiles and hedgehogs) shall be submitted and approved in writing by the Local Planning Authority. The submitted details shall include comprehensive details of location and construction methodology in accordance with industry best practice. The log piles and hibernacula must be installed during the construction phase in accordance with approved drawings and plans. The work described shall be retained in this manner thereafter.

Reason: To take account of and enhance the biodiversity and wildlife interest of the area, and to be in accordance with Paragraphs 187-195 of the NPPF (2024) to contribute to and enhance the natural and local environment by minimising impacts on, and providing net gains for biodiversity, including establishing coherent ecological networks that are more resilient to current and future pressures.

12. Prior to the commencement of construction, details for the installation of 20 pole mounted bat roost boxes (minimum 10 poles) and 20 pole mounted bird nesting boxes (minimum 10 poles) shall be submitted and approved in writing by the Local Planning Authority. The boxes may otherwise be tree mounted where possible. The submitted details shall include the box type, manufacturer's name, and plans marking the location of installation. The box type must be manufactured from woodcrete/woodstone. The boxes must be installed during the construction phase, and installed in accordance with manufacturer's specification, to British Standard or appropriate guidance. The work described shall be retained in this manner thereafter.

Reason: To take account of and enhance the biodiversity and wildlife interest of the area, and to be in accordance with Paragraphs 187-195 of the NPPF (2024) to contribute to and enhance the natural and local environment by minimising impacts on, and providing net gains for biodiversity, including establishing coherent ecological networks that are more resilient to current and future pressures.

13. Immediately following completion of the construction phase a Statement of Good Practice shall be signed by the competent Ecological Clerk of Works, and shall be submitted to and approved in writing by the Local Planning Authority. The Statement of Good Practice shall confirm that the Reasonable Avoidance and Mitigation Measures, Pollution Prevention Measures, and biodiversity enhancement measures have been implemented in accordance with good practice, drawings and scheme design upon which the planning consent was granted. The Statement of Good Practice shall extend to include the following ecological avoidance, mitigation and enhancement measures:
 - a. Bat boxes and bird boxes have been installed in accordance with the approved scheme and plans.
 - b. That all Reasonable Avoidance and Mitigation Measures, Pollution Prevention Measures, and Nesting Bird Protection Measures have been carried out in accordance with the approved Ecological Construction Environmental Management Plan.

- c. That the hedgehog highway has been completed in accordance with the approved scheme and plans.
- d. That the log piles and hibernacula have been completed and installed in accordance with the approved scheme and plans.
- e. That external flood lighting (where installed) has been installed in compliance with appropriate guidance (Bat Conservation Trust & Institution for Lighting Professionals 2018) to minimise the impact on protected species.

Reason: To ensure that works to contribute to and enhance the natural and local environment have been undertaken to the satisfaction of the LPA.

14. Prior to commencement of work, including enabling works, the ditch identified in the Preliminary Ecological Appraisal shall first be protected by temporary HERAS fencing to form a Construction Exclusion Zone. The fence must be set to 3m minimum distance from the bank edge to ensure that the ditch is fully protected from construction encroachment. Within the protected area(s) there shall not be carried out or permitted, during the construction period, any construction or other operations, parking or passage of vehicles, or storage of building or other materials or any other object. The protection measures shall be retained for the duration of the works, and only removed once the construction phase is complete.

Reason: To facilitate protection of the watercourse and its immediate environs, in the interests of preservation of the natural environment in accordance with Paragraphs 187-195 of the NPPF (2024).

15. No removal of hedgerows, trees, shrubs or undergrowth shall take place between 1 March and 31 August inclusive, unless a competent ecologist has undertaken a careful, detailed check of vegetation for active bird nests immediately before the vegetation is cleared, and provided written confirmation that no birds will be harmed and/or appropriate measures in place to protect nesting birds on site. Any such written confirmation must be submitted to the Local Planning Authority.

Reason: To facilitate the protection of notable/sensitive habitats and bird species within the local area.

16. No external lighting shall be installed on site unless details of such lighting, including the intensity of illumination and predicted lighting contours, have been first submitted to, and approved in writing by, the Local Planning Authority prior to first occupation/use of the site. The scheme shall comply with the guidance 'Bats and Artificial Lighting at Night 2023' (Bat Conservation Trust & Institution of Lighting Professionals) to minimise the impact on

protected species. Any external lighting installed shall accord with the details so approved.

Reason: To minimise the impact of external lighting upon wildlife and in the interests of the visual amenities of the area.

17. No development shall take place, including any works of demolition, until a construction method statement has been submitted to and approved in writing by the Local Planning Authority. The approved statement shall be adhered to throughout the construction period. It shall provide for:

- a. The parking of vehicles of site operatives and visitors
- b. The loading and unloading of plant and materials
- c. The storage of plant and materials used in constructing the development
- d. The erection and maintenance of security hoarding
- e. Wheel washing facilities
- f. Measures to control the emission of dust and dirt during construction
- g. A scheme for recycling/disposing of waste resulting from demolition and construction works
- h. Details of working hours
- i. Routing and timing of delivery vehicles to/from site

Reason: To mitigate the impact of the construction traffic on the highway network.

18. Prior to commencement, a scheme for the detailed design engineering construction of the site access and new embankments on Stanhill Road, plus a scheme for the temporary and permanent gating arrangements for the site access, shall be submitted to, and approved in writing by, the Local Planning Authority and shall subsequently be fully constructed/installed prior to commencement of any works.

Reason: To ensure a safe and suitable access for construction traffic and to allow the largest vehicles to clear the carriageway of Stanhill Road.

