

COMMITTEE DATE: [08/09/2014](#)

**Application Reference:** 12/0485

WARD: Ingthorpe  
DATE REGISTERED: 21/08/12  
LOCAL PLAN ALLOCATION: Main Industrial / Business Area

APPLICATION TYPE: Full Planning Permission  
APPLICANT: A. Thompson

**PROPOSAL:** Retention of single storey extension to existing unit and continued use of premises as ice skating centre with associated dance studio, storage space, café, external plant, car and coach parking, service yard and cycle store.

**LOCATION:** FORMER TVR BUILDING, BRISTOL AVENUE, BLACKPOOL, FY2 0JF

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**Summary of Recommendation:** Refuse

#### **CASE OFFICER**

M Shaw

#### **INTRODUCTION**

This application has been previously considered by the Planning Committee at its meetings on 14th January 2013 and 11th February 2013. The Committee resolved to grant planning permission for the proposed development at its meeting on 11<sup>th</sup> February 2013 subject to a number of conditions including the provision of the parking area, adoption of a travel plan, an hours of use restriction and a restriction of the use(s). However, upon issuing the planning permission the Council's decision was challenged in the High Court by Eversheds on 9th August 2013 acting on behalf of the owners of Sub-Zero in Cleveleys. The grounds of the challenge were as follows and the Judge's comments are summarised after each ground:-

- **breach of natural justice-** 'it is least arguable that the agent's late report (portfolio of available employment properties) had a significant effect on members' consideration of employment land yet its very late arrival prevented proper consideration by the case officer or the Claimant.'
- **procedural irregularity-** 'the committee report advised the proposal was not in accordance with the development plan. Nine policies were listed and the proposal was said to be not in accordance with four of the policies. However in order to conform with the responsibility to determine the application in accordance with the development plan unless material considerations indicate otherwise, an overall view has to be taken whether there is compliance or conflict overall with the development plan. The Council has not formed such a view'
- **failure to address the National Planning Policy Framework-** 'the reasons for the decision cite the proposal does not accord with 'elements of the NPPF'. In fact where there is a failure to comply with the requirements of the sequential test then the NPPF directs that the application should be refused' (para 27 of the NPPF)

- **failure to address the correct test under the employment policy-** 'it is arguable that simply to proceed on the basis of a long vacancy as a countervailing factor to loss of employment land makes no sense in the absence of evidence about what (if anything) has been done to stop it being vacant'
- **irrationality- linked trips-** Claimant-'members seem to have had regard to the potential for linked trips with other local leisure uses. No evidence has been provided to substantiate any potential for reduced reliance upon the motor car' Judge- 'I do not accept this, there is evidence about the advantage of proximity with other leisure facilities and the Council was entitled to form a view about this.'
- **screening opinion-** Claimant- 'the amount of information submitted with the application does not address many of the factors that would need to be considered before forming a view upon whether significant environmental effects would arise e.g. noise, contaminated land, air quality. Judge- 'it is hard to discern what evidence had been provided which could have enabled the case officer to come to an informed view of the likely environmental impact.'

The decision to grant planning permission was subsequently quashed by consent on 12th December 2013 and the application referred back to the Council for reconsideration. A copy of the Judge's decision is appended to this report (Appendix 5a). In response to the judgment the Council requested additional information from the applicant's agent to assist with the reconsideration of the application and a number of detailed reports have now been received (see Details of Proposal section of this report) and further re-consultations and re-notifications have been carried out.

The application proposal has also been recently amended to reflect the works which have been carried out at the site including the part demolition of one of the buildings, which was originally included in the application, and the revision of part of the car parking area, a widening of the proposed new access, and a revision of the internal layout deleting the mezzanine floor level. As a result of these changes the proposal floor area has reduced from 3665 sqm to 3150 sqm, a reduction of over 500 sqm.

Since the application was last considered in February 2013 there have been a number of additional matters of note which are as follows:-

- A planning application for the erection of 46 houses has been refused by the Planning Committee on 14<sup>th</sup> January 2014 on adjoining land within the former TVR complex (ref 13/0614) on grounds which included the loss of employment land.
- The Council has progressed its Core Strategy to submission stage and as part of the evidence base the Council has published its Blackpool Employment Land Study (BELS) in June 2014
- As part of the Duty to Cooperate Fylde Borough Council has allocated 14 hectares of land as part of the proposed Whyndyke Farm development to meet Blackpool's future employment land requirements.
- The Government has also published the National Planning Policy Guidance in March 2014 to replace and update earlier guidance and set out the Government's position regarding the planning system.

The application is therefore presented to the Committee again for reconsideration.

## **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. Fronting Bristol Avenue are two storey brick buildings also forming part of the former TVR complex and a number of units have been converted into small scale business and leisure units, including two fitness gyms. Directly across Bristol Avenue is the Council's household waste and recycling 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**

This is a retrospective application in that the most of the conversion and extension work has already been carried out and the use itself has commenced. This matter has been passed onto the Planning Enforcement Manager for investigation. The application premises are two storeys in scale, and profile metal clad. The Class D2 Uses (Assembly and Leisure) comprise two ice rinks, the larger rink measuring 52 metres x 26 metres (sized to National Hockey League standard) a much smaller 'studio' rink measuring 14 metres x 20 metres with ancillary, cafe, changing rooms and a dance studio and storage space in a separate building. The latest plans submitted with the application indicate that the main rink will be used for competitive ice hockey matches. The proposal also involves external plant areas located either side of the building.

Two vehicle access points are proposed into the site from Bristol Avenue, which involves utilising an existing access for coaches and deliveries which is opposite the exit from the Council's refuse and recycling site and a second, new access into the car parking area following the demolition of a single storey building on the site frontage (adjacent to the Bispham Body Senze gymnasium).

