

Planning representation

Representation for a licence review ASFC

The Planning Department submits the following representation in relation to the licence review for ASFC. This representation outlines the planning history of the site, the issues associated with non-compliance, and the resultant noise nuisance that has led to persistent complaints from local residents. Given the ongoing concerns, we recommend that additional licensing conditions be introduced to prevent further public nuisance.

Planning History of the Site

Original Planning Permission (October 2020)

In October 2020, the Council granted planning permission (Ref: 11/20/0172) for modifications to the South Stand at ASFC. The approved development included:

- Demolition of ancillary club facility buildings while retaining the existing stand.
- Construction of a new single-storey building to house:
 - A replacement club shop and associated retail areas.
 - Club offices, including a manager's office.
 - Players' and officials' changing rooms, showers, and a physio room.
 - A repositioned tunnel for players and officials.
 - A high-level TV camera gantry.
 - A hospitality area with a bar, toilets, and kitchen.
 - A supporters' bar with associated WC facilities.

The planning permission (ref.11/20/0172) included the requirement to implement measures within the building to reduce noise breakout and ensure that noise would not impact on the nearest residential receptors. In preparing the planning application, Accrington Stanley engaged noise consultants Miller Goodall to undertake and submit a Noise Assessment. This included:

- Specific external wall construction to limit sound transmission.
- Insulated cladding panels and a ceiling void with acoustic materials.
- Mechanical ventilation to minimize the need for open windows or external noise escape.

The Council's Environmental Control Officer reviewed and approved these measures, subject to their strict implementation during construction.

Non-Compliance with Approved Plans (March 2022)

Development commenced in April 2021 and was completed in March 2022. However, the final construction significantly deviated from the approved plans.

Whilst the building's footprint was not dissimilar to the approved development, its internal layout and build specification differed such that it represented a significant divergence from the approved scheme and was not considered to constitute an implementation of the previous consent. ASFC were therefore advised to submit a new retrospective planning application in order to regularise the development.

The building includes only the hospitality lounge and supporters' bar, omitting the club shop, offices, and changing rooms. The hospitality and bar areas expanded from 533 sqm to 1,040 sqm, increasing capacity. The construction did not follow approved acoustic measures, notably:

- No plasterboard or insulating material (mineral wool) in the ceiling.
- Insufficient acoustic insulation, allowing noise to escape.

Change in Use and Noise Nuisance Complaints (March – October 2022)

Under the original approval, the hospitality lounge and supporters bar were designed to cater primarily to match day attendees with functions in the hospitality bar expected to take place on two Saturdays per month, with approximately one function per month being hosted in the supporters' bar.

However, as evidenced by its use since March 2022, the venue has become established as a standalone venue used to host a wide range of events (including birthday parties, weddings, festive events and themed music nights). It is seen as a destination in its own right.

The Council's Chief Planner wrote to the Appellant on 9th September 2022 setting out a number of steps to be taken. It was advised that a new full planning application be submitted with the letter highlighting that *"The key to the determination of this application will be the extent to which you are able to demonstrate that noise from the development will be successfully mitigated"*.

Change in Use and Noise Nuisance Complaints (March – October 2022)

Shortly following completion and use of the development, the Council's Environmental Protection Team began receiving noise complaints from the occupiers of residential properties in close proximity to the site. The majority of complaints related to live and amplified music although a number also concerned noise and disturbance generated by the gathering of customers outside the premises and comings and goings from the venue.

As well as offering pre and post-match entertainment and hospitality, the venue held regular live music, themed music nights and festive events as well as private birthday parties and weddings. These combined to form an intensive calendar of events.

The first verified noise complaint was received by the Environmental Protection Team on 18 May 2022 and related to functions that had taken place on the preceded two weekends. The Council continued to receive regular noise complaints from nearby residents thereafter.

In order for a nuisance to exist noise would usually need to unreasonably and substantially interfere with the use or enjoyment of a home or other premises or interfere with a person's life such that they are unable to carry out normal and reasonable daily activities. Verification that a statutory nuisance has occurred therefore indicates the noise is likely to significantly impact upon residential amenity.

It should be noted that the Environmental Protection Team received many more complaints during this time period.

Noise Abatement Notice (October 2022)

On 29th September 2022, the Environmental Protection Team contacted the Appellant by email to confirm that a Statutory Nuisance had been witnessed and that the Council was obliged to serve a Noise Abatement Notice. The Noise Abatement Notice was served on 4th October 2022.

Verified noise complaints continued to be received following service of the Noise Abatement Notice.

Second 'retrospective' planning application (March 2023)

A further 'retrospective' planning application was received on 15 March 2023. Against the background of ongoing noise complaints, assessment of the scheme focussed primarily on the issues of noise and disturbance and the resultant impact on residential amenity. The submitted scheme failed to propose any physical alterations to the building as built and a Noise Impact Assessment was also absent.