19. Notwithstanding the provisions of the Town and Country Planning (General Permitted Development) Order 2015 there shall not at any time in connection with the development hereby permitted be erected or planted or allowed to remain upon the land hereinafter defined any building, wall, fence, hedge, tree, shrub or other device over 1m above road level. The visibility splay to be the subject of this condition shall be that land in front of a line drawn from a point 2.4 m measured along the centre line of the proposed road from the continuation of the nearer edge of the carriageway of Stanhill Road to points measured 120m to both sides of the proposed access along the nearer edge

of the carriageway of Stanhill Road, from the centre line of the access, in accordance with a scheme to be agreed by the Local Planning Authority in conjunction with the Highway Authority.

Reason: To ensure adequate visibility at the street junction or site access.

20. Prior to the commencement of development, details of a sustainable surface water drainage scheme and a foul water drainage scheme (if applicable) shall be submitted to and approved in writing by the Local Planning Authority. The drainage schemes must include:

- (i) An investigation of the hierarchy of drainage options in the National Planning Practice Guidance (or any subsequent amendment thereof). This investigation shall include evidence of an assessment of ground conditions and the potential for infiltration of surface water in accordance with BRE365;
- (ii) A restricted rate of discharge of surface water agreed with the local planning authority (if it is agreed that infiltration is discounted by the investigations);
- (iii) Levels of the proposed drainage systems including proposed ground and finished floor levels in AOD;
- (iv) Incorporate mitigation measures to manage the risk of sewer surcharge where applicable; and
- (v) Foul and surface water shall drain on separate systems.

The approved schemes shall also be in accordance with the Non-Statutory Technical Standards for Sustainable Drainage Systems (March 2015) or any subsequent replacement national standards and shall be completed in accordance with the approved details and retained thereafter for the lifetime of the development.

Reason: To promote sustainable development, secure proper drainage and to manage the risk of flooding and pollution.

21. Prior to first charging of the BESS, an Emergency Response Plan (ERP) and a Detailed Battery Safety Management Plan (DBSMP) shall be submitted to, and approved by, the LPA in association with Lancashire Fire and Rescue Service. The site shall be operated in accordance with the details so approved thenceforth.

Reason: In the interests of public safety.

1. **BIODIVERSITY NET GAIN (BNG)**

The statutory framework for Biodiversity Net Gain (BNG) set by paragraph 13 of Schedule 7A of the Town and Country Planning Act 1990 requires a Biodiversity Gain Plan to be submitted and approved prior to the commencement of development. The development cannot be lawfully commenced until this condition is satisfied.

Development may not begin unless:

- (a) A Biodiversity Gain Plan has been submitted to the planning authority; and
- (b) The planning authority has approved the plan

The planning authority, for the purposes of determining whether to approve a Biodiversity Gain Plan, which is required in respect of this permission, is Hyndburn Borough Council.

There are statutory exemptions and transitional arrangements which mean that the biodiversity gain condition does not always apply.

Based on the information available this permission is considered to be one which will require the approval of a biodiversity gain plan before development is begun because none of the statutory exemptions or transitional arrangements are considered to apply.

SUBMISSION REQUIREMENTS:

Under paragraph 14(2) of Schedule 7A, a Biodiversity Gain Plan must include the following:

- a) Information about the steps taken or to be taken to minimise the adverse effect of the development on the biodiversity of the onsite habitat and any other habitat,
- b) The pre- and post-development biodiversity value of the onsite habitat,
- c) Any registered off-site biodiversity gain allocated to the development, and
- d) Any biodiversity credits purchased to off-set the development and whether or not from a registered provider.

In addition, under Articles 37C(2) and 37C(4) of The Town and Country Planning (Development Management Procedure) (England) Order 2015, the following specified matters are required, where development is not to proceed in phases:

- Name and address of the person completing the Plan, and (if different) the person submitting the Plan;
- A description of the development and planning permission reference number

(to which the plan relates);

- The relevant date, for the purposes of calculating the pre-development biodiversity value of onsite habitats and if proposing an earlier date, the reasons for using this earlier date;
- The completed biodiversity metric calculation tool(s), stating the publication date of the tool(s), and showing the calculation of the pre-development onsite value on the relevant date, and post-development biodiversity value;
- A description of arrangements for maintenance and monitoring of habitat enhancement to which paragraph 9(3) of Schedule 7A to the 1990 Act applies (habitat enhancement which must be maintained for at least 30 years after the development is completed);
- (Except for onsite irreplaceable habitats) a description of how the biodiversity gain hierarchy will be followed and where to the extent any actions (in order of priority) in that hierarchy are not followed and the reason for that;
- Pre-development and post-development plans showing the location of onsite habitat (including any irreplaceable habitat) on the relevant date, and drawn to an identified scale and showing the direction of North;
- A description of any irreplaceable habitat on the land to which the plan relates which exist on the relevant date, and any part of the development for which planning permission is granted where the onsite habitat of that part is irreplaceable habitat arrangements for compensation for any impact the development has on the biodiversity of the irreplaceable habitat; and

If habitat degradation has taken place:

- A statement to this effect;
- The date immediately before the degradation activity;
- The completed biodiversity tool showing the calculation of the biodiversity value of the onsite habitat on that date, and
- Any available supporting evidence for the value.

There is a standard Biodiversity Gain Plan template available to complete which brings together many of these matters into one document.

<https://assets.publishing.service.gov.uk/media/65df0c4ecf7eb16adff57f15/Biodiversity-gain-plan.pdf>

Failure to submit a Biodiversity Gain Plan prior to the commencement of development will lead to formal enforcement action being considered, which could be in the form of a Temporary Stop Notice (that will require all development on site to stop, for a period of 56 days).

2. Reasons for approval of the application

Subject to conditional control the proposal would be acceptable in terms of amenity and would not cause demonstrable harm to highway safety or any

other matter of acknowledged importance and accordingly would suitably accord with local and national planning policies and in particular policies Env6 and Env7 of the Hyndburn Core Strategy and Hyndburn car parking and access standards.