It is stated that the proposal will employ 30 staff (15 full time and 15 part time) and that the opening hours would be from 10am to 10pm Monday to Fridays and from 9am to 10pm on Saturdays, Sundays and Bank Holidays, although it is alleged it may be opening before 10am on weekdays.

The application submission includes a Transport Assessment, an Additional Parking Assessment, an Accessibility Questionnaire, a Justification Statement, marketing details, a Planning, Design and Access Statement and Sequential Test and Impact Assessment. A revised car parking layout has also been recently received showing 91 spaces, including nine mobility spaces, cycle/ motorcycle/ minibus parking, together with a pedestrian footway from Bristol Avenue through the car park into the facility.

Following the quashing of the planning permission the application is now also accompanied by an air quality report, noise assessment, ecology report, portfolio of vacant industrial premises, socio-economic report, drainage submission, contaminated land report and cultural heritage statement and an Energy and Environmental Report.

Addendums have also been received relating to the socio economic statement and the sequential test and an up-dated portfolio of vacant employment premises based on premises in Blackpool over 465 sqm (5000 sqft) and an up-dated preliminary risk assessment has also been submitted.

The Committee will have visited the site prior to its meeting on 8<sup>th</sup> September 2014.

### **PLANNING HISTORY**

**10/0079-** Use of premises (unit 1) as fitness centre/gymnasium with ancillary cafe. Granted 25<sup>th</sup> March 2010

**12/0770-** Use of premises (unit 9) as fitness centre/gymnasium. Granted 21 December 2012

**13/0614-** Erection of 46, two storey dwellinghouses comprising semi-detached and mews properties with associated access from Ashfield Road, car parking and landscaping on land immediately to the west of the application site. Refused 14<sup>th</sup> January 2014

Reasons included 'The proposal would result in the loss of safeguarded employment land to a non-employment use, contrary to the National Planning Policy Framework and Policy DE1 of the Blackpool Local Plan 2001-2016. It would have a detrimental impact on Blackpool's future employment land supply and the proposed redevelopment does not constitute enabling development to satisfy Policy CS3 of the emerging Core Strategy. Furthermore, Blackpool's employment land constraints are acknowledged in the emerging Fylde Core Strategy, which proposes around 15 hectares of employment land in Fylde to help meet Blackpool's future requirement. To allow the release of existing employment land contrary to policy would potentially compromise this joint approach to employment land provision'.

**14/0104-** Demolition of two storey building on site frontage. Granted 10<sup>th</sup> March 2014

### **MAIN PLANNING ISSUES**

- Principle of Use- (A) the loss of employment land and (B) the location of new tourist/leisure facilities
- Sequential Test
- Parking/ Traffic Generation/ Highway Safety
- Impact on Residential Amenity
- Other issues arising from the additional application submissions

### **CONSULTATIONS**

**Head of Transportation** - In response to the **original submission** objected on the following grounds:-

1. A detailed Transport Statement has been submitted to accompany the application, TRICS data has been used to calculate and whilst I do not dispute the figures provided I am somewhat concerned the data is based on a one hour period covering different parts of the day. The time period should have covered a longer part of the peak period. It is demonstrated that the proposed use of the site will not adversely impact on the highway, this maybe true on paper, however given the location of the proposal site, accessibility is not great, therefore it is my view the majority of trips will be car borne, more so than that demonstrated in the Transport Statement.

2. Delivery and coach access is shown to the west side of the building, if coaches access the premises at this point they will be unable to turn around in the service yard, a tracking plan should be provided. If coach parking is permitted in the main car park, the parking spaces cannot all be used resulting in overspill parking onto Bristol Avenue, the majority of which is restricted resulting in highway safety concerns.

3. Appendix D of the Transport Statement refers to vehicle tracking, none is provided, only visibility is shown.

4. This is an odd location for an ice skating centre/dance studio and is there actually a need? The neighbouring units operate as commercial businesses so whilst traffic generation and flows are high during the normal working day this proposal due to proposed operating hours will increase vehicle movements into the evening and weekends.

In response to the additional details submitted with the application, including the revised car parking layout and a vehicle tracking plan referred to in point 2 above, the Head of Transportation verbally reiterated his opposition prior to the application being approved in February 2013 on the basis that there are inadequate car parking and coach parking facilities for the proposal, and inadequate servicing and turning facilities within the application site to cater for the proposed use.

Comments are awaited on the revised parking layout and access and will be reported via the update note

**Head of Neighbourhood Services-** there should be no problems with noise from the venue and there are no concerns relating to air quality.

**Contaminated Land Officer-** has requested further information given the potential pollution linkage. A revised contaminated land document has been submitted. Looking at the report submitted on 30th June 2014 it would appear that the intended method of remediation is to cap it through the use of tarmac. This is acceptable. However they have not stated if materials will be taken off site, and if so how this will be disposed of. Is the intention to leave existing and then add another layer of tarmac? The agent's response is awaited on this matter and any comments received will be reported via the update note.

**United Utilities-** any comments received will be reported via the update note

**Environment Agency-** have reviewed the drainage strategy and have no objections in principle subject to a condition being imposed relating to the submission and approval of a surface water drainage scheme.