As a result, the Council engaged noise consultants Hann Tucker to review the noise information submitted with the application to assess its suitability. It was later agreed with ASFC that Hann Tucker would undertake noise monitoring at the site, both inside the venue and at residential receptors. Based on their monitoring, Hann Tucker produced a report that recommended maximum noise levels within the venue. Further noise management approaches were recommended within the Hann Tucker Report including the introduction of door staff to manage access and egress, provision of an alternative location for outdoor smoking that is further away and better screened from the residential receptors and installation of a house system with noise limiter to ensure sufficient control of noise output of amplified systems.

Having regard to the recommendations of the Hann Tucker Report, officers drafted a suite of planning conditions that aimed to control noise and disturbance levels to an acceptable level. These conditions were agreed by ASFC and the planning application was reported to the Planning Committee on 17 January 2024 with a recommendation to grant retrospective planning permission subject to numerous planning conditions aimed at controlling noise levels and disturbance.

However, at the Planning Committee meeting Members, mindful of the ongoing nature of noise complaints that had continued throughout the previous 20 months, considered that, despite the recommendation of officers, the development would continue to have a significant adverse impact on the residential amenity of nearby residents sufficient to warrant refusal of the planning application. The application was therefore refused.

ASFC's Appeal and Dismissal (April – September 2024)

Whilst noise complaints continued to be received, ASFC submitted an appeal against the Council's planning decision in April 2024. The Planning Inspector issued their appeal decision on 30 September 2024. ASFC's appeal was dismissed.

The Inspectors Report is included in full at Appendix 1, however, the most salient paragraphs are as follows:

- *"11. Football stadiums are by their nature likely to be active, noisy venues when in use for their intended purposes including human conversation, singing, cheering and the use of public address systems. The provision of hospitality on match days could reasonably be considered to be part and parcel of the stadium use. However, this would be limited to those occasions during the football season when ASFC are playing home matches. Local residents accept that they will experience some noise and disturbance arising from the stadium use. I find that they are not unreasonable in expecting the quiet enjoyment of their homes outside of this period."*

- *"14. From the evidence before me, the parties do not dispute that since construction, both the 1968 Lounge and Coley's Bar have been used for night-time functions and that these events have generated complaints from local residents in respect of noise and disturbance, particularly as a result of loud music late at night. This has affected residents' ability to relax within their homes, as well as sleep."*

15. Following the identification of statutory noise nuisances, a noise abatement notice (NAN) was served on 4 October 2022. The Council's evidence that the NAN has been breached a number of times is clear and unequivocal, and is not challenged by the appellant."

- *"22. The hospitality venues are both open to the roof with exposed ducting as part of the aesthetic treatment of the internal spaces. The Hann Tucker Report is clear that the building structure does not provide suitable acoustic mitigation for noisy events. The roof is understood to be the primary path for noise breakout. The Hann Tucker Report is clear that without acoustic enhancement to the building fabric, it advises against live band performances within Coley's as a minimum, as the noise output cannot be effectively managed."*
- *"24. I acknowledge that the recommendations of the Hann Tucker Report with regard to noise management approaches were accepted by the appellant and that the proposal was recommended for approval subject to conditions by the planning officer. However, there is no substantive evidence before me to demonstrate that the venues can operate in accordance with the suggested conditions."*

25. To the contrary, the Council has advised that had the conditions been in place, the appellant would have been in breach of the recommended noise limits. Verified noise complaints have also confirmed that a statutory nuisance has occurred on at least 1 occasion since the refusal of the application, again in breach of the NAN. This has not been challenged by the appellant."

26. Although it is suggested that I should not take into account the extant noise abatement documentation, it forms part of the Council's evidence such that I am obliged to consider it. This includes email evidence that at an England euro qualifier event during the summer, the appellant considered the noise level of 85dB was impossible to keep to with 180 guests and the volume of TV's, such that the installed noise limiter was disconnected. This is concerning."

27. *The appellant's admission in this email that the limits previously agreed via the Hann Tucker Report are in the main unachievable is also troubling. It, along with the tampering of the noise limiter, does not provide me with confidence that if applied, the conditions would not be breached straight away by the operation of the venues. This is a concern I note is shared by neighbouring residents. I am mindful of the Hann Tucker advice that as there is no clearly defined method in determining what constitutes a noise nuisance, the operational noise levels should be viewed as a 'way forward/starting point.'*

28. *In light of the continued breaches of the NAN which have given rise to neighbour complaints and the lack of firm proposals to address the poor acoustic performance of the venues, I find that the Council's suggested conditions would not wholly mitigate the impact of the development. Thus, they could not be considered to meet the test of reasonableness."*

