

COMMITTEE DATE: [01/12/2015](#)

Application Reference: **15/0223**

WARD: Ingthorpe
DATE REGISTERED: 15/06/15
LOCAL PLAN ALLOCATION: Main Industrial / Business Area

APPLICATION TYPE: Removal / Variation of Conditions
APPLICANT: Mr D Nicholson

PROPOSAL: Variation of condition 01 attached to planning permission 12/0485 to allow a longer period of time (12 months from the date of this application) for the marking out of the car, motorcycle, coach and cycle parking;
variation of condition 04 to allow the ice rink to open between the hours of 06.00 to 00.00 seven days a week;
variation of condition 08 to allow a longer period of time (12 months from the date of this application) for the submission and implementation of a scheme for the external treatment of the exposed sections of the building;
removal of condition 07 to remove the requirement for a surface water drainage scheme.

LOCATION: FYLDE COAST ICE ARENA, BRISTOL AVENUE, FY2 0JF

Summary of Recommendation: Grant Permission

CASE OFFICER

Mr Mark Shaw

SUMMARY OF RECOMMENDATION

The ice rink within a former industrial unit on the former TVR site has been open for over two years although there are conditions imposed on the planning permission reference: 12/0485 which have yet to be complied with. It has also been alleged that the ice rink has been opening beyond the approved hours. This application seeks approval for changes to four of the conditions imposed on 12/0485. Two of the conditions required works to be carried out within specified time periods which have now expired and the applicant seeks an extension of time until June 2016 to carry out these works which is considered acceptable for the reasons given below. It is also proposed to extend the opening hours of the ice rink which is considered acceptable on a temporary basis, as explained below. Finally, the applicant has also applied to remove a surface drainage condition which is considered premature at the present time, again for reasons which are explained below.

INTRODUCTION

Members will recall that retrospective planning permission was granted on 8 September 2014 under planning application reference: 12/0485 subject to a number of conditions. The application was originally submitted on 26 June 2012 and presented to the Planning Committee meetings on 14 January 2013 and 11 February 2013 respectively. The application was deferred from the first meeting and approved at the second meeting though contrary to officer recommendation. This

decision was subsequently quashed on 12 December 2013 following a challenge by Eversheds on behalf of the Property Alliance Group who own the building currently occupied by Sub-Zero Ice Rink in Cleveleys. The planning permission was then referred back to the Council for re-assessment and additional information requested from the applicants which was to be taken into account. The second, and current, decision on the use was taken by the Planning Committee at their meeting on 8 September 2014 where it approved the application, subject to a number of conditions, taking into account the additional information. It is a number of these conditions that are the subject of this current application which seeks to vary one condition, extending the time limit for compliance for two others, and to remove another condition altogether.

SITE DESCRIPTION

Metal clad two storey scale formerly vacant industrial premises forming part of the former TVR site in Bispham involving approximately 3150 sqm of floorspace located at the rear of the site and backing onto Moor Park which has been in use as an ice rink for over two years. Fronting Bristol Avenue are two storey brick buildings also forming part of the former TVR complex and these buildings have been converted into a number of small scale business and leisure units. Directly across Bristol Avenue is the Council's Household Waste and Re-cycling Centre which operates on a one way system with an access and egress onto Bristol Avenue. The character of Bristol Avenue is mixed with residential property and the Moor Park leisure and medical complex located at the western end towards Bispham Road, and business and industrial uses along the central and eastern sections. The application site together with the refuse site and adjoining businesses are designated as a Main Industrial/ Business Area under Policy DE1 of the adopted Local Plan. A number of industrial buildings on the former TVR site have been demolished including the buildings to the front and side of the application premises.

