

<b>Report to:</b>	<b>Planning Committee</b>
<b>Relevant Officer:</b>	Gary Johnston, Head of Development Management
<b>Date of Meeting:</b>	4 <sup>th</sup> August 2015

## PLANNING/ENFORCEMENT APPEALS DETERMINED/LODGED

### 1.0 Purpose of the report:

1.1 The Committee is requested to note the planning and enforcement appeals, lodged and determined

### 2.0 Recommendation(s):

2.1 To note the report.

### 3.0 Reasons for recommendation(s):

3.1 The Committee is provided with a summary of planning enforcement appeals for its information.

3.2a Is the recommendation contrary to a plan or strategy adopted or approved by the Council? No

3.2b Is the recommendation in accordance with the Council's approved budget? Yes

3.3 Other alternative options to be considered:

Not applicable. The report is for information only.

### 4.0 Council Priority:

4.1 Not applicable

### 5.0 Planning/Enforcement Appeals Determined

#### 5.1 60 TYLDESLEY ROAD BLACKPOOL (14/0439)

Appeal by Mr Robert Taylor against the decision of Blackpool Council to refuse planning permission for use of premises as single private dwelling house- **APPEAL DISMISSED**

The Inspector considered the main issues in the appeal were the effect of the proposal on the overall mix of housing within the area: and whether the proposed development would provide acceptable living conditions for future occupants with particular regard to private outdoor living space.

The Inspector noted that the appeal site lies close to the sea front. From her site visit she was aware of a considerable amount of building work which is currently being undertaken close to the appeal site, including the construction of new housing at the nearby Foxhall Village.

On the issue of balance of housing mix she noted that the appeal relates to a five storey property whose last use was as a hotel and which had 18 bedrooms in total. The proposed development would result in a private house which would have 10 bedrooms. She noted that the appeal site lies within the "Defined Inner Area" as designated by the Blackpool Local Plan 2001- 2016, adopted June 2006 (LP). The "New Homes from Old Places Residential Conversion and Sub- Division" Supplementary Planning Document adopted 2011 (SPD) provides detailed guidance to support Policy HN5 of the Blackpool Local Plan 2001- 2016 adopted 2006 (LP) which has as one of its objective to ensure that where conversions take place that these are undertaken to ensure that the quality of the housing stock is improved and that additional Houses in Multiple Occupation (HMO), bedsits or small flats, are not created which would work against the Council's objective to balance the housing mix in the inner areas by encouraging family accommodation and discouraging additional accommodation that would be attractive to a transitory population.

She was aware of the appellant's wish to provide accommodation for his extended family at the former hotel by its conversion to a private dwelling without unnecessary expense, and have noted that it would provide adequate levels of internal space in line with the Council's standards set out in the SPD. However, Policy HN5 of the Local Plan seeks to ensure that the layout of any converted property is consistent with living as a family. She noted that according to the appellant the ONS data on this LSOA suggests around nine percent of dwellings in the area have nine rooms or more and that 11 percent have five or more bedrooms. This is cited as suggesting that the property is not unusual which appears to be consistent with the rationale behind the policies of the Local Plan and the guidance contained within the SPD.

Whilst she understood the difficulties incumbent in converting a hotel into a family home she was the opinion that the proposed layout of the appeal property which includes a basin in seven bedrooms, a bedroom within the basement separated from the rest of the sleeping accommodation, a relatively small kitchen, and no dining room, would not reflect what would be generally considered to be accommodation suitable to family life. Consequently, whilst she noted that the appellant is willing to accept a condition which would preclude the conversion of the building to an House in Multiple Occupation, and that Table 1 within the SPD provides for family accommodation of more than five rooms, she concluded as a result of the proposed layout that the proposed development would be contrary to Policy HN5 of the Local Plan, and Policy BH1 of the Local Plan as the layout does not appear to be consistent with family accommodation, and therefore would not contribute towards a balanced housing mix.

On the issue of outdoor living space she noted that the New Homes from Old Places SPD advises that where there is a shortage of private outdoor space higher quality internal space is required to compensate. The proposed development provides for a games room which would give an area in which children could play. In addition the residents would have exclusive access to the outdoor space at the rear of the property. This would provide adequate, albeit, limited space in which to dry clothes, keep bins and sit out. Consequently, the level of private outdoor living space would in her opinion accord with Policy BH3 of the Local Plan which requires developments to meet the outdoor needs of their occupants for private outdoor living space.