**Sustainability Manager-** there are no issues from an ecology point of view

**Drainage-** any comments will be reported via the update note

**Any further comments, including on the latest submissions, will be reported via the update note.**

## **PUBLICITY AND REPRESENTATIONS**

Neighbour notification letters were sent out on 23<sup>rd</sup> August 2012 and 2<sup>nd</sup> May 2014

Site Notices displayed on 30<sup>th</sup> August 2012

In response to the neighbour notifications **159 letters of support** have been received and **47 letters of objection** have been received. The comments received from both supporters and objectors to the proposal have been received from far and wide including Preston, Poulton, Lancaster, Freckleton, Fleetwood, Rochdale, Southport, Stockport, Bolton, St Anne's, Oldham and Burnley (supporters) and from Preesall, Hull, Rossall and Widnes (objectors) together with many comments from Blackpool, Poulton, Cleveleys and Bispham both in support and opposition. There are also two letters of support from Bristol Avenue itself and one letter of objection from Bristol Avenue. The comments made are as follows:-

### Support

- competition between the existing and proposed rinks is not a bad but is a healthy thing
- the existing rinks are often overcrowded
- more rinks can only be a good thing
- a full sized rink is required in the area and the playing of ice hockey games there has the potential to create publicity akin to Blackpool FC
- it has a NHL sized rink for ice hockey
- the proposal will promote skating as a sport
- its a great idea to bring curling to the area
- the dance studio would be welcomed by many
- would bring new people into sport and more money into Blackpool
- in order to skate at a high level of competition a full sized rink is needed
- proposal would cater for residents of all ages and abilities and improve health and well being
- it will be good for the area and create jobs providing all year round employment
- proposal will save on travelling costs to Blackburn/ some skaters cannot afford to travel to Blackburn to use their facilities. Blackburn is an hours drive away
- the morning trip to Blackburn for training is just not a viable option
- the other local rinks are not up to a great standard
- will turn this brownfield site into a state of the art facility, left the building would continue to deteriorate
- building has stood empty for six years
- the proposal would regenerate this area of town
- a lot of the opposition to the application is from out of town
- will keep youngsters off the street
- will be something for the local community and beyond
- will put Bispham on the map as a place to visit
- it is located next to the pool and will open up more opportunities for families to enjoy a day out at relatively small cost
- it would bring business to Bispham village
- proposal will be a great asset for the town
- increased sports participation will help children fight obesity and type two diabetes
- one supporter would join a nearby gym while her daughter skates
- a sports complex has developed on Bristol Avenue and the proposal will complement this
- public transport is considerably better and closer by than Cleveleys
- an excellent idea to give the community a facility to match the on-going aspirations of the town

## **Objection**

Six letters from **Walsingham Planning Consultants** submitted on behalf of the owners of Jubilee Leisure Park in Cleveleys, dated 21 December 2013, 3 January 2013, 31 January 2013, 12 February 2013 and 23 May 2014 and 18th July 2014 regarding the impact of the proposal on their ice skating facility.

- It is stated the proposal is contrary to both local and national planning policy,
- there is an undersupply of employment land in Blackpool. The Council's Employment Land report demonstrates there is a shortage of employment land available to provide for the Borough's requirements for the next 15 years. The report states that as Blackpool cannot meet its own employment needs the strategy must be to protect and capitalise on existing employment sites.
- as such given this undersupply the application site measuring approximately one hectare plays an important role in the provision of sufficient employment land and therefore must be protected.
- the premises have not been adequately marketed and there is in fact interest in re-using the premises for employment use.
- the proposed leisure use on this employment site conflicts with the emerging Core Strategy and Policy CS3 reinforces the protection of existing employment allocations, a decision to approve the application would be contrary to the Council's Core Strategy objectives and policies.
- in the absence of any material considerations to sufficiently outweigh the harm caused planning permission should be refused.
- existing employment sites should be promoted, regenerated and redeveloped to ensure the best use of employment land and buildings. However it is clear from the marketing report that this has not been the case. There has been interest in the site from employment uses but did not proceed due to the building being too large but the building could have been sub-divided.
- if employment land continues to be lost the wider area will lose its appeal for employment uses to likely investors.
- the site is unsuitable for leisure uses which should be directed towards the town centre.
- the sequential test is flawed and the agent has carried out a very limited search. The submission does not thoroughly address the impact of the proposed rink on either the town centre or on existing rinks in the area.
- the latest sequential test is inadequate, misleading and inconsistent with the original sequential test. The catchment area for the rink remains unclear, originally a ten mile radius has changed to the Blackpool Borough boundary yet it is clear from various statements that the rink will cater for people living across the North West.
- as the site is out of centre, all out of centre sites should be reviewed and compared in relation to their sustainability and accessibility.
- the sequential test is so fundamentally flawed that any planning permission granted on the basis of it would be challengeable in the Courts.
- it is considered that there is not enough demand for three rinks within such a small catchment area. Both existing rinks benefit from links trips to other recreational uses.
- the north west is already home to two other larger scale ice rinks which are more appropriately located within or edge of town centre and readily accessible.
- local residents already have the choice of two local rinks accessible to both local people and visitors by a range of means of transport.
- the proposal would lead to a loss of jobs at existing ice rinks.
- this is more than a local facility and will attract visitors from across the North West.
- the Sub Zero ice centre provides a home for three local ice hockey teams.