DETAILS OF PROPOSAL

1) Variation of condition 01 attached to planning permission 12/0485 to allow a longer period of time (12 months from the date of this application i.e.: from 15/06/15) for the marking out of the car, motorcycle, coach and cycle parking; **such works were to be carried out within three months of the date the application was approved i.e. on or before 8 December 2014.**

2) Variation of condition 04 to allow the ice rink to open between the hours of 06.00 to 00.00 seven days a week; **the previously approved hours permitted the rink to open between 10am and 10pm Monday- Friday and between 9am and 10pm on Saturday, Sunday and Bank Holidays.**

3) Variation of condition 08 to allow a longer period of time (12 months from the date of this application) for the submission, approval and implementation of a scheme for the external treatment of the exposed sections of the building, **such works were to have been carried out within six months of the approval i.e. on or before 8 March 2015;** and

4) Removal of condition 07 to remove the requirement for a surface water drainage scheme. **Such works were to have been carried out within six months of the approval i.e. on or before 8 March 2015.**

MAIN PLANNING ISSUES

The main planning issues are considered to be:

- Off Street Car Parking/ Highway Safety
- Residential Amenity

- Visual Amenity
- Drainage
- Other matters

These issues will be discussed in the assessment section of this report.

CONSULTATIONS

Environment Agency: No comments have been received at the time of preparing this report. Any comments that are received before the Committee meeting will be reported in the update note.

Head of Transportation: The current use of the site has had little impact on the highway network in the vicinity since opening and due to this I am happy to support the variation to the condition.

Head of Environmental Services: We have not had any complaints about this business so I have no objections to these proposals.

United Utilities (Water): recommends the discharge of conditions relating to drainage.

PUBLICITY AND REPRESENTATIONS

Three site notices displayed on 9 July 2015 and no comments have been received from neighbouring properties.

Walsingham Planning have written in to object on behalf of the Property Alliance Group (PAG), who own the Cleveleys ice rink, and make the following comments:-

- PAG has objected on several occasions to the ice rink
- the operators of the ice rink have disregarded the planning system by not complying with the conditions
- there is no supporting documentation and no evidence to support the application to justify removing the conditions
- it is understood some neighbours have already been adversely affected by extending the hours and in the absence of evidence to the contrary a variation should not be permitted
- the conditions were attached in order that the proposal complies with local and national planning policy
- Paragraph 203 of the National Planning Policy Framework (NPPF) states conditions make otherwise unacceptable development acceptable
- Paragraph 206 of the NPPF states conditions should only be imposed where they are necessary, enforceable, precise and reasonable.
- condition 2 of the planning permission requires the submission of a travel plan. To date no travel plan has been submitted nor is it included in this application
- this shows a blatant disregard for the planning system
- either to approve or to fail to take enforcement action will undermine the Council's powers and the proper decision making process

NATIONAL PLANNING POLICY FRAMEWORK

The National Planning Policy Framework (NPPF) was published in March 2012 and states that the purpose of the planning system is to contribute towards sustainable development. There are three strands to sustainable development namely economic, social and environmental. Proposed

development that accords with an up-to-date Local Plan should be approved and proposed development that conflicts should be refused unless other material considerations indicate otherwise. Of the 12 core planning principles those that are relevant to this proposal are summarised below.

These 12 principles are that planning should seek to proactively drive and support economic development to deliver the homes, business and industrial units, infrastructure and thriving local places that the country needs; always seek to secure high quality and a good standard of amenity for all existing and future occupants of land and buildings and encourage the effective use of land by reusing land that has been previously developed (brownfield land).

Part 7 - Requiring good design.

Planning decisions should aim to ensure that developments respond to local character and history. Permission should be refused for development of poor design that fails to take the opportunities available for improving the character and quality of an area and the way it functions. It is proper to seek to promote or re-inforce local distinctiveness.

Part 11 Conserving and enhancing the natural environment.

National Planning Policy Guidance (NPPG) was published in March 2014 and consolidates and updates guidance and includes advice regarding from when is permission required and making a planning application through to determining an application and appeals with a whole range of topics and cross references with the NPPF.

SAVED POLICIES: BLACKPOOL LOCAL PLAN 2001-2016

BH3- Residential and Visitor Amenity
BH4- Public Health and Safety
LQ1- Lifting the Quality of Design
LQ14- Extensions and Alterations
AS1- General Development Requirements
NE10- Flood Risk

EMERGING PLANNING POLICY

The Core Strategy Proposed Submission was submitted to the Planning Inspectorate in December 2014 and an Inspector conducted an examination of the Core Strategy in May 2015. Consultation has taken place on modifications to the Core Strategy arising from the examination and the results of this consultation have been forwarded to the Inspector for him to consider. The Council has now received a copy of the Inspector's draft report for fact checking only to 'identify any factual errors and seek clarification on any conclusions that are unclear'. The Council has to respond to the Planning Inspectorate with any issues in 10 days by 26 November 2015. Following which the Inspector will issue the final report and it is at this stage that we make the final report available to the public.