## **5.2 LAND TO THE REAR OF 1-7 BROAD OAK LANE, BLACKPOOL (13/0604)**

Appeal by Mr K Beardmore against the decision of Blackpool Council to refuse outline planning permission for the erection of seven bungalows – **APPEAL DISMISSED AND APPLICATION FOR COSTS DISMISSED**

The Inspector considered the main issues to be considered were,

- i) the effect of the proposed development on the character and appearance of the area,
- ii) whether the appeal site could be adequately drained without adverse flooding impact on neighbours,
- iii) the effect on local ecology,
- iv) the effect of other considerations including the supply of housing land in Blackpool Borough, and sustainability, on the planning balance.

He noted that the appeal site is an uneven field of approximately 0.7 hectares in open countryside immediately to the west of the built up edge of the village of Staining. The village is in the adjacent administrative area of Fylde Borough Council and the boundary between that authority and Blackpool Borough Council runs along the eastern side of the field. Open countryside extends to the north of the site, and the western side abuts the short rear gardens of a small number of mostly older, historic properties on Broad Oak Lane. To the south a small modern housing development is separated from the site by an area of trees and dense vegetation.

The access to the proposed development of seven detached bungalows would be from Broad Oak Lane. The layout plan shows the estate cul-de-sac running along the eastern side of the site. The north-west corner of the site is shown on the layout plan as a wild flower area to assist with the drainage of the site. However, in the subsequent FRA this area is partly shown as the location of a surface water attenuation pond.

### **CHARACTER AND APPEARANCE**

In terms of the impact on character and appearance the Inspector noted that Broad Oak Lane is relatively narrow, has no footways and is edged by trees and high hedges giving it a very rural character. The appeal field is elevated above the lane by about

1.8m. During the Hearing the appellant confirmed that, in order to drain the site, the land nearest to the lane would have to be raised by up to a further 2m. Given the existing height of the land above the road and the proposed earthworks, the finished floor level of the dwellings would be substantially higher than Broad Oak Lane. Although the proposal is for bungalows with a ridge height of about 4.7m, the elevated dwellings would dominate the rural character of Broad Oak Lane and appear incongruous in relation to nearby properties, particularly the older small cottages to the west which are at road level.

He noted that Staining village is separated from the urban area of Blackpool by a narrow area of countryside designated as the Newton Hall/Preston New Road Countryside Area in the Blackpool Local Plan 2001-2016 (the Local Plan). Policy NE2 of the Local Plan states that the purpose of designating 'Countryside Areas' is to retain their existing character and to prevent peripheral urban expansion. Policy CS1 of the emerging Blackpool Local Plan: Part 1 Core Strategy (the Core Strategy) seeks to focus growth, development and investment in Blackpool Town Centre, the Resort Core and inner area Neighbourhoods to support the regeneration of the town. According to the Council the potential for development of the land west of Staining village, including the appeal site, was considered at the Issues and Options Stage of the emerging plan but was discounted in favour of protecting the character of this area of countryside and focusing development in the more central **areas of the town and lands to the south. The Core Strategy was submitted to the Planning** Inspectorate in December 2014, with the public examination scheduled for May 2015. The Council stated that only a limited number of representations had been received to the submission document. This was not challenged by the appellant. Given the advanced stage of the Core Strategy, therefore, and having regard to paragraph 216 of the National Planning Policy Framework (the Framework), the Inspector considered that Policy CS1 carries considerable weight in his decision.

Given the sporadic and isolated nature of the properties to the west of the appeal site, and the dense area of trees and shrubs to the south, he was not persuaded by the appellant's argument that the seven bungalows would be infill development. The proposal would in his view be an urban extension of the settlement into the designated area of countryside, the character and appearance of which would be significantly harmed, contrary to the objectives of Policy NE2 of the Local Plan and Policy CS1 of the emerging Core Strategy.

## **FLOOD RISK**

In terms of flood risk he noted that the site is located in a Flood Zone 1 that, overall, has a low probability of flooding. Nevertheless, the area around Broad Oak Lane is susceptible to surface water flooding and I heard evidence from local residents and Staining Parish Council about the inundation of some of the properties in the lane and flooding in the more modern development immediately to the east of the site in Eddleston Close and Maclaren Close.

He noted that the February 2015 FRA states that the flooding of Broad Oak Lane 'is caused by surface water generated from the site flowing south onto Broad Oak Lane' and also confirms that the impermeable area of the site will be significantly increased under the development proposals. The strategy proposed by the FRA includes increasing the height of the land nearest to Broad Oak Lane to enable the surface water flow to be reversed and to be drained to an existing ditch along the northern perimeter of the site. To attenuate the surface water runoff, storage capacity within the site was proposed by means of a swale along the eastern boundary and an attenuation pond in the north-west corner.