- access to the site is poor and Bristol Avenue is not served by buses and the rink would generate a large number of car journeys.
- it is in an unsustainable location and not accessible by a range of public transport and is reliant on travel by private car and is therefore contrary to planning policy and in particular the NPPF.
- the fact that there are a number of vacant premises is not considered to be a material consideration and should not lead the Council to conclude it is acceptable to lose designated employment land.
- the Council must be consistent with the decision to refuse a housing development on adjoining land being refused due to the loss of safeguarded employment land.
- the larger rink does not meet the requirements for either a NHL or IIHF competition standard sized rink. The application should be accompanied by a flood risk assessment and noise assessment.
- many of the reports have been produced retrospectively which diminishes the Council's ability to judge the environmental impacts.
- there would be increased and unacceptable levels of traffic congestion leading to loss of appeal for employment investors.
- an ice rink is not typically found in residential or employment areas catering for local, day to day needs moreover the scale indicates the rink will attract visitors from across the north west and potentially further afield
- it is not clear whether the recommendations of the either the air quality assessment or contamination report have been implemented
- if the Council is minded to approve the application it would be open to further legal challenge
- the agent has failed to take into account the Blackpool Employment Land Study (BELS) issued June 2014 and produced to inform the Core Strategy. This is an important consideration, which was not available when the proposal was first considered.
- the BELS identifies a requirement for 31.5 hectares of employment land for the period up to 2027 and quantifies the supply as between 17.8 and 21.6 hectares. The Study refers to 14 hectares of employment land being allocated at Whyndyke Farm within Fylde to help meet Blackpool's requirements.
- in terms of the TVR premises the BELS advises of longer term re-development to provide modern business/ industrial units and advises that Moor Park Industrial Estate has a continuing important role serving the north of the town. It is clear there are very limited employment premises in the size range 501- 1000 sqm. Of the 6 units in total two fall within the application site
- officers should not allow the existence of the on- going works and actions to have any bearing on the Council's decision. The applicant's behaviour has demonstrated a complete disregard for the planning system

other objections raised the following matters:-

- why create another rink when we already have two rinks on the Fylde within reach of holidaymakers?
- another rink will just end up killing the sport and there is not enough trade to go around
- it will cause job losses at the other two rinks
- three rinks just not viable, it will be a huge financial risk
- the existing rinks are running under capacity
- should open a facility there that we don't already have (roller rink, bowling alley, martial arts)
- proposal could decimate the new Cleveleys sea front
- it is five-ten minutes walk from the nearest bus stop to the premises

- TVR is out of the way with no public transport at night
- concerns about traffic increase/ road not large enough for coaches
- there are 30 parking spaces and 15 employees leaving only 15 spaces for the public
- since the health centre opened, in combination with the pool and school the congestion at the mini roundabout has been terrible
- most of the people in support are already skaters
- noise nuisance for residents of Bristol Avenue
- should build industrial units for new business thus offering more employment opportunities
- Blackpool is losing too much of its manufacturing and skilled trades

**Objection** From The Pleasure Beach dated 20<sup>th</sup> May 2014 stating:-

- The proposal is contrary to Policy DE1 of the Local Plan and Blackpool has an undersupply of employment land.
- The application has not adequately addressed the marketing of the site for employment use, including the potential sub-division of the unit.
- To grant this application would be inconsistent with the decision on 13/0614 which sought to protect employment land.
- The proposal would not provide a facility which is not already catered for and the proposal would adversely affect the existing ice rinks.
- The proposal does not pass the sequential test and ignores Core Strategy Policy.
- The ability to assess environmental issues is questioned given that the works are now substantially complete.
- The application has not satisfied the National Planning Policy Framework with regards to minimising reliance on the private motor car.

**Councillor Andrea Kay of Wyre Borough Council** states the location is unsuitable for an ice rink due to the surrounding area, the lack of travel arrangements and parking in the area. The area is already congested due to the amount of traffic from schools, health centre and sports centre. The opening of a rink within ten miles of the Pleasure Beach and Sub-Zero could cause another business closure adding to unemployment.

#### **NATIONAL PLANNING POLICY AND GUIDANCE**

**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.

The Government is committed to ensuring that the planning system does everything it can to support sustainable development...planning policies should avoid long term protection of sites allocated for employment use where there is no reasonable prospect of a site being used for that purpose...planning policies should be positive and promote competitive town centre environments and set out policies for their management and growth...recognise town centres as the heart of their communities and pursue policies to support their viability and vitality...allocate a range of suitable sites to meet the scale and type of retail, leisure, tourism, community etc needed in town centres...allocate appropriate edge of centre sites for main town centre uses...if sufficient edge of centre sites cannot be identified set policies for meeting the needs in other accessible locations that are well connected to the town

centre...LPA's should apply a sequential test for main town centre uses (which includes leisure uses such as ice rinks) that are not in an existing centre and not in accordance with an up-to-date Local Plan...LPA's should require an impact assessment for leisure development not in an existing centre and not in accordance with an up-to-date Local Plan if the proposal is above 2,500 sqm...planning policies should aim for a balance of land uses so people can be encouraged to minimise journey lengths for employment, shopping, leisure and other activities.

**National Planning Policy Guidance (NPPG)** was published in March 2014 and consolidates and up-dates 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 also covered including ensuring the vitality of town centres and cross references with the NPPF.

### **SAVED POLICIES: BLACKPOOL LOCAL PLAN 2001-2016**

RR1- Visitor Attractions

BH3- Residential and Visitor Amenity

BH11- Shopping and Supporting Use- Overall Approach

BH12- Retail Development and Supporting Town Centre Uses

LQ1- Lifting the Quality of Design

LQ14- Extensions and Alterations

DE1- Industrial and Business Land Provision

AS1- General Development Requirements

AS2- New Development with Significant Transport Implications

### **EMERGING PLANNING POLICY**

#### **Blackpool Local Plan: Part 1 - Core Strategy: Proposed Submission**

The Core Strategy Proposed Submission was agreed for consultation by the Council's Executive Committee on 16th June 2014 and by the full Council on 25th June 2014. The document was subsequently published for public consultation on 4th July 2014 for a period of eight weeks (the closing date for comments is 29th August 2014). Once this consultation period has closed, the intention is that the document will be submitted for consideration by an independent Planning Inspector through an Examination in Public in 2015.

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

Policy CS1- Strategic Direction and Location of Development- states that the spatial focus for Blackpool's regeneration and supporting growth focusing on the town centre, the resort core and neighbourhoods within the inner areas.

