

## Hyndburn Borough Council – Committee Report

**Application Ref:** 11/23/ 0473

**Application Address:** Land to the north of Greenlight Motors Ltd, Park Road, BB6 7RW

**Description of Development:** Outline Application: Erection of Car Showroom with internal and external car displays and change of use to retail sale of vehicles; including details of scale and means of access (Layout, Appearance, and Landscaping Reserved).

**Date of Report:** 20<sup>th</sup> September 2024

**The application is brought for consideration of the Committee as legal agreement is necessary to secure a financial payment to provide off-site compensation for loss of open space.**

### **HUMAN RIGHTS**

The relevant provisions of the Human Rights Act 1998 and the European Convention on Human Rights have been taken into account in preparation of this report, particularly the implications arising from the following rights:-

#### **Article 8**

The right to respect for private and family life, home and correspondence.

#### **Article 1 of Protocol 1**

The right to peaceful enjoyment of possessions and protection of property.

### **Description of site and proposed development**

The application site is a rectangular area oriented north – south, comprising 0.16ha. It has a frontage of around 86m to the east side of Park Road, from which it has a mean depth of around 19.5m. The site lies between York Street to the south and Balfour Street to the north, having a frontage of around 19.5m to both. To the south, across York Street is the applicant's motor repair garage, a single storey workshop building which gains access from York Street. To the north, across Balfour Street is an area of new residential development with part still under construction. To the east of the site is an area of land used for open storage/recycling of pallets. Across Park Street is an area of parkland.

The site itself comprises rough grassland, being generally level in relation to the highway although it has a substantial mounding towards its street frontages, presumably to inhibit vehicular access. The rear boundary is enclosed with a substantial brickwork boundary wall of around 1.6m height. It serves as a retaining wall as the pallet storage land to the rear is at a significantly lower level. Backing the site just inside the rear wall there is a roughly formed hedgerow with several small trees at its northern end adjacent to Balfour Street.

Information from historic mapping shows that the area was in earlier years part of urban development dating from the mid-C19th or earlier. The site itself was footprint of a residential terrace with a cotton mill on the land to the rear. Hyndburn Brook (a main river) runs in culvert, west to east beneath the site.

The present proposal is to erect a car showroom together with an open display area. The application is in outline with Layout, Appearance, and Landscaping Reserved Matters. There has been some iteration of the indicative site layout in order to avoid building over the Hyndburn Brook Culvert and to meet highway requirements. The indicative layout generally meeting these and the applicant's requirements is shown on the amended application drawing copied as follows:

### **Consultation responses (summarised)**

Site notice displayed.

Consultation period expired 10<sup>th</sup> January 2024

No representations received.

Highway Authority – Makes the following comments.

The application seeks approval for a new building, in a second alternative position which will have a car showroom, sales area, ancillary offices and 28 external car sales pitches. There is a separate customer parking area and new access on York Street.

The site is currently grassland with no vehicle access.

### Access

There is a new access proposed to the site on York Street and a new section of footway linking the existing footway on Park Road to the site access. This is supported. Park Road and York Street are both adopted highway and the access and footway should be constructed to Lancashire County Council specification and should be formed under a S278 agreement with Lancashire County Council.

### Culvert

The culvert concerns have been addressed.

### Parking

There are 7 new customer car parking spaces proposed and no staff parking spaces proposed and 28 car sales spaces. We support the designation of the parking areas and request that staff spaces are designated and are conditioned to ensure that they are not used for car sales which results in staff and customers overspilling onto Park Road.

A secure, covered external or internal cycle store should be provided to support staff to travel by sustainable modes.

### 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.

Environmental Health Officer – Makes the following comments.

Environmental Protection have no objections to this development proposal however, the previous use of land may have resulted in contamination being present so we request that watching brief condition be attached to any granted permission.

Environment Agency – Makes the following comments.

Thank you for consulting us on the above application which we received 26 June 2024.