He commented that the submitted concept drainage layout plan shows these open storage facilities immediately adjacent to the boundaries of neighbouring properties. The attenuation pond would be very close to a modern residential property on Broad Oak Lane and the elongated swale would run immediately behind the rear garden boundary fences of properties in Maclaren Close. On the site visit it appeared to him that these surface water storage areas would be at a higher level than the adjacent properties.

There was considerable debate at the Hearing about the state of the northern ditch which the FRA states, will be enlarged and re-graded within the confines of the site to provide capacity for the additional flow. On site, it was apparent that the ditch had been cleared recently, although this was said to have been undertaken by the County Council to improve drainage of the nearby school playing fields. However, no work had been undertaken downstream, outside the site boundaries, where the ditch appears to be culverted under an adjoining private garden. There was no perceptible flow along the ditch and despite a period of relatively dry weather, standing water was present as the culvert appeared to be blocked.

He commented that the FRA states that the surface water run-off from the site would be attenuated up to and including the one in 100 year event plus climate change and that discharge would be set at five litres per second per hectare. However, he had no evidence before me to demonstrate that this could be achieved. It appears from discussions on the site visit, that the FRA had not been informed by a detailed topographical survey of the site. Furthermore, the FRA has been prepared on the premise that the proposed layout ....of the site is unknown and will be dealt with at detailed design stage, (paragraph 4.13). However, this is incorrect as the layout is not a reserved matter and he said must determine the appeal on the basis of the submitted layout plans.

Throughout the history of the application and the appeal the appellant has put forward a number of different proposals to drain the development. Initially it was suggested that the surface water flows would be directed to the south to an existing public sewer network in Broad Oak Lane. However, United Utilities confirmed that only foul drainage could be connected to the existing combined sewer due to restrictions in capacity. Subsequently, the layout plan submitted with the application showed a series of holding tanks/soakaways around the periphery of the site fed from a proposed perimeter land drain, with surface water discharged to a

culverted water course. Subsequently however, the appellant discounted the use of soakaways due to the impermeable ground conditions. The latest FRA confirms that there would be no storage tanks, drains and pumps on the site.

Given the apparent inconsistencies and substantial variations in the drainage schemes put forward by the appellant, he was not persuaded on the evidence before him, that it has been adequately demonstrated that the site would be drained satisfactorily, so as not to exacerbate flooding problems. The FRA states that the surface water generated by the site **will be less likely** (his emphasis) to flood Broad Oak Lane. This he felt is not particularly convincing and added to his concerns. Furthermore, given this level of uncertainty, and the fact that the appellant has deemed it necessary throughout the history of the proposal to put forward different drainage schemes for the site, he was not convinced that, on the evidence before him, that a condition requiring a detailed drainage scheme to be submitted would make the scheme acceptable, if the appeal were to succeed. He therefore concluded, that the development would fail to satisfy the objectives of Local Plan Policy NE10 which seeks, amongst other things, to ensure that new development will not increase the risk of flooding.

## **ECOLOGY**

On the issue of ecology he noted that the appeal site is approximately 500m from the Marton Mere Site of Special Scientific Interest (SSSI) and there are biological heritage sites within about 1.5km. Natural England raised no objections to the proposal and was satisfied that the development would not damage or destroy the interest features of the SSSI. There are a number of ponds close to the site and ecological surveys submitted by the appellant identify the presence of a small population of great crested newts in one of the ponds approximately 400m from the site. The survey concludes that the proposal would have a negligible impact on this protected species. Natural England was of the same opinion.

Local residents and the Parish Council referred to the variety of wildlife in the area and the presence of great crested newts in local gardens and anecdotal evidence of the species being found on another building site nearby despite previous surveys to the contrary. However, he was persuaded by the evidence of the appellant's expert witness that, although great crested newts may roam away from the ponds, the development would not impact on these important potential breeding areas. From the evidence before him, he was also satisfied that the proposal would not adversely affect any other protected species or the local ecology, subject to conditions to secure biological enhancement measures if the appeal were to succeed.

## **OTHER CONSIDERATIONS - HOUSING LAND SUPPLY**

At the time that the application was refused in late 2013, the Council could not demonstrate a five year supply of housing land against the annual target for the area in the former North West Regional Spatial Strategy. In the officer's report to the committee, the five year housing position was a factor in the recommendation to

approve the application. Core Strategy Policy CS2 identifies a lower target over the plan period, with a phased approach over the first five years. Taking into account the backlog over previous years and allowing for a buffer to allow for choice in the market, the Council argue that a five year supply of deliverable housing land now exists. This position is based on evidence in a number of technical papers including the Blackpool Borough Council – Strategic Housing Land Availability Assessment (June 2014) (SHLAA). Part of the change round in the Council’s position is said to be due to the fact that since 2011, following the publication of the Housing Accommodation Supplementary Planning Document, the Council has sought to protect less of its substantial stock of holiday accommodation in the town, thereby freeing up such accommodation for conversion for residential purposes.