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 CS4- Retail and Other Town Centre Uses

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 CS17- Blackpool Town Centre

Policy CS20- Leisure Quarter- comprehensive re-development of the entire site will be promoted and encouraged for major leisure development of national significance where the cumulative impact of a single or group of leisure uses will provide a compelling new reason to visit Blackpool.

Policy CS21- Leisure and Business Tourism- in order to physically and economically regenerate Blackpool's resort core the focus will be on strengthening the resorts' appeal to attract new audiences year round achieved by supporting proposals for new high quality tourism attractions focused on the town centre and resort core including major development which have the potential to become wider catalysts for regeneration to improve the visitor experience.

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**

Principle of Use - consideration of the principle of the use can be split into two strands, one relating to the loss of employment land (approx 3150 sqm) within an area designated under Policy DE1 of the Local Plan as a Main Industrial/ Business Area and the second relates to the location of a significant tourism/ leisure facility in a suburban area of the town well away from town centre and resort core. These two issues will be considered in turn:-

**loss of employment land-** Policy DE1 of the Local Plan states that the permitted uses for the Moor Park/ Bristol Avenue industrial/ business estate are offices, research and development, light/general industry and warehousing falling within Use Classes B1, B2 and B8. **The Policy also states specifically that retail or other non- Class B uses will not be permitted.** The ice rinks with associated facilities fall with Use Class D2 'Assembly and Leisure' whereas the authorised use of the premises is general industrial use falling within Class B2. **The proposal is therefore contrary to Policy DE1 of the Local Plan and Policies CS1 and CS3 of the Core Strategy.**

The proposal involves the loss of allocated industrial land and both the Local Plan and Core Strategy policies seek to safeguard Blackpool's existing industrial/ business estates of around 180 hectares for employment use given the limited supply of employment land within the town. Since the application was considered by the Planning Committee in January and February 2013 Fylde Council has allocated 14 hectares of employment land at Whyndyke Farm to meet Blackpool's future employment land needs up to 2027 because we are short of employment land. Much of the former TVR premises, of which the application premises form a part, have been sub-divided and a number of units have been brought back into industrial/ business use particularly along the Bristol Avenue frontage. Although a number of buildings on the site have also been demolished, in planning land use terms, this land is still available for industrial/ business development.

The Council has also published the Blackpool Employment Land Study (BELS) in June 2014 which informs the Core Strategy and was not available at the time the application was first considered. The Study identifies a requirement for 31.5 hectares up to 2027 and the available supply is up to 21.6 hectares. The 14 hectare employment land allocation in Fylde through the Duty to Cooperate will help meet Blackpool's future employment land

requirements. The Study advises that the Moor Park Industrial Estate has a continuing important role serving the northern end of the town.

The application premises had been vacant for approximately six years and evidence of marketing has been submitted to support the application. The National Planning Policy Framework (NPPF) states that long term protection of employment sites should be avoided where there is no reasonable prospect of the site being used for that purpose. However given the shortage of available employment land within the town, and the desire of having a range of sites, in terms of size, type and location, protected and kept available for use, the proposal involves the long term loss of a significant amount of floorspace which would set a damaging precedent making it difficult to resist significant other non employment uses being introduced into designated industrial/ business areas. We have already seen with outline planning application 13/0614 that there is a desire to re-develop adjoining designated employment land for non employment uses (in the case of 13/0614 this involved the erection of 46 houses) and the approval of the ice rink proposal would make the continued resistance of the adjoining housing proposal much more difficult. This would also put other existing employment sites at risk and undermine investor confidence in such areas.

It is also important to note given the existence of two rinks within the Blackpool area that there is not considered to any overriding need for a third skating facility, albeit a much larger one, to necessitate losing such a large area of designated employment land/ floorspace particularly when there is an acknowledged shortage of employment land.

Whilst the proposal itself has been said to be employment generating, this argument could be used to justify other inappropriate development e.g.: retail development, and is not in itself justification to permit the loss of Class B employment premises. The two existing fitness gyms (which are Class D2 uses) within the former TVR site are much smaller (500 sqm and 648 sqm respectively) facilities primarily serving a local catchment area and could be argued actually support existing employment businesses. They are also more flexible in nature being readily capable of being converted back into industrial/ employment uses with the removal of the equipment. The principle of losing 3150 sqm of floorspace to a Class D2 use is therefore considered unacceptable. The marketing details submitted with the application show that there was interest in occupying the premises for business/ industrial use although prospective tenants considered the unit to be too large, which leads to the question of why could this unit have not been sub-divided into smaller units to meet the demand for such smaller units? It is noted that the landowner has cleared adjoining buildings within the former TVR site which were then subject of the planning application for 46 houses ref 13/0614. This could be considered to put in question the land owner's genuine commitment to finding appropriate new businesses to occupy units on the site.

The initial portfolio of available employment units submitted prior to the Planning Committee meeting in February 2013 was up-dated in January 2014 and highlighted approximately 80 premises/ sites which were available between 372 sqm (4000 sqft) and over 2137 sqm (23000 sqft) although it included sites outside of Blackpool, which is irrelevant given that it is the acknowledged shortage of sites within Blackpool that is in question. It also included un-developed sites although it is part of the agent's case that a new building facility is not an option. An up-dated search in June 2104 highlighted available units within Blackpool over 465 sqm (5000 sqft) which returned a total of 27 premises meeting the criteria. Six premises are shown to be near the application site and include premises on Moor Park Avenue and at Britannia House, 281 Bristol Avenue of a comparable size to the application premises. The submission concludes that the proposal would have no significant impact on businesses wishing to locate in the area. It is further stated that the site

is not well placed to cater for large B2 or B8 units being within the urban area and it is considered land on the periphery such as Whyndyke Farm is more preferable.