In our letter referenced NO/2023/115739/02-L01 and dated 10 May 2024, we removed our objection to this application as the applicant had submitted updated drawings indicating the assumed position of the main river culvert in relation to the built aspects of the proposed development. This appeared to align with our asset systems data, however neither can be assumed to be absolutely correct.

Environment Agency position

We have reviewed the latest site layout plan submitted by the applicant produced by Penrith Architects, reference 22-0301, drawing no. 01, rev. D. On this drawing, all built elements of the development remain over 8 metres from the assumed edge of the culvert carrying Harwood Brook which is a designated Main River therefore, we have nothing further to add to our previous response. We take this opportunity to remind the applicant that a Flood Risk Activity permit will still be required. At that additional stage, we are likely to require further detail to precisely locate the culvert together with construction details and depth of dig and cover information.

Environmental permit - advice to applicant The Environmental Permitting (England and Wales) Regulations 2016 require a permit to be obtained for any activities which will take place:

- on or within 8 metres of a main river (16 metres if tidal)
- on or within 8 metres of a flood defence structure or culverted main river (16 metres if tidal)
- on or within 16 metres of a sea defence
- involving quarrying or excavation within 16 metres of any main river, flood defence (including a remote defence) or culvert
- in the floodplain of a main river if the activity could affect flood flow or storage and potential impacts are not controlled by a planning permission

For further guidance please visit <https://www.gov.uk/guidance/flood-risk-activities-environmental-permits> or contact our National Customer Contact Centre on 03708 506 506. The applicant should not assume that a permit will automatically be forthcoming once planning permission has been granted, and we advise them to consult with us at the earliest opportunity.

United Utilities – No objection subject to drainage condition.

Ecology Advisor makes the following comments.

Due to biodiversity net loss the proposed development must include offsite compensation by S106 or Unilateral Undertaking.

### **Relevant Policies**

National Planning Policy Framework (NPPF)

Core Strategy – Adopted January 2012

T1: Improving Connectivity.

E2: Protection, Modernisation and Development of Employment Sites

Env4: Sustainable Development and Climate Change

Env6: High Quality Design

Env7: Environmental Amenity

Development Management DPD

DM1: Employment Development.

DM20: Flood Risk Management and Water Resources

DM21: Protection of Open Spaces

DM24: Contaminated or Unstable Land & Storage of Hazardous Substances

DM26: Design Quality and Materials.

DM29: Environmental Amenity

DM32: Sustainable Transport, Traffic and Highway Safety.

### **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 creative way (paragraph 38).

#### **Considerations**

The application proposes the erection of a Car Showroom with internal and external car displays for the retail sale of vehicles. The application is in outline with details of layout, appearance and landscaping reserved. The site is vacant land that is identified as protected open space. A main river runs in the culvert under the land. The main planning considerations are the principle of the proposed land use in this location; and then, consideration of the resolution of constraints on the development and of any impacts arising, and any other matters arising from consultations or otherwise.

#### **Principle of Development**

The land is in an area of mixed development, with new housing to the north, commercial storage to the east; the applicant's car preparation workshop premises to the south and a supermarket and a public park to the west. The proposal is generally supported by the relevant DMDPD Policy DM1.

### **Residential amenity**

DM29 requires development to protect the amenity of existing and future residents.

The area to the north is predominantly residential. There is new residential development across Balfour Street immediately north of the site. Following discussion with the applicant, a bank of landscaping/planting has been included in the indicative layout at the northern end of the application site. This would generally help by forming a visual transition between the uses. The application proposes vehicular access to the southern end of the site, so that there would be minimal, if any, residential impact from operational traffic arising from the development.

On that basis the proposal would be in accordance with DM29.