The appellant disputes the Council’s position and, amongst other things, argues that the estimated windfall provision is excessive and that a number of sites on which the Council relies for the delivery of 187 homes, will not come forward. However, the inspector had limited evidence before him to support these claims. Planning Practice Guidance (PPG) advises that up-to-date housing requirements and the deliverability of sites to meet a five year supply cannot be fully reconsidered in the course of determining individual appeals where only the appellant’s evidence is likely to be present to contest the authority’s position. The Court of Appeal Judgement relating to Hunston Properties Limited (*St Albans City and District Council v Hunston Properties Ltd and Secretary of State for Communities and Local Government*, [2013] EWCA Civ 1610. Appeal Decision APP/J2373/A/14/2219739) similarly found that, “It is not for an Inspector on a Section 78 appeal to seek to carry out some sort of local plan process as part of determining an appeal, so as to arrive at a constrained housing requirement figure. An Inspector in that situation is not in a position to carry out such an exercise in a proper fashion, since it is impossible for any rounded assessment similar to the local plan process to be done. That process is an elaborate one involving many parties who are not present at or involved in the Section 78 appeal.”

He commented that given the ongoing examination of the Council’s Core Strategy at the time of this Decision, it is not appropriate for him to carry out a forensic analysis of the Council’s housing land supply. However, on the evidence before him, including the up to date SHLAA, and the Blackpool Housing Requirement – Technical Paper (June 2014) he had no compelling reason to doubt the Council’s stated housing position. Policy NE2, which primarily relates to the protection of the character of the countryside, and in that respect is consistent with one of the core planning principles of the Framework, is not out of date and carries weight in this Decision.

## **SUSTAINABILITY**

The Inspector commented that Staining village has a reasonable range of facilities including, a supermarket, school, surgery and access to public transport. The site is, therefore, in a sustainable location. However, due to the identified harm to the designated countryside area, the development would not satisfy the environmental

dimension of sustainable development that the Framework confirms should be sought jointly and simultaneously with economic and social gains. Therefore, the proposal would not represent sustainable development and the presumption in favour of such development set out in the Framework, would not apply.

## **PLANNING BALANCE AND CONCLUSION**

The proposal would provide seven bungalows in a reasonably sustainable location and in an area acknowledged as having a population with a high percentage of retired people who may have preferences for bungalows. He was satisfied that there would be no adverse impact on local ecology or protected species.

However, the development would extend the urban settlement into a designated area of countryside and would harm the character and appearance of this limited resource within Blackpool Borough. As such the proposal would not represent sustainable development. It has not been adequately demonstrated that the surface water run-off from the site, which the FRA confirms would be increased by the development, would be discharged satisfactorily without exacerbating the existing flooding issues in the area, particularly in Broad Oak Lane and the immediate properties. These adverse impacts would not be outweighed by the relatively limited benefits of the scheme.

Therefore, for the reasons given and having had regard to all other matters raised, he dismissed. Two s106 Unilateral Undertakings, designed to mitigate the impact of the proposal, were submitted by the appellants during the appeal process. In view of his overall conclusion, he commented that there was no need for him to consider the contents of these Undertakings further.

### **5.3 REAR OF 43 THRELFALL ROAD, BLACKPOOL, FY1 6NW (ref 14/0387)**

Appeal by Mr T Mulligan against the refusal of planning permission for the installation of first floor windows and use of the first floor of premises as one self-contained permanent flat. **APPEAL DISMISSED**

This application was refused under delegated powers for various reasons including unsatisfactory standard of accommodation with poor outlook and lack of privacy, lack of off street parking, insufficient outdoor amenity space, loss of privacy/amenity for the adjacent residents and access via an alley gate being detrimental to pedestrian safety.

The Inspector acknowledged that the first floor is subject of a current enforcement notice concerning its use as a flat. He noticed that the surrounding area is primarily residential in character, although the appeal site is within a range of commercial units.

He accepted that the proposal meets floorspace standards for a four bed roomed flat as set out in the New Homes from Old Places SPD, however, the location of the flat in a rear alleyway means that future occupiers of the building would, be facing the



rear of dwellings on Threlfall Road and Eccleston Road. The outlook from the flat would be poor and relatively close to the neighbours and would pose a threat to the privacy of its occupiers and that of the neighbours because of the elevated position of the flat.

Furthermore, the absence of any outdoor amenity space, lack of separate waste and cycle storage areas together with the proximity of other commercial uses and the need to access the building through locked security gates at either end of the access way, adds weight to the findings that the location and position of the appeal property is generally unsuitable for residential accommodation. Therefore, failing to provide a good standard of accommodation for future occupiers of the proposed flat and that it would have a harmful effect on the living conditions of the occupiers of houses on Eccleston Road and Threlfall Road through loss of privacy.