However it should be noted that new industrial/ business units have been and continue to be built nearby on Kincaig Road and Faraday Way including the new Royal Mail facility, akin to a Class B8 warehouse and distribution unit with ancillary offices approved by Committee in February this year (ref 13/0784) and due to commence on site in the near future. This is ample evidence that the area is successful and viable for business/ industrial development and is well located to access Amounderness Way and the motorway network.

The Whyndyke Farm planning application (ref 11/0316) adjacent Junction 4 of the M55 submitted in June 2011 initially involved up to 2000 dwellings with associated development. However revisions made to the application have incorporated up to 20 hectares of Class B2 and B8 industrial/ business land. Most of the 90 hectare site lies within Fylde Borough with a strip of the Preston New Road frontage and land to the rear of the new mental health facility within Blackpool. The Fylde Borough Council Core Strategy sets aside 14 hectares of this industrial land to meet Blackpool's future employment land requirements which itself confirms the position regarding Blackpool's shortage of employment land.

**location of new tourist/ leisure facilities-** Policy RR1 of the Local Plan states that within the defined Resort Core the development of tourist attractions drawing large numbers of visitors will be encouraged. Outside the resort core visitor attractions will only be permitted:- where a site is specifically allocated for this purpose **or**

- where it could not be accommodated collectively or individually on a site or sites within the resort core;
- there are good public transport facilities available between the site and the town centre and resort core;
- and the use would be complementary to attractions within the resort core;
- and the proposal would not undermine the pace and extent of regeneration within the resort core.

This policy is reinforced by Policy CS20 of the Core Strategy which states that new high quality tourism attractions will be focused on the town centre and resort core. Outside the resort core new tourist investment will be focused predominantly on outdoor leisure facilities which support and do not undermine resort regeneration.

The size of the proposed ice skating centre/ dance studio with 3150 sqm of Class D2 'Assembly and Leisure' use includes many potential uses which would be recognised as tourist facilities/ visitor destination particularly given the amount of floorspace involved and a unit of this size cannot reasonably be said to be solely catering to a local demand and given that there are already two more accessible ice rinks within easy reach, but would be expected to attract visitors from a much wider catchment area, including those visiting to play/ watch organised ice hockey matches, as stated in the application submission. The comments received on the application seem to clearly indicate that the Blackburn rink, which is a comparable size with the proposal, is a regional facility. The wide geographical area from where comments have been received on the application also show that the proposal is of regional interest. There would also be nothing to prevent the larger rink for example being used for events or tournaments which would themselves attract significant numbers of visitors and detract from the resort core. There are only two other comparably sized rinks in the North West at Blackburn and Altrincham which suggests, contrary to the agent's submission, that this is a regional rather than solely a local facility.

The sequential test initially submitted by the applicant listed five other sites within the 10 mile radius stated as being the search area, two at Cornford Road, one at Hoo Hill, one in Weeton and the fifth on Amy Johnson Way. Subsequently, and following a request by officers, other town centre and resort core sites have been considered (and discounted) as being either too small or unsuitable for conversion to the proposed use, which requires a large open space to accommodate the larger rink. The 'Leisure Quarter' site (LQ), to the south of Blackpool Town Centre, in terms of the conversion of existing buildings is considered by the agents to be wholly unsuitable. They state it is neither suitable nor viable to construct a new purpose built facility, although it is not stated why it is neither suitable nor viable to construct a new build facility, hence the need to secure an existing building to convert. Within the LQ site only the Courts and Police Station have the potential to house an ice rink based on overall floor area. However neither is suitable to such a conversion and the LQ site is therefore considered by the agents to be unsuitable for the proposal. The former Syndicate nightclub was also included in this sequential test and discounted (however the building is in the process of being demolished).

An addendum to the sequential test has been submitted which amended the area of search to Blackpool Borough boundary looking at premises over 465 sqm (5000sqft) including the former Apollo Electrical Store (now demolished), the former Rumours Nightclub and vacant unit off Waterloo Road and stating that the area of search for alternative sites has been confined to Blackpool as the applicants consider that it is not a tourist facility relying on a passing trade. Although there has been nothing presented with the application to suggest there is any significant local unmet demand for a third ice rink and the strong probability is that there will be significant trade taken away from existing facilities and the rink will also have a much wider catchment area than that being suggested in order to be viable. The Apollo building was considered by the agents to be too small at 696sqm, the Rumours building is set over several floors, which is unsuitable, and the Waterloo Road building is narrow and has poor access and limited parking.

The application site is classified as being of low accessibility and although there are bus routes relatively nearby the site is not considered particularly accessible to either the town centre or resort core. The redevelopment of the LQ site (the central station car park and adjoining buildings), is a prime opportunity for the development of a major tourist/ leisure attraction within the resort core and could comfortably include and accommodate some or all of the uses and floorspace currently proposed in the form of a new build development. Therefore there are sequentially preferable site(s) for this substantial tourism/ leisure attraction in Blackpool notwithstanding that sites outside the town have not been considered even though the size of the development, the existence of two ice rinks already in Blackpool and the submitted statement would suggest it is more of a regional rather than local facility.