### **Highway safety**

The Highway authority, whilst making objection to access from Park Road, is content with the access from York Street at the south of the site. This is convenient for the applicant as it is immediately accessible from his existing car preparation/repair workshop which also takes access from York Street. The Highway Authority has advised the imposition of conditions, which are included in the recommendation. The proposal would be in accordance with the relevant DMDPD Policy DM32 as regards highway safety.

### **Main River**

The Environment Agency, whilst expressing concern about two initial indicative layouts is now content with the present one which avoids building over or close to the culvert. Information is given for the attention of the applicant which should be attached to a decision notice where permission is granted. The proposal would be in accordance with the relevant Policy DM20 in this respect.

### **Ground Contamination**

The application is accompanied by a Desk Study in relation to contamination. The Environmental Health Officer recommends that a Watching Brief be established during construction and this should be attached as an informative to the decision notice. The proposal would be in accordance with the relevant Policy DM24 in this respect.

### **Drainage**

The statutory drainage undertaker, United Utilities, recommends imposition of a condition to require provision of sustainable means of drainage and that condition is included in the recommendation.

## **Protected Open Space**

The application site is identified as protected open space.

NPPF (paragraph 103) requires that Existing open space should not be built on unless:

- a) *an assessment has been undertaken which has clearly shown the open space, buildings or land to be surplus to requirements; or*
- b) *the loss resulting from the proposed development would be replaced by equivalent or better provision in terms of quantity or quality in a suitable location.*

The Council's Open Space Audit<sup>1</sup> identifies the land as Natural/Semi-natural Greenspace. The Audit shows that there is a deficit of this type of open space in Great Harwood.

Policy DM21 requires that consideration is given to off-site compensatory provision where the open space is not considered surplus to requirements. This is a matter that ought not to prejudice the otherwise acceptability of the present development of the site. DM21 (paragraph 1.f.) sets a clear method of resolving the matter – by making provision for an amount of off-site compensatory open space. The applicant owns no other land in the immediate area that could be put to open space use. The only alternative would be to secure a financial contribution to be put towards the either the delivery of a new area of open space or towards improvement of an existing open space in the local area.

Calculation of the appropriate amount of compensatory payment is based on a rate currently applied to this type of open space and the area of open space at the application site which is 0.17ha. This identifies that a fee of £8,500 would reasonably provide other open space or improvements to the quality of existing open space in Great Harwood in order to compensate for the loss of the application site. The applicant has indicated agreement to this course of action with the financial contribution to be secured by legal agreement.

## **Impact on Ecology**

The Council's Ecological Advisor has recommended that a financial contribution be secured to compensate for the loss of biodiversity at the site. The site is made up of rough grassland with small areas of scrub and hedgerow. Whilst the new 'Biodiversity Net Gain' Regulations that came into force in April 2024 requires a 10% uplift in the biodiversity value of application sites, this application was submitted to the Council in December 2023 and therefore the regulations do not apply. Whilst Policy DM18 of the DMDPD does require a neutral impact or net gain in biodiversity

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<sup>1</sup> Open Space Audit: <https://www.hyndburnbc.gov.uk/download/open-space-report-2022/> identifies the application site as Natural/Semi-natural Greenspace. Table 12.3.2 on page 68 of the Audit shows that there is a deficit of this type of open space in Great Harwood.

to be achieved on sites where features of ecological importance exist or ecological designations apply, this does not apply to the application site. As such, there is considered to be no justification to request a financial contribution towards off-site biodiversity gain in this instance.

### **Conclusion**

The proposed development would provide an additional beneficial use in this area and could be carried out without harm to the townscape and environmental amenities of the area provided it is carried out in accordance with the recommended conditions and the compensation is made for loss of the open space. On that basis, the proposal would be in accordance with the development plan.

### **Recommendation**

That the application be DEFERRED and DELEGATED to the Chief Planning and Transportation Officer for approval subject to the satisfactory completion of a Legal Agreement and subject to the following conditions.