Paragraph 216 of the NPPF allows relevant policies to be given weight in decision-taking according to the stage of preparation of the emerging plan (the more advanced the preparation, the greater the weight that may be given); the extent to which there are unresolved objections to relevant policies (the less significant the unresolved objections, the greater the weight that may be given); and the

degree of consistency of the relevant policies in the emerging plan to the policies in the NPPF. Overall, a limited number of representations were received to the Proposed Submission document. Of those representations made expressing concern with the proposed policies, it is not considered that the issues raised justify the need for modifications to be made to the policies prior to submission (other than minor modifications to improve clarity for example). Therefore, the Council considers that, due to the advanced stage of the Core Strategy all relevant policies to this development should be given considerable weight in decision making.

Emerging policies in the Core Strategy Proposed Submission that are relevant to this application are:

Policy CS3- Economic Development and Employment- states that sustainable economic development will be promoted to support and grow the local economy to meet employment needs with a focus on safeguarding around 180 hectares of existing industrial/business land.

Policy CS5- Connectivity- states that new developments should be in locations that are easily accessible by sustainable transport modes to manage congestion and to minimise future carbon emissions.

Policy CS7- Quality of Design- new development is required to be well designed and enhance the character and appearance of the local area and should be appropriate in terms of scale, mass, height, layout, density, appearance, materials and relationship to adjoining buildings. Ensure that amenities of nearby residents and potential occupiers are not adversely affected.

Policy CS9- Water Management- to reduce flood risk, manage the impacts of flooding and mitigate the effects of climate change

There are no policies within the emerging document that would contradict those in the adopted Local Plan with regard to this proposal. The Core Strategy evidence base includes the Blackpool Employment Land Study and Employment Land Technical Paper.

ASSESSMENT

Off Street Car Parking/ Highway Safety- the site layout plan approved under planning permission 12/0485 shown a total of 91 car parking spaces together with coach, motorcycle and cycle parking, and the area allocated for parking also included mobility parking and the facility to service the building and manoeuvre within the site. This area is available for parking and has been levelled with a loose material although it has not been individually marked out. The two site accesses have also been provided onto Bristol Avenue, one being indicated for deliveries and coaches and the second access for cars i.e. for individual customers and staff.

It is understood that one of the main issues involved in undertaking the marking out works to the car park required by condition 1 is that this work involves arranging for the works to be carried out in liaison with the landowner, hence the applicant's requirement for additional time as requested. The variation of this condition would allow until 15 June 2016 for the works to be carried out.

It is not considered that the delay in carrying out this work creates any particular highway, traffic or amenity issues, notwithstanding the objections made by Walsingham Planning and the 'lack of evidence' submitted with the application. The car park, from various first hand observations, does not appear to be heavily used whilst the ice rink has been in operation and no comments or complaints have been received from local residents during the time the ice rink has been open. This being the case there does not appear to have been any additional on street car parking on Bristol Avenue as a result of the ice rink being open given that it is more convenient to use the car park to

access the ice rink than to park on street. On this basis the variation of condition 1 can be supported to allow additional time for the works to take place.

Residential Amenity- the main residential amenity consideration with the application is the proposed extension of opening hours of the ice rink. The hours approved under planning permission reference 12/0485 permit the rink to open between 10am and 10pm Mondays to Fridays and between 9am and 10pm on Saturdays, Sundays and Bank Holidays. The proposed variation of condition 4 would allow the rink to open between the hours of 06.00 to 00.00 seven days a week thereby permitting an additional six hours per day on Mondays to Fridays and an additional five hours per day on Saturdays, Sundays and Bank Holidays. Whilst this is a significant extension of hours the premises are remote from the closest existing houses on Bristol Avenue at some 70 metres away, as the crow flies, and probably more significantly the ice rink is positioned to the rear of the site behind other former TVR buildings fronting onto Bristol Avenue which act as a buffer against any potential noise issues. The vehicular access for cars visiting the site is also 85 metres from the closest residential properties on Bristol Avenue and is also considered adequate to minimise any impact. Notwithstanding the above, the expectation is that the small number of visitors to the ice rink outside of the existing approved hours would be higher level skaters, who wish train outside the general public skating times, and that levels of activity outside the existing approved hours would be relatively low. One can make a comparison with higher level swimmers at public baths doing likewise before or after school/work.