The proposed use, located several miles outside of the town centre would largely be a destination visit in its own right, with few anticipated linked trips, as one would expect in a resort core/ town centre location, nor would it involve any significant regeneration benefits with the re-use of a large fairly featureless building located to the rear part of the former TVR site. It is also considered that the proposed use would undermine the regeneration of and investment in the resort core and town centre and would not be complementary to existing tourist attractions in the resort. The principle of locating the proposed use here is therefore also considered unacceptable and contrary to Policies RR1, BH11 and BH12 of the Local Plan, and Policies CS4 and CS21 of the Core Strategy and contrary to the NPPF (Core planning principle 2 'Ensuring the vitality of town centres')

The initial Socio Economic report considered employment, shops/ services and local government finance stating the proposal will create new jobs and assist in regeneration, shops and services are within walking distance and an explanation of the business rating. 27 construction jobs would be (have been) created and a further 15 full time and 15 part time when operational. The Addendum considered the impact on the two existing rinks. It is not considered by the agent that there will be any significant diversion of trade given the size, location and function of the Pleasure Beach Ice Arena. In relation to the Jubilee Ice Arena in Cleveleys, which it notes is outside Blackpool, 'whilst there may be some leakage of trade such an assessment is speculative' and the impact is considered minor. This assertion is not accepted and whilst there would be some jobs created from the use, equally there may well be jobs lost if the proposal forces the closure of one of the two existing rinks, the Cleveleys rink is seen to be most at risk given that the Pleasure Beach relies largely on ice shows. Putting aside the need, impact and the locational aspects of the proposal those same jobs would be created were the use to be located in or adjoining the town centre/ resort core.

Parking/ Traffic Generation/ Highway Safety- the site's location is defined as having low accessibility. The maximum car parking standard in such cases is one space per 25 sqm of floorpace equating to 126 spaces. The proposal, as amended, would provide 91 spaces, a shortfall of 35 spaces below the maximum permitted. Whilst a shortfall may be acceptable in a highly accessible location and where a use serves a local catchment however this site is low accessibility and would serve a much wider catchment. It is considered that parking provision for the use should be at or very close to the maximum. Bristol Avenue within the vicinity of the application site has on street parking restrictions in place and the forecourt parking available for businesses occupying buildings on the site frontage is usually fairly heavily subscribed, particularly outside the two fitness gyms. The application premises are also located close to the egress from the Council household waste/ re-cycling centre which has recently been up-graded to include ancillary retailing of re-cycled items with further additions anticipated. Therefore the existing significant traffic levels associated with the waste/ re-cycling centre are expected to increase. It is expected that the proposed car parking provision will result in additional on street parking at peak times in the vicinity of the site which may well overflow into residential areas given the on street parking restrictions that are in place on Bristol Avenue.

The submitted servicing, turning area and coach parking area is also considered to be inadequate for the proposed use. Adopted parking standards require a minimum of one coach parking space with the site, although coach parking is provided this area also doubles up as the service area where refuse and delivery vehicles would access the site and turn around. This would create potential conflict and difficulties in vehicle manoeuvres and may result in vehicles for example reversing out of the site onto Bristol Avenue.

The combined shortfall in off street parking and inadequate servicing and turning facilities are likely to increase the demand for on street parking and impede the free flow of traffic and add to congestion within the vicinity of the site contrary to Policies AS1 and AS2 of the Local Plan and Policy CS5 of the Core Strategy.

Impact on Residential Amenity- the closest residential properties to the application site (adjacent the Ashfield Road junction) are some 40 metres to the west of the service access although the distance to the access to the main car park is 80 metres away. The use itself would be located behind a number of buildings which front Bristol Avenue. The opening hours of the proposed use are given as 10am to 10pm Monday to Fridays and 9am to 10pm on Saturdays, Sundays and Bank Holidays.

Other than the additional traffic generation from the use, including potential additional on street parking demands, it is not considered that the proposal will have a significant residential amenity impact. The additional traffic generation and on street parking demand is not by itself considered sufficient to warrant a refusal of planning permission.

In terms of impact on visual amenity the proposal involves the re-use of an existing former industrial building which appears to already have been largely converted and it is located some distance from the Bristol Avenue frontage at the rear of the site and behind two storey buildings on the site frontage and therefore there is not considered to be any significant visual impact. The car parking area will also be largely hidden from view behind those same buildings, the proposed new vehicular access into the site is further east along Bristol Avenue and hence further from the nearest houses.

Air quality and noise assessments have been submitted neither of which have highlighted any particular issues in terms of anticipated impact on residential amenity. The Head of Neighbourhood Services has assessed both reports and does not raise any objections.

In terms of the impact on visual and residential amenity it is not considered that the proposal would conflict with Policies LQ1, LQ14 or BH3 of the Blackpool Local Plan.

Other issues arising from the additional application submissions- There have been a number of additional reports and surveys submitted following the quashing of the planning permission. These reports relate to a number of technical and specialist topics.

In relation to contaminated land it would appear that the intended method of remediation is to cap it through the use of tarmac. This is considered to be acceptable. However it has not been stated if materials will be taken off site, and if so how this will be disposed of or whether the intention is to leave it as existing and then add another layer of tarmac. **The agent's response is awaited on this matter and any comments received will be reported via the up-date note**

There are no particular drainage or surface water issues raised by the application. The Environment Agency has confirmed it has no objections to the proposal subject to the imposition of a surface water drainage condition.

In relation to archaeology and cultural issues the application site does not contain (is or close to) any cultural heritage sites or features that have statutory protection. Neither does the site contain (or is close to) a listed building or conservation area. An analysis of existing information and historical mapping has identified that there are no features within the site of local, regional or national importance. Given the above it is not necessary to provide any mitigation works as part of the development in order to safeguard and cultural, archaeological or heritage assets. It has also been confirmed that there are no issues from an ecology point of view.

The building has been insulated above the standard required under the Building Regulations to maintain temperatures to enable the ice rink to function. The cost of recladding the building has been well in excess of 10 per cent of the construction costs which is the figure used on Local Plan policy LQ8 and therefore the building is considered to constitute sustainable development. The site is not at risk from flooding and is under the 1 hectare requirement for a Flood Risk Assessment and Members will note that the Environment Agency has no objections to the proposal.