The Local Planning Authority operates a pre-planning application advice service. All applicants are encouraged to engage with the Local Planning Authority at pre-planning application stage. As part of the determination of this planning application the Local Planning Authority has worked pro-actively and positively with the applicant ensuring that upon receipt all representations and consultation responses are available to view on the Council's web site. The Local Planning Authority has considered the application and where necessary considered either the imposition of planning conditions and/or sought reasonable amendments to the application in order to deliver a sustainable form of development in accordance with the National Planning Policy Framework.

3. Strict accordance with approved plans

This planning permission is granted in strict accordance with the approved plans. It should be noted however that:

- (a) Any variation from the approved plans following commencement of the development, irrespective of the degree of variation, will constitute unauthorised development and may be liable to enforcement action.
- (b) You or your agent or any other person responsible for implementing this permission should inform Development Control immediately of any proposed variation from the approved plans and ask to be advised as to the best method to resolve the matter. Most proposals for variation to the approved plans will require the submission of a new planning application.

4. Conditions

This consent is granted subject to conditions and it is the owner and the person responsible for the implementation of the development who will be fully responsible for their compliance throughout the development and beyond.

If there is a condition that requires work to be carried out or details to be approved prior to the commencement of the development this is called a "condition precedent". The following should be noted with regards to conditions precedent:

- (a) If a condition precedent is not complied with, the whole of the development will be unauthorised and you may be liable to enforcement action.
- (b) In addition if a condition precedent is breached, the development is unauthorised and the only way to rectify the development is the submission of

a new application. If any other type of condition is breached then you will be liable to a breach of condition notice.

5. Building Regulations may be required

The enclosed approval is issued under the Town & Country Planning Act 1990. You may also require Building Regulation approval which is dealt with by this Department's Building Control Section (Tel: 01254 380194). You must ensure that all necessary permissions are obtained BEFORE starting work, otherwise abortive expense may be incurred.

6. The grant of planning permission will require the applicant to enter into a S278 Agreement, with the County Council as Highway Authority. The applicant should be advised to contact Lancashire County Council for further information by emailing the Highway Development Control Section at developeras@lancashire.gov.uk.
7. There should be no inference that the National Highways Planning Response supports the routing of any cabling to establish a grid connection most notably in relation to the M65 Stanhill overbridge. Nor does the National Highways planning response provide advice or guidance in respect to the requirements of the New Roads and Street Works Act 1991 (NRSWA) or other relevant legislation including any necessary agreements/easements.
8. Due to the nature of the proposal, the applicant should apply appropriate protection measures to the battery energy storage system, to remove the risk of battery leakage contamination to ground water and the public water supply.
9. In Condition 6 above, 'completion of development' shall mean:
 - a. The main construction phase has been completed, inclusive access roads, buildings, and SUDS completed in entirety.
 - b. The approved landscape scheme has been completed.
 - c. Habitat creation and habitat enhancement works, as set out in the Habitat Management and Monitoring Plan (HMMP), have been completed.

Hyndburn Borough Council – Committee Report

Application Ref: 11/25/0073

Application Address: 4 Blackburn Road, Rishton, BB1 4BS

Date for Decision: 15th April 2025

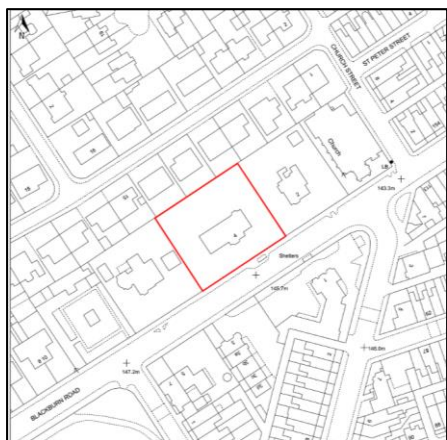
Date of Report: 6th April 2025

Description of Development: Full: Change of use from dwelling house (Class C3) to residential institution for supported living (Use Class C2)

The application is brought for Committee consideration at the request of Councillor Walsh because of concerns regarding on street parking and the cumulative impact of care homes in the area.

Description of site and proposed development

The application relates to a detached building as shown on the location plan and image as follows.



Briefly, the application site fronts the northerly side of Blackburn Road (A678). It is around 130m west of the light-signalled junction with Harwood Road in Rishton Centre. The building (originally built as a dwellinghouse) is of 2/3 storeys with an attached single storey building at its westerly side. To the rear is a raised paved patio/terrace area along the rear of the main building. It has substantial grounds providing lawned areas to the front, west site and rear; and a hard surfaced car park area to its easterly side with access from Blackburn Road. Apparently the building has been used for many years as an office in connection with a social services provider, however it has reverted to use as a single dwellinghouse in recent years. The property is adjoined by dwellings/bungalows in Westwood Avenue to the rear. The dwellings have short rear gardens (around 7.5m) – the existing boundary is formed by a stone wall, which is around one metre in height.

The present proposal is to use the building as a residential institution for supported living (Use Class C2). The applicant describes the proposed use as follows:

The service will become a gender sensitive female only residential service, for individuals aged between 18 and 65 years of age. Our home will have 6 beds to support vulnerable women, providing a safe space for rehabilitation and recovery for individuals with a diagnosed mental health condition who have experienced a recent period of crisis or instability, and who may require enhanced support based on substance misuse histories, experienced trauma and psychosocial needs. The location will boast excellent links to the nearby towns of Accrington, Blackburn & Burnley. Active Care Group's philosophy is to provide a safe, happy, empowering, and healthy environment for people we support within a warm homely setting with a dedicated and friendly professional team.

Following discussions, the applicant has proposed the following scheme for the layout of the site. This provides a 'buffer' zone (around 5m wide) across the rear of the garden. This would include a 1.8m fence across the rear of the site. The existing landscaping between the fence and the stone boundary wall would be unchanged. Also, the patio/terrace area would be enclosed with a 1.8m high fence. This has been designed to provide privacy to neighbours and also a degree of seclusion and form to resident's sitting out areas. The proposed layout and the applicant's additional statement describing the proposed use is as follows.