Whilst the present situation is considered to warrant the extension of opening hours as proposed, there have been two recent planning applications on land immediately to the west of the ice rink, also within the former TVR site, for a housing development on a cleared site involving the erection of 46 dwellings reference 13/0614 which was refused on 14 January 2014. A second and more recent planning application for an unknown number of dwellings reference 15/0690 was withdrawn on 5 November 2015. Due to the uncertainty regarding the future of the adjoining land it is not considered prudent to grant a permanent hours extension, as proposed, although it is considered that a three year temporary extension of hours can be supported after which the matter can be reviewed.

The temporary three year extension of opening hours is therefore considered to be in accordance with the relevant sections of the NPPF and relevant policies of both the current and emerging development plan.

Visual Amenity- part of the rear elevation of the building on the Bristol Avenue frontage directly in front of the ice rink has been left exposed and temporarily boarded over requiring building works to be undertaken to make good the remaining building following the partial demolition works. However, with this elevation facing to the rear of the site (facing southwards towards the ice rink itself) it is not readily visible from outside the application site. Therefore whilst works are clearly required to finish off the affected rear elevation it is considered that these works can wait until 15 June 2016 i.e. 12 months from the date of submission of this current application. As with the proposed variation of condition 1 above, the works require liaison with the landlord. The works are required to comply with local and national planning policies but the extension of time sought for the approval and completion of such works is considered acceptable in this instance.

Drainage- At present the car park has a loose gravel type surface and it is potentially feasible to query the requirement for a surface water condition given that rainwater may drain away into the ground naturally. However, condition 1 requires the marking out of the car park which usually, though not exclusively, involves hard surfacing i.e. tarmac. It is not considered that this condition can be removed until such time as the marking out of the car parking area is carried out. Although

until such time as the car park is marked out there are not considered to be any particular issues requiring intervention as surface water would drain away naturally on the existing surface.

Other matters- It is unclear what the applicant's intentions are regarding the travel plan condition which required the submission and approval of a travel plan within three months of the date of the approval. This condition will be re-imposed on any approval granted here and will be followed up with the applicant.

CONCLUSION

The application was invited due to the non-compliance with the stated conditions and the application has been considered on its planning merits and also in light of the two years plus that the ice rink has been in operation. It is not recommended that any of the conditions are removed or varied permanently. The recommended changes to conditions 1 and 8 are relatively short term until 15 June 2016 to allow the required works to be carried out. In relation to condition 2, the extension of hours, a three year approval is considered acceptable, after which the hours approved under 12/0485 will come back in force unless a further application is submitted and approved. With regards to condition 7, the surface water drainage, it is not appropriate to consider removing the condition until such time as the marking out of the car park is carried out. It is worth noting that there have not been any objections to the application from consultees nor as a result of the three site notices posted around the application site.

LEGAL AGREEMENT AND/OR DEVELOPER FINANCIAL CONTRIBUTION

None

HUMAN RIGHTS ACT

Under Article eight and Article one of the first protocol to the Convention on Human Rights, a person is entitled to the right to respect for private and family life, and the peaceful enjoyment of his/her property. However, these rights are qualified in that they must be set against the general interest and the protection of the rights and freedoms of others. It is not considered that the application raises any human rights issues.

CRIME AND DISORDER ACT 1998

The contents of this report have been considered in the context of the Council's general duty, in all its functions, to have regard to community safety issues as required by section 17 of the Crime and Disorder Act 1998

BACKGROUND PAPERS

Planning Application File(s): 15/0223 and 12/0485 which include the representations referred to in the report and all other information relevant to the application. The files can be accessed via the link below:

<http://idoxpa.blackpool.gov.uk/online-applications/search.do?action=weeklyList>

Recommended Decision: Grant Permission

Conditions and Reasons

1. On or before 15 June 2016 the car parking (including mobility parking), motorcycle parking, cycle parking, coach parking and drop off/pick up provision shown on the approved plans on planning permission 12/0485 shall be marked out and provided and shall thereafter be retained. If the parking is not provided by this date the use shall cease until such a time as the parking and drop off/pick up is provided.