**Conclusion** Whilst the application premises have been vacant for a number of years the overriding matters in this case are considered to be shortage of available employment land in Blackpool demonstrated recently with the employment land allocation of 14 hectares by Fylde Borough to meet Blackpool's future needs and confirmed as part of the Blackpool's Employment Land Study dated June 2014. There was also the real possibility of sub-dividing the premises making it more lettable for business/ industry, the availability of at least one other sequentially preferable site (within Blackpool) within a much more sustainable location, which would significantly assist in the resort regeneration, and the shortage of off street car parking facilities for the proposal and inadequate servicing and turning facilities within the application site. Sequentially the submission is questionable given the size of the facility and the agent's limitation of the area of search firstly within a 10 mile radius of the site and later confined to Blackpool. There are only two comparable sized facilities in the North West at Blackburn and Altrincham, which are both regional facilities.

Whilst the application has previously been granted by the Council's Planning Committee the officer **recommendation to Committee continues to be one of refusal for the reasons previously given** and now endorsed by the change in circumstances since February 2013. The approval of the application would detract from the resort core in providing a substantial leisure/ tourist and regional facility out of centre which would have a substantial catchment area and be capable of attracting large numbers of visitors to the town becoming a single destination in its own right. It would not have any significant regeneration benefits and whilst there are employment opportunities offered these would better be served in a more appropriate and sustainable location for this substantial tourist/ leisure attraction. It would also make the continued resistance to the loss of other designated employment land, e.g.: the refused housing site on the adjoining land, much more difficult.

Notwithstanding the additional information submitted with the application the fundamental issues in respect of the designation of the site for industrial/ business use and the location of such a large leisure facility outside the town centre, resort core or any other recognised centre remain. The Judicial Review highlighted a number of matters which led to the quashing of the planning permission and a number of additional and up-dated reports have been submitted. These reports confirm the Council's original position namely that the development does not require an Environment Statement **and a revised screening opinion has been undertaken**. A number of the technical reports are considered to satisfy topics of noise, air quality and ecology matters, for example, although for reasons outlined above a number of the application submissions are not considered to adequately deal with matters of the sequential test, the socio economic impact and the marketing of the then vacant industrial premises.

The portfolio of available industrial premises has been up-dated and re-submitted and assessed by Council officers and interested third parties, namely Walsingham Planning, who have made detailed comments on this and many other matters which are reported above. The application does not accord with the Blackpool Local Plan or the Core Strategy, which is the most recent expression of planning policy and is also contrary to national policy in the form of the NPPF particularly it does not constitute sustainable development, it is contrary to Core principle 'Ensuring the vitality of town centres' and 'Promoting sustainable transport' and fails to satisfactorily meet the sequential test (paragraph 27) and whilst the proposal could meet core principle 'Promoting healthy communities' this is not the overriding factor here given the existing provision in the area and the location of the proposed development. Finally notwithstanding the length of time the units were said be vacant it is not considered that the sub-division option was fully explored and there is a clear indication from the

landowner of a desire to pursue other development options for the site as evidenced by the housing application on adjoining land.

#### **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. There are no specific human rights issues raised by this application.

#### **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.

#### **ADDITIONAL BACKGROUND DOCUMENTS**

High Court Judgement dated 12 December 2013 (Appendix 5a) and letter from Walsingham Planning dated 15 August 2014 (Appendix 5b).

**Recommended Decision:** Refuse

#### **Conditions and Reasons**

1. The proposed development introduces an inappropriate use(s) into an area allocated for industrial and related business uses where sites/premises offering appropriate employment opportunities are to be maintained. Furthermore, the applicant has failed to sufficiently demonstrate the need for the proposed use to justify overriding this policy. Approval of this development would set an unwelcome precedent and make it difficult for the Council to resist future applications for similar proposals on industrial and business land/premises elsewhere in the Borough. For these reasons the proposed development is contrary to Policy DE1 of the Blackpool Local Plan 2001-2016 and Policies CS1 and CS3 of the Blackpool Local Plan Part 1: Core Strategy - Proposed Submission.
2. The proposed development introduces a significant tourism/ leisure attraction outside the resort core and town centre where there are considered to be sequentially more preferable site(s) for such development and hence if approved the proposal would undermine the Council's regeneration objectives for the resort and set an unwelcome precedent making it difficult for the Council to resist future applications for other out of town centre/ resort core tourism/ leisure proposals elsewhere in the Borough. For these reasons the proposed development is contrary to Policies RR1, BH11 and BH12 of the Blackpool Local Plan 2001-2016, the National Planning Policy Framework (Core planning principle 2 'Ensuring the vitality of town centres') and Policies CS4, CS20 and CS21 of the Blackpool Local Plan Part 1: Core Strategy - Proposed Submission.

3. The proposed development does not make adequate provision for off street car parking, servicing and manoeuvring facilities within the application site which would result in additional on street parking, congestion and impede the free flow of traffic within the vicinity of the application site. As such the proposed development is contrary to Policies AS1 and AS2 of the Blackpool Local Plan 2001-2016 and Policy CS5 of the Blackpool Local Plan Part 1: Core Strategy - Proposed Submission.
4. The applicant has failed to satisfy the sequential test in terms of demonstrating that the application site is the most appropriate location for the development, in terms of considering an appropriate catchment area for the sequential test and in terms of the impact on existing facilities within the catchment area of the proposal. As such the proposed development is contrary to Paragraphs 26 and 27 and of the National Planning Policy Framework
5. **ARTICLE 31 STATEMENT (NATIONAL PLANNING POLICY FRAMEWORK para 187)**

The Local Planning Authority has sought to secure a sustainable development that would improve the economic, social and environmental conditions of Blackpool but in this case there are considered factors - conflict with the National Planning Policy Framework, policies of the Blackpool Local Plan 2001-2016 and policies of the Blackpool Local Plan Part 1: Core Strategy - Proposed Submission. - which justify refusal

**Advice Notes to Developer**

Not applicable