Applicant's Statement

"The service will cater for a maximum of six working age ladies aged over 18 who are experiencing problems with their mental health and need some support to reintegrate back into the community. Our referrals often come from people who have spent a period of time detained on a mental health ward, who have received treatment for their mental health disorder and are ready to be discharged back into community living whilst still requiring some support to improve their independence and confidence. We would not accept referrals for any person experiencing active problems with addiction or those who are actively engaging with criminal activity, however some ladies may have a forensic history whereby they have been known to the police historically. The people we support are usually settled and engaging with the support we offer, which can result in the uptake of volunteer work or college courses, for example, in preparation for moving on into their own home once they have successfully reintegrated back into society. The people we support do not tend to create any antisocial problems within the community of our existing services, which are well established and have been operating successfully for a number of years in the local area.

If any Residents choose to smoke either cigarettes or vapes, there will be a designated smoking area identified (the patio area) for use by staff and

residents alike. Furthermore, the garden area will be segregated from the car park by the use of a fence to ensure the privacy and dignity of all residents and neighbours is prioritised and maintained. The car park, once separated from the garden, will only have parking spaces to the front right of the property to prevent the neighbours at the rear of the property having cars parked alongside their garden wall, a turning circle for visitors will be created in place of the rear parking spaces which are currently in situ. All visitors will report to the front door of the property upon arrival as there will be no other access to the property via the car park. There will be up to four staff members parking on site during the day and three staff members at night."

Consultation responses (summarised)

Neighbours notified by letter.

Consultation period expired 12th March 2025

Neighbouring residents

Representations have been received from 8 neighbouring residents making objections and comments summarised and itemised as follows:

1. Problems with existing care homes nearby, including noise/disturbance; parking; anti-social behaviour, 24/7 operation
2. Concern about agglomeration of care homes in the area; that it has reached 'saturation point'.
3. Increased traffic and street parking.
4. Noise and disturbance from the proposed use; possible anti-social behaviour.
5. Security concerns; inadequate property boundary.
6. Loss of property values [*Comment* – *This is not a planning consideration*]
7. Overlooking/loss of privacy.
8. Concern that the proposal is for a secure facility. [*Comment* – *The proposal is quite clearly NOT for a secure facility – such facilities are identified as within a distinctly separate Use Class*]

Councillor Noordad Aziz

1. I acknowledge the importance of providing care and accommodation for those in need,
2. Have significant concerns about the suitability of this location for such a facility.
3. Oversaturation of Similar Facilities in the Area
4. Parking and Traffic Concerns
5. Lack of Consultation and Community Impact
6. Urge the council to reject this application in the interest of maintaining the balance of the community, ensuring road safety, and preventing further strain on local residents.

Highway Authority – Makes the following comments:

The proposal is for a change of use from Class C3 (3 parking spaces for a 4+ bedroom dwelling) to a Class C2 – Residential Institutions (1 space per 5 beds plus, 1 space per 10 beds for visitors/staff).

The property has existing 5 bedrooms and proposed 5 bedrooms. Existing 8 parking spaces and proposed 8 parking spaces.

There is no mention of the number of residents or staffing requirements for this proposal. Further information is required to show the proposed usage before comments will be submitted.

Further information received from the applicant

For this type of support facility no resident would have the use of a car so there would be no requirement for resident parking and this would not change in future.

It has been developed on the basis that the existing 8 car parking spaces would more than adequately accommodate the needs of the property on the grounds. There is a bus stop right outside the property with Active Care having a preference for locally employed staff and an encouragement of commuting to work via public transport.

Parking

Residents (no parking requirement). There will be 6 residents in 6 bedrooms.
Staff (6 spaces) - There will be 5-6 staff during the day and 3-4 at night
Visitors (2 spaces). 1no. to be provided as Assisted.

Further Highway comments

The usage proposed meets parking standards requirements therefore no objection to the proposal on highway safety grounds.

Environmental Health Officer – Makes the following comments:

Due to the fact that this application is for a conversion to a detached property, it is difficult to imagine routine noise impacting on the amenity of other nearby properties. As such I have no objections to this application.

Fire Officer – Informative for the attention of the applicant to be attached to any permission.

Cadent Gas – Information about the location of gas infrastructure for the information of the applicant.

Relevant Policies

National Planning Policy Framework (NPPF)

Core Strategy – Adopted January 2012

Env6: High Quality Design

Env7: Environmental Amenity

T1: Improving Connectivity

Development Management DPD

DM26: Design Quality and Materials.

DM29: Environmental Amenity

DM32: Sustainable Transport, Traffic Management and Highway Safety (including GN8: Car parking standards)

Planning history

None relevant

Observations and assessment

Procedural

Planning law requires that applications for planning permission be determined in accordance with the development plan unless material considerations indicate otherwise. The NPPF is a material consideration (NPPF paragraph 2).

NPPF defines sustainable development (paragraph 8), sets a presumption in favour of such development, requiring that: proposals in accordance with an up-to-date development plan be approved without delay (paragraph 11); and, that decisions should be approached in a positive and constructive way (paragraph 38).

The NPPF says in paragraphs 61 to 63 that, in respect of housing provision, the overall aim should be to meet an area's identified housing need for different groups.

Considerations

The application proposes the change of use of a detached dwelling house to a Care Home. The applicant states that the Care Home will have 6 beds to support vulnerable women, aged between 18 and 65 years of age, providing a safe space for rehabilitation and recovery. The property is within a residential area, in a main road position. There are representations/objections from neighbouring residents and an elected Member of the Council, account of which should be taken in determining the application.

The planning considerations are the impacts on the amenity of neighbours; impact on the character of the area generally; parking and highway safety; and, any other matters arising from consultations or otherwise.

Neighbour amenity

Policy DM29 requires that proposals do not create an unacceptable level of noise, affect privacy or cause harm by reason of fumes/smoke.