- *"30. Taking everything together I find that the suggested conditions would not in isolation, mitigate the adverse effects of the operation of the proposed development. Intervention into the building fabric, specifically the roof would also be required and these details are not before me. Given the propensity for noise and disturbance to occur it would be preferable for a NMP to be considered as part of the decision-making process, so that the effectiveness of any proposed management measures could be duly contemplated before permission is granted. Consideration may also need to be given to limiting the number of late-night events per year, or restricting events to those that do not include live/amplified music. This would be a matter for the parties.*

31. *In the absence of a comprehensive package of measures, the proposed development would significantly and unacceptably harm the living conditions of neighbouring residents, with specific regard to noise and disturbance..."*

- *"37. The proposed development would result in significant injurious harm to the living conditions of neighbouring residents, with particular regard to noise and disturbance..."*

Comments on the License Review

While ASFC remains in breach of planning regulations, the current licence permits an ongoing public nuisance. The venue has demonstrated:

- Inability to comply with noise mitigation measures.
- Repeated breaches of the Noise Abatement Notice.
- Failure to adequately manage noise impact on local residents.

There had been limited correspondence between ASFC and the Planning Department since the appeal decision on 30 September 2024. However, recently ASFC have indicated their intention to submit a further planning application following the completion of another round of noise monitoring work. Should a planning application be submitted in March 2025, it is possible that a decision would be made in Summer 2025.

Consideration should therefore be given to the introduction of conditions on the license to prevent a public nuisance from occurring.

To assist, I provide a list of planning conditions at Appendix 2, which were previously proposed by Planning and Environmental Protection Officers to be imposed on the recommended approval of planning permission. It should be noted however, that the Planning Inspector considered that *"the Council's suggested conditions would not wholly mitigate the impact of the development"* and also suggested that, *"Consideration may also need to be given to limiting the number of late-night events per year, or restricting events to those that do not include live/amplified music."*

Adam Birkett
Head of Planning & Transportation

20th February 2025



Appeal Decision

Site visit made on 17 September 2024

by M Clowes BA (Hons) MCD PG CERT (Arch Con) MRTPI

an Inspector appointed by the Secretary of State

Decision date: 30 September 2024

Appeal Ref: APP/R2330/W/24/3342974

Crown Ground, Livingstone Road, Accrington, Lancashire BB5 5BX

- The appeal is made under section 78 of the Town and Country Planning Act 1990 (as amended) against a refusal to grant planning permission.
- The appeal is made by Mr D Burgess [Accrington Stanley Football Club] against the decision of Hyndburn Borough Council.
- The application Ref is 11/23/0060.
- The development proposed is demolition of existing building and associated turnstiles, entrances and temporary buildings to rear of South Stand; construction of new hospitality areas, supporters bar and new high level television camera gantry.

Decision

1. The appeal is dismissed.

Applications for costs

2. An application for costs was made by Mr D Burgess [Accrington Stanley Football Club] against Hyndburn Borough Council. This application is the subject of a separate decision.

Preliminary Matters

3. Planning permission was granted in 2020 for 'the demolition of existing building and associated turnstiles, entrances and temporary buildings to rear of south stand; construction of replacement/upgraded player and manager areas, offices, hospitality areas, supporters bar and turnstiles and new high level television camera gantry¹.'
4. The Council advises that the subsequent development was found to not be in accordance with the approved plans with regard to its internal layout and build specification. Specifically, the Council advise that the roof construction was not built to the noise reducing specification set out within the Miller Goodall Noise Assessment submitted to accompany the proposal. In addition, the floor area as built, now solely provides for hospitality space. It has increased from approximately 533sqm as originally approved to approximately 1,040sqm², enabling a significant increase in the number of patrons it can

¹ Planning application reference 11/20/0172 Major Full as set out on page 4 of the Council's officer report.

² As cited by the Council at paragraph 3.10 of its statement of case.

accommodate. Given that the south stand building is substantially complete and in use, retrospective permission is sought.

5. Whilst the development appears to accord with the submitted plans in terms of its overall size and position, there are minor deviations in relation to the position of some internal doorways and some external elevation treatment. Having had regard to the overall scale of the proposed development, I am satisfied that there is sufficient detail on the plans provided, to properly assess the impact of the proposal on the living conditions of neighbouring residents. In reaching my decision I have assessed the development as shown on the submitted plans and not as built on site.

Main Issue

6. The main issue in relation to this appeal is the effect of the proposal on the living conditions of neighbouring residents, with regard to noise and disturbance.