The Inspector stated that the lack of off street parking would only generate a small amount of additional traffic and this would not lead to congestion or be harmful to pedestrian safety.

He concluded that for the above reasons, the appeal should be **dismissed**.

#### **5.4 LAYTON INSTITUTE, WESTCLIFFE DRIVE, BLACKPOOL (14/0465)**

Appeal by the Minotaur Group against the decision by Blackpool Council to refuse planning permission for External alterations include two new doors to rear and provision of 8 car parking spaces to rear and use of ground floor as altered as retail unit (Use Class A1) – **APPEAL DISMISSED**

The Inspector considered the main issues in this case are:

- whether, having regard to local and national planning policies, the proposal would result in the loss, reduction or retention of a community facility;
- whether the appeal site would be a suitable site for the retail element of the proposal, having regard to policies which seek to support the vitality and viability of Layton District Centre and nearby local centres;
- the effect of the proposed development on the living conditions of the occupants of nearby residential properties with regard to noise and disturbance;
- the effect of the proposed development on highway safety; and
- whether the consolidated first floor social club use would be accessible to all users.

#### **COMMUNITY FACILITY**

The Inspector noted that the appeal site comprises a red brick building on the corner of Westcliffe Drive and Granby Avenue and part of the bowling green to the rear. The appeal building and its bowling green were built in 1925-26 for The Layton Institute (the Institute), a Working Men's Club which was established in 1912. The building comprises about 1116 sq m of floorspace over two floors. On the ground

floor there are two separate bar areas serving a lounge and a large games hall. On the first floor there is a bar and stage serving a concert/events hall. At the rear of the building adjacent to the bowling green is an outdoor seating area which is accessed through the lounge.

She commented that Saved Policy BH21 of the Blackpool Local Plan 2001-2016 (Local Plan) seeks to protect Community Facilities. It indicates proposals which would lead to the loss of, or reduction in the size of a community facility will not be permitted unless the facility is appropriately replaced or the applicant can demonstrate that there is no longer a need for the facility or its alternative use to meet other community needs. This is consistent with the National Planning Policy Framework (NPPF) which indicates, at paragraph 70, that planning policies and decisions should plan positively for the provision of community facilities and guard against their unnecessary loss. She commented that from the evidence and the discussion at the Hearing it is clear that the Institute hosted many well-known performers and acts over the years and there is no dispute between the parties that as a result it became one of Blackpool's best known social clubs and a well-established community facility. However, the appellant also explained that in more recent years, as a result of a decline in membership and changes in social habits, the Institute struggled to remain viable and went into liquidation in December 2012. The freehold was subsequently purchased by the current owners, who specialise in the acquisition and running of Working Men's Clubs, and a new tenant was installed to run the establishment on a more open basis rather than purely as a club. However, despite this new management approach, it was put to her that the establishment, now known as The Layton, continued to struggle to operate and a further liquidation occurred in 2014. Another tenant has since taken over the premises.

She noted that the appellant contends that the appeal proposal seeks to provide a rescue strategy for the existing use on the site which is no longer viable in its current form. It is suggested that the use of the ground floor for a Class A1 retail use would provide enabling development to support the existing use which would be retained, albeit reduced in size, by its consolidation on the first floor level.

She commented that she did not doubt that, like many similar establishments, the existing business is experiencing difficult times. However, it is currently tenanted and as she saw from her site visit it appears to continue to enjoy the support of patrons even on a weekday afternoon. Insufficient information has been provided to enable a meaningful assessment of its continuing viability. The only evidence available in this respect being reference to the previous liquidations and anecdotal evidence of the difficulties experienced by the owners in securing another tenant. No information has been provided to indicate what attempts have been made to secure other community uses for the building or what other options have been explored to support the community use other than that currently put forward in the appeal proposal. Furthermore, although the appellant suggests that a retail use on the ground floor would serve to cross subsidize the existing use no details have been provided as to how such an arrangement would work or how it could be secured in the long term.

Taking all of the above into account therefore, she was not satisfied from the evidence before her that the continued use of the site solely as a community facility is not viable or appropriate. Accordingly, the reduction in the size of the existing community facility sought by the appeal proposal would be contrary to saved Policy BH21 of the Local Plan which, of the policies referred to by the Council in its first reason for refusal, is the most relevant to this issue. Policy LQ1 of the Local Plan relates to the quality of design and therefore does not appear specifically relevant to this issue.