Noise

There are representations about possible noise nuisance. The proposal is for the accommodation of six women who would be supported by attending staff on a 24-hour basis. This does not amount to an overly intensive use of the large detached building. There would be a reasonable separation by distance and screen fencing which would serve to keep activities such as out-door conversation, apart from neighbours. Residents would be generally supervised so as to moderate any unwarranted noise/raised voices. Vehicles of staff/visitors would enter via the access from Blackburn Road. The parking area would be separated from dwellings at the

rear by the proposed 'buffer' zone. The Environmental Health Officer is content with the proposal.

Privacy

There are representations about loss of privacy due to over-looking from the rear garden of the proposed Care Home, particularly because of the low rear boundary wall. The applicant understands this potential loss of privacy and has re-designed the out-door area to provide for a 'buffer' area including a 1.8m high fence parallel to the rear boundary and around 5m distant. The 5m set-back has two purposes – safeguarding privacy whilst at the same time, avoiding imposing a (possibly unwanted) boundary fence on neighbouring dwellings. The slightly elevated terrace would also be enclosed in a 1.8m fence.

Smoking area

There are representations about the possible location of a 'smoking shelter' close to the boundary at the rear of the garden. In such location, it would potentially result in noise from conversation arising amongst smokers using the facility and it would cause fume/smoke pollution. The applicant indicates that the terrace would be the designated smoking area and that, in any event, the buffer zone would not be used for that purpose.

The proposal would be in accordance with the relevant policy DM29.

Area character

There are representations about the agglomeration of Care Home uses in the area. Indeed, there is reference to 'saturation point'. This is taken to mean that the character of the area is changing to a point that the overall amenity of the area will be harmed.

It appears that there are five or six residential/Care Home uses in the immediate locality. It is not uncommon that a group of larger properties (built as dwelling houses) are found in older neighbourhoods. In later years, these are likely to come into other uses, which may include hotels, conversion to apartment or as in the present case, use as residential/care homes. The care home uses do not appear to agglomerate by choice – it is simply that the available buildings are so located. It needs be said that the buildings put to care home uses are, in general, kept in excellent order, thereby avoiding their demise and retaining them in the townscape and underpinning the character of the area.

It is unfortunate if one of several care homes is perceived as causing harm to the amenity of a neighbourhood. However, it does not follow that a well-founded care home that is designed so, of itself, to avoid and mitigate any harm to amenity would then add the loss of amenity caused by others.

Highway safety

Policy DM32 (as relevant to the proposal) expects all development proposals to encourage sustainable travel and meet with local car parking standards.

There are representations about the inadequacy of car parking provision. The adopted car parking standard for a C2 use is 1 space per 5 beds plus 1 space per 10 beds for visitors /staff.

The property has a gated access from Blackburn Road and substantial dedicated car parking provision within its grounds. The Highway Authority is content with the level of car parking provided as it more than meets the car parking standards. The proposal is in accordance with the relevant Policy DM32 and the adopted car parking standards.

Other matters

The proposed use is within Use Class C2 identified in the Town and Country Planning (Use Classes) Order 1987 (as amended). The C2 class includes a wide range of residential institution uses (such as hospitals, nursing homes, residential school, training centre) for which the property would not be suited. A condition is therefore recommended to restrict the use to that proposed.

Conclusions

The proposal would enable the provision of a beneficial use for the building without the use causing significant harm to the amenities of neighbouring residents or to the area generally. Subject to the recommended conditions, the proposal would be in accordance with the development plan and the recommendation is made on that basis.

Recommendation

That the application be granted subject to the following conditions:

Conditions:

1. The development hereby approved shall be commenced before the expiration of three years from the date of this permission.

Reason: To ensure that the Local Planning Authority retains the right to review unimplemented permissions and to comply with Section 91 (as amended) of the Town and Country Planning Act 1990.

2. The development shall be carried out in accordance with the following documents:
 - (a) The planning application forms and location plan received by Hyndburn Borough Council on 6th December 2024.
 - (b) Submitted drawings, namely: Drawing(s) number:

25984 000 – P1 (Site Location Plan);
25984 001 – P1 (Existing Site Plan);
25984 003 – P2 (Existing Ground Floor);
25984 004 – P2 (Existing First Floor);
25984 005 – P2 (Existing Second Floor);
25984 006 – P2 (Existing Roof Plan);
25984 010 – P2 (Existing Front Elevation);
25984 011 – P2 (Existing Rear Elevation);
25984 012 – P2 (Existing Side Elevation);
25984 013 – P2 (Existing Side Elevation);
25984 091 – P2 (Existing Visuals 001);
25984 091 – P2 (Existing Visuals 002);
25984 104 – P2 (Proposed First Floor);
25984 105 – P2 (Proposed Second Floor);
25984 106 – P2 (Proposed Roof Plan);
25984 110 – P2 (Proposed Front Elevation);
25984 112 – P2 (Proposed Side Elevation);
25984 113 – P2 (Proposed Side Elevation);
25984 191 – P2 (Proposed Visuals 001); and,
25984 191 – P2 Proposed Visuals 002), received by Hyndburn Borough Council on 18th February 2025.
25984 111 – P3 (Proposed Rear Elevation);
25984 103 – P3 (Proposed Ground Floor); and,
25984 101 – P3 (Proposed Site Plan), received by Hyndburn Borough Council on 24th March 2025.

Reason: For the avoidance of doubt and to enable Hyndburn Borough Council to control the development and to minimise its impact in accordance with policies Env6, Env7 and T1 of the Hyndburn Core Strategy and DM29 and DM32 of the Hyndburn Development Management Development Plan Document.

3. The building shall only be used as a residential home providing accommodation for a maximum of six vulnerable women with support (as described in the application) only and for no other purpose including any purpose within Use Classes C2 of the Schedule to the Town & Country Planning (Use Classes) Order 1987 (or in any provision equivalent to that Class in any statutory instrument revoking and re-enacting that Order with or without modification).