#### **Conditions/Reasons:**

1. The development hereby approved shall be commenced before the expiration of three years from the date of this permission or two years from the approval of the last of the reserved matters as defined by condition 3 below, whichever is the later.

Reason: To ensure that the Local Planning Authority retains the right to review unimplemented permissions and to comply with Section 92 (as amended) of the Town & 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 24<sup>th</sup> November 2023.
  - (b) Submitted drawings: namely drawings number:  
TRI-4284-01 (Existing Site Layout);  
22-030102 Revision B (Proposed Elevations; showing indicatively the scale and general form of the proposed building) received 24<sup>th</sup> November 2023; and,  
22-0301 01 Revision D (Proposed Site, Ground Floor & First Floor Plans; showing the proposed access from York Street and indicatively the general layout of the site and footprint of the proposed building) received 21<sup>st</sup> June 2024.

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 T1, E2, Env6 and Env7 of the Hyndburn Core Strategy and DM1,

DM26 DM29 and DM32 of the Hyndburn Development Management Development Plan Document.

3. Details of the reserved matters set out below (“the reserved matters”) shall be submitted to the Local Planning Authority for approval within three years from the day of this permission:
  - a. layout;
  - b. appearance and
  - c. landscaping.

The reserved matters shall be carried out as approved.

4. Approval of all reserved matters shall be obtained from the Local Planning Authority in writing before any development is commenced.

Reason: To enable the Local Planning Authority to control the development in detail and to comply with Section 92 (as amended) of the Town & Country Planning Act 1990.

5. The reserved matters shall include details of boundary treatment of the development.

Reason: In the interests of the visual amenities of the area as no details are included in the application in accordance with policies Env6 of the Hyndburn Core Strategy and DM26 of the Hyndburn Development Management Development Plan Document.

6. The reserved matters shall include in the details of landscaping the provision of a landscape buffer at the northern boundary of the site as shown on the indicative layout of the development identified under condition 2.

Reason: In the interests of the visual amenities of the area and the amenities on neighbouring residents in accordance with policies Env6 and Env7 of the Hyndburn Core Strategy and DM26 and DM29 of the Hyndburn Development Management Development Plan Document.

7. This permission does not include permission for any retail sale at the site other than the retail sale of vehicles as described in the application.

Reason: For the avoidance of doubt and because the site is outside the Town Centre where proposals for general retailing fall to be considered under the relevant local and national policies in respect of development of town centre uses in particular, policies GH2 of the Hyndburn Core Strategy and DM3 of the Hyndburn Development Management Development Plan Document.

8. 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 of delivery vehicles to/from site

Reason: To mitigate the impact of the construction traffic on the highway network in accordance with policies T1 of the Hyndburn Core Strategy and DM 32 of the Hyndburn Development Management Development Plan Document.

9. Prior to commencement a scheme for the site access and off-site highway works shall be submitted to and approved by the Local Planning Authority. The works shall include the following and be implemented prior to the first occupation of the development.

- a. New site access on York Street
- b. New footway on the north side of York Street.
- c. TRO to prevent parking within the visibility splay at the York Street / Park Road junction.

Reason: To mitigate the impact of the construction traffic on the highway network, in accordance with policies T1 of the Hyndburn Core Strategy and DM 32 of the Hyndburn Development Management Development Plan Document.

10. Prior to the first trading the staff and customer parking areas shown on the approved plan shall be constructed in a bound porous material and marked out and made available for use and maintained for that purpose for as long as the development is occupied.

Reason: In the interests of highway safety in accordance with policies T1 of the Hyndburn Core Strategy and DM32 of the Hyndburn Development Management Development Plan Document.

11. Prior to first trading a secure cycle store for staff shall be provided and maintained thereafter for as long as the site is trading.

Reason: To encourage the use of modes of transport other than the private car in the interests of sustainability in accordance with policies T1 of the

Hyndburn Core Strategy and DM32 of the Hyndburn Development Management Development Plan Document.