## **VITALITY AND VIABILITY OF LAYTON DISTRICT**

The National Planning Policy Framework (NPPF) requires main town centre uses to be located in town centres in the first instance and indicates that a sequential approach should be applied to proposals for town centre uses that are not in an existing centre. It indicates that local authorities should require applications for main town centre uses to be located in town centres, then in edge of centre locations and, only if suitable sites are not available should out of centre sites be considered. When considering edge of centre and out of centre proposals, preference should be given to accessible sites that are well connected to the town centre.

She noted that Saved Policy BH12 of the Local Plan seeks to focus retail development and supporting town centre uses in Blackpool Town Centre and in other existing centres appropriate to their scale and catchment in order to sustain and enhance the vitality and viability of the town centre and supporting district and local centres. It also restricts retail development elsewhere unless certain criteria are met. The requirement for there to be a demonstrated need for the retail development is one of the criteria of the policy. This is not included within the NPPF. However, the policy is otherwise broadly consistent with the NPPF in that it seeks to focus retail development, a main town centre use, within town centres and to apply a sequential test to planning applications for such uses that are not in an existing centre. The appeal proposal seeks to use the ground floor of the appeal building which lies outside the boundary of Layton District Centre as defined in the Local Plan, as a Class A1 retail use for a convenience store of 350 sq.m. Therefore, it would constitute a main town centre use and consequently, in accordance with national policy, a sequential test is necessary. Where an application fails to satisfy the sequential test the NPPF advises that it should be refused (paragraph 27).

She commented that the application was not supported by a sequential test exercise. However, from the evidence before her and from what she saw on her site visit, Layton District Centre appears to be performing well and there are no vacant units or other sites within the defined district centre suitable to accommodate a convenience retail unit of the type and size proposed. Furthermore, there is no evidence that there are any preferable sites in other nearby centres. The type and scale of the proposed retail development would be commensurate with the existing district centre of Layton which, as indicated in the Local Plan, plays a vital role in providing convenience shopping facilities for a sizeable catchment, together with a range of other services and facilities.

She noted that the district centre extends along both sides of Westcliffe Drive. The appeal site lies on the western side of Westcliffe Drive and although not contiguous with the existing retail frontages on this side of the road, there being a cemetery in between, it is immediately opposite the existing retail frontages on the eastern side. Therefore, it seemed to her that it would not be unreasonable to conclude that it is contiguous to the existing shopping frontage as required by saved Policy BH13 of the Local Plan. In any event, the need to be contiguous is not a requirement of the NPPF. The site constitutes an edge of centre site as defined in the NPPF and is well connected to it. Therefore, the retail element of the proposal would meet the sequential test. I have also found below that overall the appeal proposal would not materially harm the living conditions of nearby residents. It therefore follows that the retail element could be achieved without harming residential amenity, a requirement also of saved Policy BH13. We referred to saved Policy BH16 of the Local Plan in our reason for refusal which relates to the development of new local shopping facilities outside existing shopping frontages. However, the necessity for there to be a demonstrated need for the development with no convenient existing local shopping provision is not consistent with the NPPF and accordingly, in line with the advice at paragraph 215 of the NPPF, she gave little weight to this policy in her consideration of this appeal.

Paragraph 26 of the Framework confirms that an impact assessment is not required for retail, leisure and office developments which are below 2,500 sq.m if, as is the case here, there is no proportionate locally set floorspace threshold. As such the appellant is not required therefore to assess the impact of the retail element of the proposal on the vitality and viability of Layton District Centre.

The Council indicates that there are already three well established convenience stores in the area. However, there is nothing to suggest that the retail element of the appeal proposal would have a negative impact on the existing range of uses in the centre or undermine its existing retail role. Moreover, it would enable linked shopping opportunities and would to some extent diversify the retail offer in Layton and provide greater consumer choice.

Taking all of the above into account, she was satisfied that the appeal site would be a suitable site for the retail element of the proposal having regard to policies which seek to support the vitality and viability of Layton District Centre and nearby local centres. Accordingly, it would not undermine saved Policies BH12 and BH13 of the Local Plan in this regard nor would it conflict with Policy CS4 of the emerging Blackpool Local Plan: Part 1 Core Strategy. However, the examination of this Plan has not yet concluded and it has not been adopted. It would also accord with the relevant provisions of the NPPF.