Reasons

Background

7. The Crown Ground is a football stadium which provides the home venue for Accrington Stanley Football Club (ASFC). It is closely juxtaposed with residential development to the north, south and west where dwellings back onto the grounds of the stadium.
8. Paragraph 180e) of the Framework sets out that planning decisions should contribute to and enhance the natural and local environment by preventing new and existing development from contributing to, being put at unacceptable risk from, or being adversely affected by, unacceptable levels of amongst other things, noise pollution.
9. It goes on to advise that planning policies and decisions should ensure that new development is appropriate for its location taking into account the likely effects (including cumulative effects) of pollution on health, living conditions and the natural environment, as well as the potential sensitivity of the site or the wider area to impacts that could arise from the development. In doing so they should mitigate and reduce to a minimum, potential adverse impacts from noise from new development – and avoid noise giving rise to significant adverse impacts on health and the quality of life³.
10. I visited during the week on a non-match day. Although a snapshot in time, the area whilst not silent, appeared to be typical of a quiet residential area with birdsong clearly audible and occasional low-level traffic noise. It was a pleasant, peaceful atmosphere.
11. Football stadiums are by their nature likely to be active, noisy venues when in use for their intended purposes including human conversation, singing, cheering and the use of public address systems. The provision of hospitality on match days could reasonably be considered to be part and parcel of the stadium use. However, this would be limited to those occasions during the football season when ASFC are playing home matches. Local residents accept

³ Paragraph 191 and 191a) of the Framework.

that they will experience some noise and disturbance arising from the stadium use. I find that they are not unreasonable in expecting the quiet enjoyment of their homes outside of this period.

The Proposal

12. The new building as constructed contains hospitality space including the 1968 Lounge and Coley's Bar. As well as offering pre and post-match hospitality, the venues offer live music, themed nights, as well as private parties and weddings. It is these event uses outside of match days, that would continue late into the evening, which are a cause for concern. The evidence suggests that the appellant's objective appears that such events would take place on an unrestricted basis, such that they could occur on any night of the week, on any number of occasions throughout the year. The nature of such events is that piped, amplified and loud music would be common, along with the associated comings and goings of people enjoying the events or celebrations.
13. The Council explains that in order for a nuisance to exist, noise would unreasonably and substantially interfere with the use or enjoyment of a home or other premises, or interfere with a person's life such that they are unable to carry out normal and reasonable daily activities. Verification that a statutory nuisance has occurred indicates that the noise is likely to significantly impact upon residential amenity.
14. From the evidence before me, the parties do not dispute that since construction, both the 1968 Lounge and Coley's Bar have been used for night-time functions and that these events have generated complaints from local residents in respect of noise and disturbance, particularly as a result of loud music late at night. This has affected residents ability to relax within their homes, as well as sleep.
15. Following the identification of statutory noise nuisances, a noise abatement notice (NAN) was served on 4 October 2022. The Council's evidence that the NAN has been breached a number of times is clear and unequivocal,⁴ and is not challenged by the appellant.
16. The main matter of dispute between the parties is whether the use of the hospitality facilities for events could be adequately controlled by planning conditions. I understand that due to deficiencies in the appellant's Noise Management Plan (NMP) and subsequent supporting information⁵, the Council commissioned an acoustic consultant to provide independent advice. This was with the agreement and cooperation of the appellant.
17. The subsequent Hann Tucker Planning Review and Technical Report (The Hann Tucker Report) indicates that noise monitoring was conducted during 3 events in October and December 2023⁶. This included surveys within both of the venues, internally within neighbouring dwellings and at the boundaries between the two. At least 2 of the events were audible within the surveyed dwelling with the windows shut, such that could be perceived as a nuisance.

⁴ As set out within table 2 of the Council's statement of case.

⁵ Wardell Armstrong letter 19 September 2023.

⁶ An ppm-pah band with amplified music in between sets in Coley's Bar on Friday 13 October 2023; a private 80's disco event with amplified music in the 1968 Lounge on Saturday 14 October 2023 and private Christmas parties with amplified music in both venues on Friday 1 December 2023.

The report is clear that the very low background noise at the appeal site increases the risk of music, amongst other things, becoming a nuisance to nearby residents.

18. It also considers that it was unreasonable to place a reliance on nearby residents keeping their windows closed, given that the change in the acoustic environment has arisen from the development. I agree. Rather it is for the agent of change i.e. the appellant, to address and mitigate any potential adverse effects that are identified⁷.
19. Based on the levels measured at the residential receptors both internally and externally, the Hann Tucker Report recommends maximum noise levels within the venue of 75dB in Coley's Bar and 80dB in the 1968 Lounge. Other noise management measures were recommended including the provision of door staff to manage access/egress, provision of an alternative smoking location and installation of a house system with noise limiter to control the noise output of amplified systems. These were transposed into conditions attached to the officer report which recommended approval of the proposal. Nonetheless, the planning committee refused the proposal as they were not satisfied amongst other things, that the conditions would protect the living conditions of neighbouring residents.
20. It seems to me that some of the measures require effective management. For example, the system not being tampered with to increase music levels, or staff limiting the opening of the exterior doors. I am concerned that staff may not be able to control the arrival or departure times of guests without this causing conflict. Noise would escape from the building when the doors are opened that whilst potentially short lived and intermittent, would nonetheless cause disturbance to nearby residents, particularly if it is late at night.
21. Local residents point to ineffective management measures during an event held on Friday 18 July 2024 and also to noise generated from guests leaving the venues. This does not appear to be robustly addressed by any of the submitted reports or suggested conditions. The effectiveness of the management regime is therefore uncertain. Furthermore, the proposed smoking areas do not appear to have been identified or their potential noise generation taken into account.
22. The hospitality venues are both open to the roof with exposed ducting as part of the aesthetic treatment of the internal spaces. The Hann Tucker Report is clear that the building structure does not provide suitable acoustic mitigation for noisy events. The roof is understood to be the primary path for noise breakout⁸. The Hann Tucker Report is clear that without acoustic enhancement to the building fabric, it advises against live band performances within Coley's as a minimum, as the noise output cannot be effectively managed.
23. I am advised that sound deadening infrastructure was to be installed on 16 September 2024 subject to the availability of materials, with the programme of works scheduled to take place for approximately 4 weeks⁹. At the time of