12. No goods or vehicles shall be accepted to site which have been unloaded on the adjacent highway, York Street or Park Road.

Reason: To mitigate the impact of the construction traffic on the highway network, in accordance with policies T1 of the Hyndburn Core Strategy and DM32 of the Hyndburn Development Management Development Plan Document.

13. Prior to the commencement of development, details of a sustainable surface water drainage scheme and a foul water drainage scheme 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.

Prior to occupation of the proposed development, the drainage schemes 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, in accordance with policies Env4 of the Hyndburn Core Strategy and DM 20 of the Hyndburn Development Management Development Plan Document.

11. Prior to commencement including enabling works 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, amphibians, 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 delivery timetable.

Reason: To ensure safeguard the natural environment in accordance with policies Env2 of the Hyndburn Core Strategy and DM17 and DM18 of the Hyndburn Development Management Development Plan Document.

12. Prior to the commencement of construction of the car showroom building hereby approved, details for the installation of 3 building mounted sparrow nest boxes shall be submitted and approved in writing by the Local Planning Authority. The box type must be manufactured from woodcrete/woodstone. The submitted details shall include the box type, manufacturer's name, and elevation plans marking the location of installation. The building mounted boxes shall 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 enhance provision of habitats in accordance with Policy DM18 of the Development Management DPD of Hyndburn Borough Council.

13. No tree removal, hedge removal, scrub removal or other enabling work or ground works shall take place between 1 March and 31 August inclusive, unless a competent ecologist has undertaken a careful, detailed check for active bird nests immediately before work is commenced (no later than 24 hours before commencement), and provided written confirmation that no birds or their nests 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. All British birds, their nests and eggs are protected by Section 1 of the Wildlife and Countryside Act 1981, as amended. It is an offense to remove, damage or destroy the nest of any wild bird while that nest is in use or being built. Planning consent does not provide a defence against prosecution under this act.

Reason: To safeguard the indicated species in accordance with policies Env2 of the Hyndburn Core Strategy and DM18 of the Hyndburn Development Management Development Plan Document.

14. 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 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:

1. Bird boxes have been installed in accordance with the approved scheme and plans.

2. That all Reasonable Avoidance and Mitigation Measures and Nesting Bird Protection Measures have been carried out in accordance with the approved Ecological Construction Environmental Management Plan.

Reason: To ensure safeguard the natural environment in accordance with policies Env2 of the Hyndburn Core Strategy and DM17 and DM18 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 E2, Env6 and Env7 of the Hyndburn Core Strategy.

### **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](http://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](http://www.groundstability.com)

**6. Watching brief condition for potential land contamination:**

The site has been previously occupied by industrial premises, therefore, should operatives discover any adverse ground conditions during earth works and suspect it to be contaminated, then they must report this to Environmental Health on 01254 380623.

**7. United Utilities**

The full comments of United Utilities dated 18<sup>th</sup> December 2023 is available on the Council's Planning Website using the application reference number or by a request to the [planning@hyndburnbc.gov.uk](mailto:planning@hyndburnbc.gov.uk)

The applicant can discuss any of the above with United Utilities Developer Engineer by email at [wastewaterdeveloperservices@uuplc.co.uk](mailto:wastewaterdeveloperservices@uuplc.co.uk).

**8. Environment Agency**

Environmental permit - advice to applicant The Environmental Permitting (England and Wales) Regulations 2016 require a permit to be obtained for any activities which will take place:

- on or within 8 metres of a main river (16 metres if tidal)
- on or within 8 metres of a flood defence structure or culverted main river (16 metres if tidal)
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For further guidance please visit <https://www.gov.uk/guidance/flood-risk-activities-environmental-permits> or contact our National Customer Contact Centre on 03708 506 506. The applicant should not assume that a permit will automatically be forthcoming once planning permission has been granted, and we advise them to consult with us at the earliest opportunity.