## **LIVING CONDITIONS**

The appeal proposal would result in the creation of two separate uses in the appeal building. Deliveries to the proposed retail unit would be made at the front of the building where currently dray deliveries to the club are made. This would result in

dray deliveries being made at the rear of the building either from Granby Avenue or from the rear access road. The retail unit would have a customer access from both the front and rear of the building whilst the main entrance to the club would be relocated to the side of the building on Granby Avenue. Accordingly, there would be a degree of activity associated with each of the uses that would be likely to lead to noise and activity at certain times of the day. This would include the comings and goings of customers of each of the uses both on foot and in cars, and delivery vehicles. There are residential properties in Granby Avenue and on the opposite corner of Westcliffe Drive. However, the area is already subject to a degree of vehicular and pedestrian activity connected with the district centre and the existing use of the building, with an associated level of noise and disturbance. Accordingly, it seemed to her that, notwithstanding the proposed opening hours of the retail unit, given the existing levels of activity in the area coupled with the background noise of traffic on Westcliffe Drive and the relatively small size of the proposed retail unit, the comings and goings of customers and servicing vehicles associated with the proposal overall would be unlikely to materially add to levels of noise and disturbance, including light pollution in the area.

The appeal proposal would be likely to result in the need for air conditioning and refrigeration units to be installed on the building to serve the two separate uses. However, there is no substantive evidence to indicate that any noise emanating from such units could not be suitably controlled so as to not lead to an unacceptable increase in noise levels.

Overall therefore, she was satisfied that the appeal proposal would not cause material harm to the living conditions of the occupants of nearby residential properties with regard to noise and disturbance. Accordingly, it would accord with Policies LQ1, BH3 and BH4 of the Local Plan which, of the policies referred to by the Council in its second reason for refusal, are the most relevant to this issue. Taken together these policies seek to ensure that development responds to its surrounding environment and does not adversely affect residential amenity. She commented that Policies AS1 and LQ3 of the Local Plan referred to by the Council do not appear specifically relevant to this issue in so far as they relate to general development requirements regarding highways, transport and parking and to the layout of streets and spaces.

## **HIGHWAY SAFETY**

The appeal proposal would provide 8 dedicated parking spaces at the rear of the building to serve the proposed retail use on the ground floor. However, this would be significantly less than the 15 spaces required to meet the Council's parking standards. Accordingly, it would be likely to increase the demand for on-street parking within the area, particularly on the southern side of Granby Avenue which is currently unrestricted and which, as she saw on her site visit, already experiences high levels of demand for its on-street parking provision, given its proximity to the district centre and the restricted parking on Westcliffe Drive. The existing on-street parking on Granby Avenue would restrict the forward visibility of vehicles exiting the

proposed car park. This would be likely to lead to increased opportunities for conflict between vehicles as well as between vehicles and pedestrians in what is already a somewhat congested residential street. The appellant suggests that parking restrictions could be imposed on the southern side of Granby Avenue in order to ensure adequate visibility for vehicles exiting the car park area. However, this would further reduce on-street parking capacity and would be likely to lead to congestion within the proposed car park given its limited capacity. The amended plans indicate that the access road would be the same width along its length which would assist vehicles in manoeuvring out of the car parking spaces. However, it is proposed that dray deliveries to the club on the first floor would be made from the rear of the building. The parking of dray vehicles on Granby Avenue to make deliveries would be likely to lead to road blockages whilst the use of the access road at the rear to make deliveries would lead to the loss of some parking spaces which, even on a temporary basis, would be likely to cause congestion within the car park. Furthermore, the access road would be of insufficient width to provide for the manoeuvring and turning of dray vehicles meaning that such vehicles would be unable to enter and leave the site in forward gear to the detriment of highway safety on Granby Avenue.

She concluded on this issue therefore, the proposal would cause harm to highway safety, with particular reference to car parking and deliveries. It would thus be contrary to Policy AS1 of the Local Plan which requires new development to provide appropriate levels of parking, servicing and operational space.

### **ACCESSIBILITY**

She commented that the amended plans indicate the installation of a lift in the building. At the Hearing we confirmed that this would overcome our reason for refusal in relation to this issue. Accordingly, the proposal would comply with Policy AS1 of the Local Plan in so far as it seeks to ensure that new development provides appropriate access and facilities for people with impaired mobility.

### **OTHER PLANNING CONSIDERATIONS**

#### **BOWLING GREEN/OPEN SPACE**

She noted that the appeal proposal would result in the development of part of the bowling green at the rear of the building to provide a vehicular access road and the car parking area to the proposed retail unit. Although the Council does not refer specifically to this issue in its reasons for refusal it is referred to in the Committee report and in third party representations. The appellant indicates that the bowling green has not been used for some time. However, the development of part of it would effectively lead to the loss of a bowling facility. In any event the bowling green/open space is still well maintained and is used for leisure purposes such as family fun days and fund raising events.

The NPPF indicates (paragraph 73) that high quality open spaces and opportunities for sport and recreation can make an important contribution to the health and well-being of communities. The Planning Practice Guidance states that open space, which includes all open space of public value, can take many forms. It also indicates that it can provide health and recreation benefits to people living and working nearby, have an ecological value and contribute to green infrastructure, as well as being an important part of the landscape and setting of built development and an important component in the achievement of sustainable development.