⁷ Planning Practice Guidance Paragraph: 009 Reference ID: 30-009-20190722.

⁸ Paragraph 8.1 of the Hann Tucker Report.

⁹ Email from Daniel Connolly of Connolly's Planning and Development Limited dated 23 August 2024

my site visit, no such works were evident. In any event, the precise nature of the works is not before me. Nor do I have compelling evidence of the likely impact the works would have on the noise breakout from the building subsequently. Indeed, the appellant does not appear to be certain that the works would be successful¹⁰.

24. I acknowledge that the recommendations of the Hann Tucker Report with regard to noise management approaches were accepted by the appellant and that the proposal was recommended for approval subject to conditions by the planning officer. However, there is no substantive evidence before me to demonstrate that the venues can operate in accordance with the suggested conditions.
25. To the contrary, the Council has advised that had the conditions been in place, the appellant would have been in breach of the recommended noise limits. Verified noise complaints have also confirmed that a statutory nuisance has occurred on at least 1 occasion since the refusal of the application, again in breach of the NAN¹¹. This has not been challenged by the appellant.
26. Although it is suggested that I should not take into account the extant noise abatement documentation, it forms part of the Council's evidence such that I am obliged to consider it. This includes email evidence that at an England euro qualifier event during the summer, the appellant considered the noise level of 85dB was impossible to keep to with 180 guests and the volume of TV's, such that the installed noise limiter was disconnected¹². This is concerning.
27. The appellant's admission in this email that the limits previously agreed via the Hann Tucker Report are in the main unachievable is also troubling. It, along with the tampering of the noise limiter, does not provide me with confidence that if applied, the conditions would not be breached straight away by the operation of the venues. This is a concern I note is shared by neighbouring residents. I am mindful of the Hann Tucker advice that as there is no clearly defined method in determining what constitutes a noise nuisance, the operational noise levels should be viewed as a 'way forward/starting point'¹³.
28. In light of the continued breaches of the NAN which have given rise to neighbour complaints and the lack of firm proposals to address the poor acoustic performance of the venues, I find that the Council's suggested conditions would not wholly mitigate the impact of the development. Thus, they could not be considered to meet the test of reasonableness¹⁴. Whilst Policy ENV7 of the Hyndburn Core Strategy (CS) 2012, does suggest nuisances could be controlled, this is only where those nuisances would not give rise to unacceptable adverse impacts. That is not the case here.
29. The appellant suggests that the Council can pursue breaches of controls or a statutory nuisance via other relevant legislation. Be that as it may, the development plan, PPG and the Framework are clear that new development

¹⁰ Page 2 of the appellant's email to the Council dated 27 June 2024.

¹¹ As set out within table 3 of the Council's statement of case.

¹² Email from the appellant to the Council dated 27 June 2024.

¹³ Paragraph 6.2 of the Hann Tucker Report.

¹⁴ As set out in paragraph 55 of the Framework and PPG Paragraph: 003 Reference ID: 21a-003-20190723.

should not adversely affect the living conditions of existing residents at the point that a planning decision is made. Moreover, I have no substantive evidence before me to demonstrate that breaches could be adequately and appropriately dealt with via other legislation and that the living conditions of other residents would not be unacceptably harmed in the meantime. Clearly to attach conditions that the appellant would not be able to adhere to would be perverse and/or unduly constrain the activities that could take place.