Reason: In the interests of the appearance of the locality and highway safety, in accordance with Policies LQ1 and AS1 of the Blackpool Local Plan 2001-2016.

2. Within three months of the date of this approval a travel plan shall be submitted to and approved in writing by the Local Planning Authority. Such travel plan shall include the appointment of a travel co-ordinator and a format that consists of surveying, travel audits, a working group, action plans with timescales and target setting for the implementation of each element. If the Travel Plan is not submitted within three months of the date of this approval the use shall cease until such a time as the Travel Plan is provided and approved.

Reason: The Approved Travel Plan shall be implemented in accordance with the timetable therein and shall continue to be implemented as long as any part of the development is occupied.

3. The premises shall be used as an ice rink with ancillary facilities only and for no other purpose (including any other purpose within Class D2 of the Schedule to the Town and Country Planning (Use Classes) Order 1987) (as amended).

Reason: To enable the Local Planning Authority to maintain control over other D2 uses, to enable an assessment of the car parking requirements of other D2 uses and to ensure the use(s) do not detract from the resort core/ town centre in accordance with Policies RR1 and BH12 of the Blackpool Local Plan 2001-2016.

4. For a period of three years from the date of this permission the application premises is permitted to open to members of the public between the hours of 6am to midnight. Following the expiration of three years, unless otherwise agreed in writing with the Local Planning Authority, the premises shall only be open to members of the public between the hours of 10am to 10pm on Mondays to Fridays and between the hours of 9am to 10pm on Saturdays, Sundays and Bank Holidays.

Reason: To enable to the Local Planning Authority to re-assess the situation at a later date due to the uncertainty over the future of land immediately to the west of the application premises and to safeguard the living conditions of the occupants of nearby residential premises, in accordance with Policy BH3 of the Blackpool Local Plan 2001-2016.

5. The floorspace devoted to cafe (Class A3) shall be as shown on approved plan and at all times shall be ancillary to the main use of the building as an ice rink.

Reason; The cafe use is shown as ancillary to the main use of the building and any increase in floor area of these uses would be contrary to Policies BH12, BH16 and BH17 of the Blackpool Local Plan 2001-2016.

6. Notwithstanding the provisions of the Town and Country Planning (General Permitted Development) Order 1995 (or any Order revoking and re-enacting that Order) the café shown on the plan shall not be used for a Class A1 or A2 use without the prior written permission of the Local Planning Authority.

Reason: The establishment of an out of centre retail/office use in this location could affect the vitality and viability of the Town Centre and other centres and would be contrary to Policies BH12 and BH16 of the Blackpool Local Plan 2001-2016.

7. By 15 September 2016, unless otherwise agreed in writing with the Local Planning Authority, a surface water drainage scheme for the site, based on sustainable drainage principles and an assessment of the hydrological and hydrogeological context of the development, shall be submitted to and approved in writing by the local planning authority. The drainage strategy should demonstrate the surface water run-off generated up to and including the 1 in 100 year critical storm will not exceed the run-off from the undeveloped site following the corresponding rainfall event. The scheme shall subsequently be implemented in accordance with the approved details within three months of the date of their approval and retained thereafter. If the surface water drainage scheme is not provided within three months of the date of their approval the use shall cease until such a time as the surface water drainage scheme is provided in accordance with approved plans.

Reason: To prevent the increased risk of flooding, both on and off site in accordance with Policy NE10 of the Blackpool Local Plan 2001-2016.

8. On or before 15 June 2016 a scheme for the external treatment for the exposed sections of the buildings which are the subject of the approved use(s) shall be submitted to and approved in writing and shall subsequently be implemented in accordance with the approval details. If the external treatment scheme is not provided the use shall cease until such a time as the external treatment scheme is provided and approved.

Reason: In the interests of the appearance of the locality in accordance with Policies LQ1, LQ14 and BH3 of the Blackpool Local Plan 2001-2016.

Advice Notes to Developer

Not applicable