Reason: Notwithstanding that the proposed use (as described and defined in the application) would be an acceptable use of the building, the application does not demonstrate (taking account of its characteristics, including its location, its amount of internal accommodation and layout) that the building would be suitable for other uses within those Use Classes in accordance with the development plan, including policies Env6, Env7 and T1 of the Hyndburn Core Strategy and DM14, DM26, DM29 and DM32 of the Hyndburn Development Management Development Plan Document.

4. Before the property is brought into use for the purpose hereby granted, the outdoor areas shall be laid out and provided with the screen fencing shown on drawing number 25984 101 – P3 (Proposed Site Plan), and the outdoor areas shall be so retained thereafter.

Reason: To provide for car parking in connection with the use in the interests of the amenities and convenience of neighbouring dwelling houses and the residential area generally in accordance with Policy Env7 of the Hyndburn Core Strategy and policies DM29 and DM32 of the Development Management DPD of Hyndburn Borough Council.

Informatives

1. Reasons for approval of the application

Subject to conditional control the proposal would not cause demonstrable harm to visual / residential amenity or highway safety or to any other matter of acknowledged importance and accordingly would suitably accord with local and national planning policies and in particular Policies Env6 and Env7 of the Hyndburn Core Strategy and the Hyndburn car parking and access standards.

2. Strict accordance with approved plans

This planning permission is granted in strict accordance with the approved plans. It should be noted however that:

- (a) Any variation from the approved plans following commencement of the development, irrespective of the degree of variation, will constitute unauthorised development and may be liable to enforcement action.
- (b) You or your agent or any other person responsible for implementing this permission should inform Development Control immediately of any proposed variation from the approved plans and ask to be advised as to the best method to resolve the matter. Most proposals for variation to the approved plans will require the submission of a new planning application.

3. Conditions

This consent is granted subject to conditions and it is the owner and the person responsible for the implementation of the development who will be fully responsible for their compliance throughout the development and beyond.

4. Building Regulations may be required

The enclosed approval is issued under the Town & Country Planning Act 1990. You may also require Building Regulation approval which is dealt with by this Department's Building Control Section (Tel: 01254 380194). You must ensure that all necessary permissions are obtained BEFORE starting work, otherwise abortive expense may be incurred.

5. Fire Officer

The attention of the applicant is drawn to the comments of the Fire Officer available on the planning website file for the application using the application reference number. The Local Authority Building Control/Approved Inspector and Fire Services should be consulted at the earliest opportunity where more specific advice can be offered.

6. Cadent Gas

The attention of the applicant is drawn to the comments of Cadent Gas regarding the location of gas infrastructure This is available on the planning website file for the application using the application reference number.

7. Coal Authority

The proposed development lies within an area that has been defined by The Coal Authority as containing potential hazards arising from former coal mining activity. These hazards can include: mine entries (shafts and adits); shallow coal workings; geological features (fissures and break lines); mine gas and previous surface mining sites. Although such hazards are seldom readily visible, they can often be present and problems can occur in the future, particularly as a result of development taking place.

It is recommended that information outlining how the former mining activities affect the proposed development, along with any mitigation measures required (for example the need for gas protection measures within the foundations), be submitted alongside any subsequent application for Building Regulations approval (if relevant). Your attention is drawn to the Coal Authority policy in relation to new development and mine entries available at www.coal.decc.gov.uk

Any intrusive activities which disturb or enter any coal seams, coal mine workings or coal mine entries (shafts and adits) requires the prior written permission of The Coal Authority. Such activities could include site investigation boreholes, digging of foundations, piling activities, other ground works and any subsequent treatment of coal mine workings and coal mine entries for ground stability purposes. Failure to obtain Coal Authority permission for such activities is trespass, with the potential for court action.

Property specific summary information on past, current and future coal mining activity can be obtained from The Coal Authority's Property Search Service on 0845 762 6848 or at www.groundstability.com

If any of the coal mining features are unexpectedly encountered during development, this should be reported immediately to The Coal Authority on 0845 762 6848. Further information is available on The Coal Authority website www.coal.decc.gov.uk

8. Environmental Health- Food Safety

A food business can be registered by completion of an online registration form at the following link: <https://register.food.gov.uk/new>. This should be completed at least 28 days before a business trades.

If the applicant requires any further advice regarding this or any other food hygiene requirements then the Council's Food and Safety Team can be contacted at food_team@hyndburnbc.gov.uk.

9. BNG

The effect of paragraph 13 of Schedule 7A to the Town and Country Planning Act 1990 is that planning permission granted for development of land in England is deemed to have been granted subject to the condition (biodiversity gain condition) that development may not begin unless:

- (a) A Biodiversity Gain Plan has been submitted to the planning authority, and
- (b) The planning authority has approved the plan.

The planning authority, for the purposes of determining whether to approve a Biodiversity Gain Plan, if one is required in respect of this permission would be Hyndburn Borough Council.

There are statutory exemptions and transitional arrangements which mean that the biodiversity gain condition does not always apply.

Based on the information available this permission is considered to be one which will not require the approval of a biodiversity gain plan before development is begun because one or more of the statutory exemptions or transitional arrangements is/are considered to apply.

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Hyndburn Borough Council – Committee Report

Application Ref: 11/25/0056

Application Address: 138 Whalley Road, Accrington, BB5 1BS

Valid Date: 4th February 2025

Date for Decision: 1st April 2025

Date of Site Visit: 25th March 2025

Date of Report: 6th April 2025

Description of Development: Full: Change of use from dwelling house (C3) to residential institution (C2) in connection with adjoining care home.

The application is brought for Committee consideration at the request of Councillor Pritchard because of concerns regarding about street parking arising from the proposal.

Description of site and proposed development

The application site is shown on the location plan and image as follows.