Conclusion – Living Conditions

30. Taking everything together I find that the suggested conditions would not in isolation, mitigate the adverse effects of the operation of the proposed development. Intervention into the building fabric, specifically the roof would also be required and these details are not before me. Given the propensity for noise and disturbance to occur it would be preferable for a NMP to be considered as part of the decision-making process, so that the effectiveness of any proposed management measures could be duly contemplated before permission is granted. Consideration may also need to be given to limiting the number of late-night events per year, or restricting events to those that do not include live/amplified music. This would be a matter for the parties.
31. In the absence of a comprehensive package of measures, the proposed development would significantly and unacceptably harm the living conditions of neighbouring residents, with specific regard to noise and disturbance. In this way the terms of Policy ENV7 of the CS and Policy DM29 of the Hyndburn Development Management DPD (2018), would be compromised as the amenity of existing residents would not be protected and unacceptable impacts with regard to noise and other nuisances cannot be properly controlled. Conflict is also found with paragraph 191 of the Framework as set out above.

Other Matters

32. The Framework places significant weight on the need to support economic growth and productivity. In this regard, I recognise that the proposed hospitality venues provide an opportunity to expand the facilities of ASFC. The proposed development would contribute to the local economy through increased employment, including bookings of entertainment providers or musicians. However, other than the employment of an events coordinator, such benefits are likely to be limited to those occasions when events are held. These benefits therefore attract moderate weight.
33. Upgrading the building fabric and installing measures to comply with any control mechanisms would undoubtedly involve investment. It is usually more cost effective to install acoustic attenuation at the point of construction and it appears that the appellant chose to build something different to what they had permission for.
34. I do not doubt that ASFC has a positive role in the wider community. It has been put to me that the community interests ASFC supports and funds relies upon functions taking place. However, there is no evidence to suggest that such functions were taking place prior to the development being constructed. Neither I have been provided with a financial appraisal to demonstrate that the income from additional events outside of match day activities, is

fundamental to ASFC or its community interests. This attracts no more than limited weight.

35. I have taken into account Article 8(1) of the European Convention on Human Rights as enshrined in the Human Rights Act 1998 which states that everyone has the right to respect for his private and family life. As I am dismissing the appeal, the human rights of neighbouring residents would not be interfered with by my decision. It will be for the appellant and the Council to consider the next steps with regard to a revised scheme or possible enforcement action if deemed expedient.

Planning Balance and Conclusion

36. Paragraph 12 of the Framework is clear that the presumption in favour of sustainable development does not change the statutory status of the development plan as the starting point for decision-making. Where a planning application conflicts with an up-to-date development plan, permission should not usually be granted.
37. The proposed development would result in significant injurious harm to the living conditions of neighbouring residents, with particular regard to noise and disturbance. This would not be outweighed by the moderate economic and employment benefits of the proposal, or the limited weight attached to the income generation for ASFC. The proposal would fail to comply with the development plan, and there are no material considerations to indicate a decision should be made other than in accordance with it. The appeal is dismissed.

M Clowes

INSPECTOR

Planning Committee

January 17th 2024

Update Sheet

Item 3B

Following further discussions with the applicant relating to the wording of planning conditions, the following amendments are recommended to the planning conditions contained in the officer's report.

[New wording added in BOLD]

~~[Deleted wording struck out]~~

1. The development shall be carried out in accordance with the following plans and documents:

Existing Site Plan 18.175.011C
Proposed Site Plan 18.175.012F
Existing Elevation Photographs 18.175.017A
OS Plan 18.175.018C
Proposed Site Plan 18.175.201E
Proposed Key Plan 18.175.206N
Proposed South Elevation
Proposed North Elevation
Proposed East and West Elevation
20158-DR-C-0102-P2 Drainage Proposals
20158-FRA-001 Flood Risk Assessment, June 2020
20158-C-CALCS-001 Drainage Calculations
Accrington Stanley Football Club Stadium Travel Plan
18.175.225A – perimeter lighting
External lighting Spec. sheet

Reason: For the avoidance of doubt and to enable Hyndburn Borough Council to adequately control the development and to minimise its impact on the amenities of the local area and to conform with Policies Env6 & Env7 of the Hyndburn Core Strategy.

2. The use of the premises in accordance with this permission shall be restricted to the hours between 09:00 and 00:00 Sunday to Wednesday and between 09:00am and 01:30am on Thursday to Saturday. There shall be no business operated from the site outside the stated operating hours unless otherwise agreed in writing with the Local Planning Authority.

Reason: In order to protect the residential amenities of the occupiers of the adjacent properties and to comply with Policy Env7 of the Hyndburn Core Strategy and Policies DM25 and DM29 of the Hyndburn Development Management DPD.

- ~~3. External areas shall not be used for outdoor drinking. Drinking shall not take place anywhere on the site except within the building(s) identified on the approved plans.~~

~~Reason: In order to protect the residential amenities of the occupiers of the adjacent properties and to comply with Policy Env7 of the Hyndburn Core Strategy and Policies DM25 and DM29 of the Hyndburn Development Management DPD.~~

4. Notwithstanding the submitted details, any entertainment noise shall be limited to the following levels within the buildings, and all doors & windows shall be closed when regulated entertainment including amplified and acoustic music is being played.