We indicated that, given the built up nature of Blackpool, open space has important recreational, sports and visual amenity benefits in its urban area as well as being highly valued by local communities. At the Hearing the appellant provided anecdotal evidence of the lack of demand for the bowling facility by reference to there being spare capacity at the nearby Layton Amateur Bowling Club. However, no formal assessment has been undertaken to show that the open space is no longer needed either as a bowling green or any other open space use such as those which it is currently used for. Furthermore, the appellant confirmed that there is no proposal to replace the loss resulting from the development with any alternative open space provision.

Accordingly, notwithstanding that the bowling green/open space at the rear of the building is not public open space, its partial development as a result of the proposal would be contrary to paragraph 74 of the NPPF. This indicates that existing open space, sports and recreational buildings and land, including playing fields should not be built on, unless an assessment has been undertaken which has clearly shown the open space, buildings or land to be surplus to requirements or, the loss resulting from the proposed development would be replaced by equivalent or better provision in terms of quantity and quality in a suitable location.

#### **NON DESIGNATED HERITAGE ASSET**

She noted that the existing building on the appeal site together with the associated bowling green to the rear, part of which is included in the appeal site, is identified on the our list of buildings of significant local architectural or historic interest. Accordingly, it constitutes a non-designated heritage asset as described in the NPPF and in accordance with the advice in the NPPF the effect of the proposal on the significance of the non-designated heritage asset should be taken into account in determining the appeal. The appeal building is a two storey red brick building with white terracotta dressings and a slate hipped roof with spirelets to the corners which, as detailed above, was built in 1925-26 for the Institute. It is a landmark building on Westcliffe Drive which forms a group with the bowling green at the rear, which was probably original to the scheme.

The appellant contends that the appeal proposal would provide for the retention of the building with only minor alterations which would occur at the rear of the building. She recognised that the appeal proposal would not alter the principal front façade of the building, there being no proposal to insert a shop front or alter the

existing fenestration pattern, and that the relatively large interior spaces at both ground and first floor would essentially be retained. Furthermore, any future proposals for the installation of ATM machines, roller shutters or advertisements would be most likely to require the consent of the Council and could therefore be controlled accordingly. However, as detailed above it is both the building and its associated bowling green which forms the non- designated heritage asset, the bowling green making an important contribution to its character and appearance. The appeal proposal would result in the development of part of the bowling green and would effectively lead to the loss of the bowling facility. Accordingly, in her view this loss would cause some harm to the significance of the heritage asset.

### **CYCLE PARKING**

She noted that the amended plans indicate an area for cycle parking at the front of the building and we agreed at the Hearing that the details of the cycle parking provision could be secured through a suitably worded condition. Accordingly, she was satisfied that the appeal proposal would comply with Policy AS1 of the Local Plan in this respect.

### **OTHER MATTERS.**

The Council contends that the grant of planning permission for the appeal proposal would set a precedent for similar development and uses of other clubs elsewhere. However, each application and appeal must be considered on its own merits. Accordingly she determined the appeal on its own merits in the light of the relevant planning policies and other material considerations. This matter therefore has not been determinative in my consideration of this appeal.

### **CONCLUSION**

She found that the appeal proposal would support the viability and vitality of Layton District Centre and nearby local centres, cause no material harm to the living conditions of the occupants of nearby residential properties and that appropriate access and facilities for people with impaired mobility and sufficient cycle parking provision would be provided. However, in her view the harm that would be caused in relation to highway safety together with my concerns regarding the reduction in the size of the existing community facility, the loss of the bowling green/open space and the effect of this on the significance of the heritage asset are compelling reasons to dismiss the appeal. For these reasons therefore, she concluded that the appeal should be dismissed.

Does the information submitted include any exempt information?

No

None



**5.5 Planning/Enforcement Appeals lodged**

**181 CLIFTON DRIVE, BLACKPOOL, FY4 1RU (14/0896)**

An appeal has been submitted by Mr and Mrs Clifford Dunning against the Council's refusal of planning permission for Alterations to front dormer and installation of a balcony.

5.6 Does the information submitted include any exempt information? No

**5.7 List of appendices**

None

**6.0 Legal considerations:**

6.1 None

**7.0 Human Resources considerations:**

7.1 None

**8.0 Equalities considerations:**

8.1 None

**9.0 Financial considerations:**

9.1 None

**10.0 Risk management considerations:**

10.1 None

**11.0 Ethical considerations:**

11.1 None

**12.0 Internal/ External Consultation undertaken:**

12.1 None

**13.0 Background papers:**

13.1 None