Application site



Briefly, the application relates to a 2-storey dwelling house set next-but-one property to the end of a residential terrace. As can be seen from the images of the site, the terrace is on rising ground and the houses are consequently built in ascending levels. No138 is thus around one metre lower than No 140 to which it is attached. The end property No136 is of larger size than others in the terrace and is used as a Residential Institution (C2) for Supported Living with Complex Care ('the Care Home'). The property is on the main road frontage of a primarily residential area comprised mainly of residential terraces. The application property, No138 has lounge, dining room, kitchen, utility room at the rear, and hallway/stairway, on the ground floor; and, 4 bedrooms and bathroom on the first floor.

The present proposal is to bring the dwellinghouse into use as part of the Care Home. The precise use would be to provide a 'step down' supported living space for three residents requiring complex care to live in a more independent environment whilst maintaining staff support. The property would be retained internally in the form of a dwelling house. The ground floor would be altered to provide a 'through' lounge/dining room; and, the rear utility room would become an office for the Care Home. A link into the existing Care Home would be provided by a new opening from the altered kitchen/office. There would be no external alterations to the property.

Consultation responses (summarised)

Neighbours notified by letter.

Consultation period expired 3rd March 2025.

One representation has been received making objections on the following grounds (summarised) as follows:

- Loss of privacy to rear garden by overlooking from rear first floor bedroom windows.
- Possible additional noise from the property.

Highway Authority – Makes the following comments:

Having considered the information submitted, there is currently no off-street parking with this terraced property. There is no change to the access or external alterations being proposed. Ref. planning statement, there would be no additional staff requirements, as the staff are to be shared with the next door existing C2 residential institution.

The above proposal raises no highway concerns as it is in a sustainable location, on a bus route and close to local amenities. There is no parking restrictions outside the property or on the side streets within the vicinity.

With ref: Planning Statement 4/2/25-P2 submitted, the Highway Development Control Section would raise no objection to the proposal on highway safety grounds.

Environmental Health Officer – Makes the following comments.

I have considered this application and also noted that one of the adjoining properties (no.136) is owned and operated by the applicant. The existing property, which offers accommodation for up to 9 adults, has operated without any complaints to the Environmental Protection Team, in relation to amenity issues. The new application seeks to offer accommodation for up to 3 adults, moving towards independent living, with some staff support, in association with the existing property.

Given the above, I have no objections to make in relation to this application.

Fire Officer – Advice about fire protection for the information of the applicant.

Relevant Policies

National Planning Policy Framework (NPPF)

Core Strategy – Adopted January 2012

Env6: High Quality Design

Env7: Environmental Amenity

T1: Improving Connectivity

Development Management DPD

DM26: Design Quality and Materials.

DM29: Environmental Amenity

DM32: Sustainable Transport, Traffic Management and Highway Safety (including GN8: Car parking standards)

Planning history

None relevant

Observations and assessment

Procedural

Planning law requires that applications for planning permission be determined in accordance with the development plan unless material considerations indicate otherwise. The NPPF is a material consideration (NPPF paragraph 2).

NPPF defines sustainable development (paragraph 8), sets a presumption in favour of such development, requiring that: proposals in accordance with an up-to-date development plan be approved without delay (paragraph 11); and, that decisions should be approached in a positive and constructive way (paragraph 38).

NPPF (paragraph 60) says it is important that [...] the needs of groups with specific housing requirements are addressed; and that (paragraph 63) the size, type and tenure of housing needed for different groups in the community should be assessed and reflected in planning policies.

Considerations

The application proposes the change of use of a mid-terrace dwelling house for use as part of an existing Care Home. Three people would be accommodated, living with a degree of independence, whilst continuing to have support from the Care Home which would be internally linked. There is a representation about overlooking/loss of privacy for children, and noise; also there is concern about parking problems and highway safety.

The main consideration for this application are the impact on neighbouring property; car parking; and, any other matters arising from consultations or otherwise.

Amenity

Policy DM29 requires that development protect neighbouring dwellings from loss of privacy and increased noise/disturbance.

The application is about re-purposing existing property. The two rear bedrooms are proposed to continue the purpose as bedrooms, and no new window openings are proposed. There is a representation about overlooking from the rear bedroom windows.

It is evident, from the position of the rear bedroom windows, that there is a potential for overlooking of the rear outdoor area of the adjoining house, No140. The submitted first floor drawing (copied as follows) shows the location of the bedrooms and windows, and indicates the potential direction of outlook from the rear windows.

Over-looking could obviously be prevented by the obscure glazing of the two windows. This matter has been considered by the applicant with the conclusion that obscure glazing of the windows would significantly harm the living conditions

provided by the bedrooms. It would be de-meaning and detrimental to the recovery of the residents occupying those bedrooms.

The rooms are intended for occupation as bedrooms, not as bed-sitting rooms. The potential for over-looking would not change as a result of the proposal. Whilst there is a perception of over-looking, this is often the case with regard to bedroom windows; the proposal would not be in conflict with Policy DM29 as regards privacy.

There is a representation about possible increase in noise levels. The property is intended to be occupied in the nature of a dwelling house. The occupation by 3 persons is unlikely to result in significantly elevated noise levels. The Environmental Health Officer is content with the proposal. The proposal would not be in conflict with Policy DM29 as regards noise disturbance.

Car parking

Policy DM32 (as relevant to the proposal) expects all development proposals to encourage sustainable travel and meet with local car parking standards.

The property is in a tight-knit urban area where off-street car parking is rare. There is no car parking for the existing dwelling house nor the Care Home; and, none can be provided. Assessing car parking first, hypothetically, (using the relevant car parking), then practically using appropriate highway advice and planning judgement:

- The car parking standards are set in Guidance Note GN8. The standard for a proposed residential institution is 1 space per 5 residents, plus 1 space per 10 beds for visitors/staff. This points to the need for 2 parking spaces. The existing 4-bedroom dwelling house would be correspondingly be assessed as needing 3 spaces. Therefore, the car parking demand would be improved by one space (i.e. there would be demand for one less space).
- The Highway Authority raises no highway concerns, commenting that there is no change to access; the property is in a sustainable location (close to bus route and local facilities) raising no highway concerns; and there would be no increase in staff. Therefore, no objection is raised to the proposal on highway safety grounds.