Supporters Bar (Coleys)

- 80dB (LAeq,5min) between daytime and evening hours of 07.00-23.00
- 75dB (LAeq,5min) during night-time hours of 23.00 – 07:00

Hospitality Lounge (1968 Lounge)

- 85dB (LAeq,5min) between daytime and evening hours of 07.00-23.00
- 80dB (LAeq,5min) during night-time hours of 23.00 – 07:00

For pre and post-match entertainment events held in association with Accrington Stanley FC football matches only and taking place within the buildings hereby approved, during the hours of 12:00 – 23:00 the following noise limits shall apply:

- **85dB (LAeq,5min) in the Supporters Bar (Coleys)**
- **90dB (LAeq,5min) in the Hospitality Lounge (1968 Lounge)**

It is recommended that external noise levels should be routinely monitored at regular intervals throughout the event ~~and checked at the site boundary~~ when amplified music is being played to ensure levels do not affect occupiers of the nearest noise sensitive premises. Such details shall be made available to the LPA upon request.

Reason: In the interests of protecting residential amenity from noise and disturbance and to comply with Policy Env7 of the Hyndburn Core Strategy and Policies DM25 and DM29 of the Hyndburn Development Management DPD.

- ~~5. Notwithstanding the requirements of condition 4 above, match day entertainment events shall be permitted to take place within the buildings between the hours of 12:00-19:30.~~

~~Entertainment noise from these events shall not exceed 85dB (LAeq,5min) in the Supporters Bar (Coleys) and 90dB (LAeq,5min) in the Hospitality Lounge (1968 Lounge) at any time.~~

~~Reason: In order to protect the residential amenities of the occupiers of the adjacent properties and to comply with Policy Env7 of the Hyndburn Core Strategy and Policies DM25 and DM29 of the Hyndburn Development Management DPD.~~

6. Within one month of this permission being granted, a Noise Management Plan shall be submitted to the Local Planning Authority **for approval**. The details shall include:
- a) Details of sound limiters linked to sound amplification equipment and specified maximum internal noise levels to be installed within the building.
 - b) Details of ~~external smoking shelters~~ **all designated smoking areas**
 - c) **Measures to limit drinking and noise generating activity outside the premises**
 - d) Door management and staff training arrangements
 - e) Means of informing residents of upcoming events and complaints procedure both during and after the event
 - f) Noise monitoring schedule incl. monitoring locations and frequency of monitoring

The development shall be operated in strict accordance with the approved management plan at all times unless agreed otherwise in writing by the Local Planning Authority.

Reason: In the interests of the general amenity of the area and to safeguard, where appropriate, neighbouring residential amenity and to comply with Policy Env7 of the Hyndburn Core Strategy and Policies DM25 and DM29 of the Hyndburn Development Management DPD.

7. Within two months of this decision, details of a sustainable surface water drainage scheme and a foul water drainage scheme shall be submitted to the Local Planning Authority **for approval**. 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.

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.

8. The development permitted by this planning permission shall be carried out in accordance with the principles set out within the site-specific flood risk assessment (June 2020 / 20158-FRA-001 / Topping Engineering).

The measures shall be fully implemented in accordance with the timing / phasing arrangements embodied within the scheme.

Reason: To ensure satisfactory sustainable drainage facilities are provided to serve the site in accordance with the Paragraphs 167 and 169 of the National Planning Policy Framework, Planning Practice Guidance and Defra Technical Standards for Sustainable Drainage Systems.

9. Within two months of this decision a detailed, final surface water sustainable drainage strategy for the site shall be submitted to the Local Planning Authority **for approval**.

The detailed surface water sustainable drainage strategy shall be based upon the site-specific flood risk assessment and indicative surface water sustainable drainage strategy submitted (3rd August 2021 / DR-C-0102 / Topping Engineers) and sustainable drainage principles and requirements set out in the National Planning Policy Framework, Planning Practice Guidance and Defra Technical Standards for Sustainable Drainage Systems. No surface water shall be allowed to discharge to the public foul sewer(s), directly or indirectly.

The details of the drainage strategy to be submitted for approval shall include, as a minimum;

- a) Sustainable drainage calculations for peak flow control and volume control for the:
- i. 100% (1 in 1-year) annual exceedance probability event;
 - ii. 3.3% (1 in 30-year) annual exceedance probability event + 40% climate change allowance;
 - iii. 1% (1 in 100-year) annual exceedance probability event + 50% climate change allowance.

Calculations must be provided for the whole site, including all existing and proposed surface water drainage systems.

- b) Final sustainable drainage plans appropriately labelled to include, as a minimum:
 - i. Site plan showing all permeable and impermeable areas that contribute to the drainage network either directly or indirectly, including surface water flows from outside the curtilage as necessary;
 - ii. Sustainable drainage system layout showing all pipe and structure references, dimensions and design levels; to include all existing and proposed surface water drainage systems up to and including the final outfall;
 - iii. Details of all sustainable drainage components, including landscape drawings showing topography and slope gradient as appropriate;
 - iv. Drainage plan showing flood water exceedance routes in accordance with Defra Technical Standards for Sustainable Drainage Systems;
 - v. Finished Floor Levels (FFL) in AOD with adjacent ground levels for all sides of each building and connecting cover levels to confirm minimum 150 mm+ difference for FFL;
 - vi. Details of proposals to collect and mitigate surface water runoff from the development boundary;
 - vii. Measures taken to manage the quality of the surface water runoff to prevent pollution, protect groundwater and surface waters, and delivers suitably clean water to sustainable drainage components;
- c) Evidence that a free-flowing outfall can be achieved. If this is not possible, evidence of a surcharged outfall applied to the sustainable drainage calculations will be required.
- d) A model of the combined drainage system to demonstrate:
 - i. That the attenuation is appropriately sized off the proposed site and the previously approved site.

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

Reason: To ensure satisfactory sustainable drainage facilities are provided to serve the site in accordance with the Paragraphs 167 and 169 of the National Planning Policy Framework, Planning Practice Guidance and Defra Technical Standards for Sustainable Drainage Systems and Hyndburn Development Management DPD Policy DM20.

10. Within two months of this decision a site-specific Operation and Maintenance Manual for the lifetime of the development, pertaining to the surface water drainage system and prepared by a suitably competent person, shall be submitted to the Local Planning Authority **for approval**.

The details of the manual to be submitted for approval shall include, as a minimum:

- a) A timetable for its implementation;
- b) Details of the maintenance, operational and access requirement for all SuDS components and connecting drainage structures, including all watercourses and their ownership;
- c) Pro-forma to allow the recording of each inspection and maintenance activity, as well as allowing any faults to be recorded and actions taken to rectify issues;
- d) The arrangements for adoption by any public body or statutory undertaker, or any other arrangements to secure the operation of the sustainable drainage scheme in perpetuity;
- e) Details of financial management including arrangements for the replacement of major components at the end of the manufacturer's recommended design life;
- f) Details of whom to contact if pollution is seen in the system or if it is not working correctly; and
- g) Means of access for maintenance and easements.

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

Reason: To ensure that surface water flood risks from development to the future users of the land and neighbouring land are minimised, together with those risks to controlled waters, property, and ecological systems, and to ensure that the sustainable drainage system is subsequently maintained pursuant to the requirements of Paragraph 169 of the National Planning Policy Framework and Hyndburn Development Management DPD Policy DM20.

11. Within three months of the surface water sustainable drainage strategy (required by condition 4 above) being agreed by the Local Planning Authority a site-specific verification report, pertaining to the surface water sustainable drainage system, and prepared by a suitably competent person, shall be submitted to the Local Planning Authority **for approval**.

The verification report must, as a minimum, demonstrate that the surface water sustainable drainage system has been constructed in accordance with the approved drawing(s) (or detail any minor variations) and is fit for purpose. The report shall contain information and evidence, including photographs, of details and locations (including 5 national grid references) of critical drainage infrastructure (including inlets, outlets, and control structures) and full as-built drawings. The agreed scheme shall thereafter be maintained in perpetuity.

Reason: To ensure that surface water flood risks from development to the future users of the land and neighbouring land are minimised, together with those risks to controlled waters, property, and ecological systems, and to ensure that the development as constructed is compliant with the requirements of Paragraphs 167 and 169 of the National Planning Policy Framework and Hyndburn Development Management DPD Policy DM20.

12. Within one month of this decision a scheme for compensatory landscaping at the site shall be submitted to the Local Planning Authority for approval. These details shall indicate the types and numbers of trees and shrubs to be planted and their distribution on site.

The landscape works shall be carried out in accordance with the approved details within the next planting and seeding seasons following their approval and any trees or plants which within a period of 5 years from the completion of the development die, are removed or become seriously damaged or diseased shall be replaced in the next planting season with others of similar size and species.

Reason: To ensure that a satisfactory landscaping scheme for the development is carried out to mitigate the impact of the development in accordance with Hyndburn Development Management DPD Policy DM17.

- ~~13. Within one month of this decision details of any external lighting installed on the new building shall be submitted to the Local Planning Authority. For the avoidance of doubt the submitted details shall include luminance levels and demonstrate how any proposed external lighting has been designed and located to avoid excessive light spill and pollution.~~

~~The external lighting shall be retained precisely in accordance with the approved details.~~

~~Reason: In order to ensure a satisfactory appearance in the interests of visual amenity and to prevent nuisance.~~

14. The electric charging bays and cycle parking as detailed on the approved plans shall be available for use within three months of this decision and shall be retained at all times thereafter.

Reason: In the interest of promoting sustainable travel in accordance with the provisions of Policy DM32 of the development Management Development Plan Document.