The property is in a sustainable location where there is a minimal need for staff/visitor car parking and on that basis the proposal would not be in conflict with DM32.

Other matters

The proposed use is within Use Class C2 identified in the Town and Country Planning (Use Classes) Order 1987 (as amended). The C2 class includes a wide range of residential institution uses (such as hospitals, nursing homes, residential

school, training centre) for which the property would not be suited. A condition is therefore recommended to restrict the use to that proposed.

Conclusions

The proposal would enable the provision of a beneficial enhancement of the existing Care Home, to which it would relate, without causing significant harm to the amenities of neighbouring residents or to the area generally. Subject to the recommended conditions, the proposal would be in accordance with the development plan and the recommendation is made on that basis.

Recommendation

That the application be Granted subject to the following conditions:

Conditions:

1. The development hereby approved shall be commenced before the expiration of three years from the date of this permission.

Reason: To ensure that the Local Planning Authority retains the right to review unimplemented permissions and to comply with Section 91 (as amended) of the Town and Country Planning Act 1990.

2. The development shall be carried out in accordance with the following documents:

The planning application forms and location plan received by Hyndburn Borough Council on 4th February 2025, and,

Submitted drawings, namely: Drawing(s) number:

- 001 (Existing Site Plan);
- 003 (Existing Ground Floor);
- 004 (Existing First Floor);
- 006 (Existing Roof Plan);
- 010 (Existing Front Elevation);
- 011 (Existing Rear Elevation);
- 012 (Existing Side Elevation);
- 091 (Existing Visual 001);
- 092 (Existing Visual 002);
- 101 (Proposed Site Plan);
- 103 (Proposed Ground Floor);
- 104 (Proposed First Floor);
- 106 (Proposed Roof Plan);
- 110 (Proposed Front Elevation);
- 111 (Proposed Rear Elevation);
- 112 (Proposed Side Elevation);
- 191 (Proposed Visual 001); and,

192 Proposed Visual 002), received by Hyndburn Borough Council on 4th February 2025.

Reason: For the avoidance of doubt and to enable Hyndburn Borough Council to control the development and to minimise its impact in accordance with policies Env6 and Env7 of the Hyndburn Core Strategy and DM26 and DM29 of the Hyndburn Development Management Development Plan Document.

3. The building shall be used for the supported living of 3 people in connection with the adjoining Care Home (as described in the application) only and for no other purpose including any purpose within Use Classes C2 of the Schedule to the Town & Country Planning (Use Classes) Order 1987 (or in any provision equivalent to that Class in any statutory instrument revoking and re-enacting that Order with or without modification).

Reason: Notwithstanding that the proposed use (as described and defined in the application) would be an acceptable use of the building, the application does not demonstrate (taking account of its characteristics, including its location, its amount of internal accommodation and layout) that the building would be suitable for other uses within those Use Classes in accordance with the development plan, including policies Env6, Env7 and T1 of the Hyndburn Core Strategy and DM14, DM26, DM29 and DM32 of the Hyndburn Development Management Development Plan Document.

Informatives

1. Reasons for approval of the application

Subject to conditional control the proposal would not cause demonstrable harm to visual / residential amenity or highway safety or to any other matter of acknowledged importance and accordingly would suitably accord with local and national planning policies and in particular Policies Env6 and Env7 of the Hyndburn Core Strategy and the Hyndburn car parking and access standards.

2. Strict accordance with approved plans

This planning permission is granted in strict accordance with the approved plans. It should be noted however that:

- (a) Any variation from the approved plans following commencement of the development, irrespective of the degree of variation, will constitute unauthorised development and may be liable to enforcement action.
- (b) You or your agent or any other person responsible for implementing this permission should inform Development Control immediately of any proposed variation from the approved plans and ask to be advised as to the best method to resolve the matter. Most proposals for variation to the approved plans will require the submission of a new planning application.

3. Conditions

This consent is granted subject to conditions and it is the owner and the person responsible for the implementation of the development who will be fully responsible for their compliance throughout the development and beyond.

4. Building Regulations may be required

The enclosed approval is issued under the Town & Country Planning Act 1990. You may also require Building Regulation approval which is dealt with by this Department's Building Control Section (Tel: 01254 380194). You must ensure that all necessary permissions are obtained BEFORE starting work, otherwise abortive expense may be incurred.

5. Coal Authority

The proposed development lies within a coal mining area which may contain unrecorded coal mining related hazards. If any coal mining feature is encountered during development, this should be reported immediately to The Coal Authority on 0845 762 6848. Further information is also available on The Coal Authority website at www.coal.decc.gov.uk Property specific summary information on past, current and future coal mining activity can be obtained from The Coal Authority's Property Search Service on 0845 762 6848 or at www.groundstability.com

6. Contaminated Land

The applicant should be aware that the application site is identified as being potentially affected by land-fill gas from a former gasholder site.

7. Fire Officer

The Local Authority Building Control/Approved Inspector and Fire Service should be consulted at the earliest opportunity where more specific advice can be offered.

8. BNG

The effect of paragraph 13 of Schedule 7A to the Town and Country Planning Act 1990 is that planning permission granted for development of land in England is deemed to have been granted subject to the condition (biodiversity gain condition) that development may not begin unless:

- (a) A Biodiversity Gain Plan has been submitted to the planning authority, and
- (b) The planning authority has approved the plan.

The planning authority, for the purposes of determining whether to approve a Biodiversity Gain Plan, if one is required in respect of this permission would be Hyndburn Borough Council.

There are statutory exemptions and transitional arrangements which mean that the biodiversity gain condition does not always apply.

Based on the information available this permission is considered to be one which will not require the approval of a biodiversity gain plan before development is begun because one or more of the statutory exemptions or transitional arrangements is/are considered to apply.

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