

Committee Report**Date: 03.11.2021****Item Number** **02****Application Number** **21/00940/FUL**

Proposal **Conversion of first floor of supermarket (E) to form five residential apartments (C3), with insertion of new windows, and repositioning of external staircase and enclosure of roof top (resubmission of 21/00113/FUL)**

Location **34 - 37 High Street Garstang Preston Lancashire PR3 1EA**

Applicant **ND And AN Stores Ltd**

Correspondence address **c/o Mr Kiran Patel
2 Fossdale Moss Leyland Preston Lancashire PR26 7AT**

Recommendation **Permit**

Report of the head of planning services**Case officer - Miss Lucy Lowcock****1.0 Introduction****Site Notice Date: 14.09.2021****Press Notice Date: 18.08.2021**

1.1 This application is brought to Planning Committee at the request of Councillor Lady Atkins. A previous application (ref: 21/00113/FUL) was also considered by the Planning Committee in June 2021. A site visit is recommended to enable Members to understand the proposal beyond the plans submitted and the photos taken by the Case Officer.

2.0 Site description and location

2.1 The application site is a supermarket that is situated on the western side of the High Street, Garstang. The site is within the Town Centre boundary of Garstang as defined in the Adopted Local Plan. It is also in the Conservation Area of Garstang. The site is in Flood Zone 1.

2.2 The first-floor of the supermarket is currently used for storage, a staff room and plant room. The building is a two-storey detached building with a

mainly flat roof. There is a small pitched roof element towards the front. The building is constructed from brick. There are windows in the front of the building facing the High Street. There are existing external stairs on the northern side of the building. There is a first-floor window on the angled part of the rear elevation serving a staff room.

2.3 To the northern side of the building is an access and delivery area for the supermarket. There is a shop ('Car-Care') facing this side of the site with a first-floor store room window facing the site. There is also a detached bungalow with ground floor windows facing the northern side of the site, which serve main habitable rooms. There is a low wall and hedge between the site and this neighbour. From the site, there is a limited view of the windows in this bungalow as they are screened significantly by the hedge. To the rear of the site is a grassed area. Houses on West View have their main rear elevations and rear gardens facing this western side of the site. There is a private access path that runs along the rear boundary of these dwellings. A Public Right of Way runs down the southern side of the building. Beyond this, there is a 2m high wall along the boundary with neighbouring properties to the south. These properties facing onto the southern side of the site consist of the main rear elevation of a bungalow 'The Old Smithy', the side elevation of a property fronting West View 'Lyndencot', the garden of No. 39 High Street and an angled view of the rear of this property. This has a secondary first-floor window in the side facing the site with obscure glazing and a ground floor side window, which has been bricked up since the previous application was determined in June 2021.

3.0 The Proposal

3.1 The application proposes the conversion of the first-floor of the building into five residential dwellings. The proposal includes external alterations to the existing building. New windows, including some projecting windows, are proposed in the rear and sides of the building. Balustrades are proposed to the front elevation. An existing vent in the east elevation would be replaced by 2 windows. Ground-floor doors are proposed to be inserted to the rear of the north elevation. A new external staircase is proposed to the southern elevation. The existing staircase on the north elevation would be removed. A bin store would be provided in the ground floor of the new staircase, along with a cycle store, and separately in the rear garden space. A cycle store is proposed in the ground floor of the existing supermarket, along with access stairs to one of the apartments. Part of the rear of the building is to be 'cut out' setting back the rear and side elevations in part. This would have a flat roof and would be enclosed by a parapet wall and screening forming an enclosed roof top. A fence is proposed to enclose the grassed area to the rear of the building, and a path would be created along the back of the building. The grassed area is shown to be used as a garden space for the proposed apartments.

4.0 Relevant planning history

4.1 21/00113/FUL

Conversion of first floor to form five residential apartments (C3), with insertion of new windows, and repositioning of external staircase and enclosure of roof top. Refused

4.2 19/00769/FUL

Conversion of first floor to form five apartments with insertion of new windows, and repositioning of external staircase and provision of wall and fencing (resubmission of 19/00230/FUL). Refused (appeal dismissed)

4.3 19/00230/FUL

Conversion of first-floor to form seven apartments with insertion of new windows and repositioning of external staircase and provision of wall and fencing. Withdrawn

4.4 18/00158/ADV

Part retrospective application for the erection of 5 x 'One Stop' (3 x illuminated) (2x non-illuminated) signs, 1 x 'Post Office' illuminated fascia sign, 4 x non-illuminated direct print panels, and 4 x non-illuminated poster frames. Consent granted

4.5 13/00417/FUL

Two full height replacement windows and installation of ATM machine and window to replace existing entrance door to front elevation. Approved

4.6 06/00317/FUL

No. 39 High Street (Neighbouring property to south)
Rear conservatory. Approved

5.0 Planning policy

5.1 Adopted Wyre borough local plan

5.1.1 The Wyre Local Plan 2011-2031 (WLP31) was adopted on 28 February 2019 and forms the development plan for Wyre. To the extent that development plan policies are material to the application, and in accordance with the provisions of section 70(2) of the Town and Country Planning Act 1990 and section 38(6) of the Planning and Compulsory Purchase Act 2004 the decision must be taken in accordance with the development plan unless there are material considerations that indicate otherwise.

5.1.2 The following policies contained within the WLP 2031 are of most relevance:

- SP1 Development Strategy
- SP2 Sustainable Development
- SP8 Health and Well-being
- CDMP1 Environmental Protection
- CDMP2 Flood Risk and Surface Water Management

- CDMP3 Design
- CDMP5 Historic Environment
- CDMP6 Accessibility and transport
- HP1 Housing Land Supply
- EP4 Town, District, Local and Neighbourhood Centres

5.2 National Planning Policy Framework 2021

5.2.1 The revised National Planning Policy Framework (NPPF) was published by the Government on 20 July 2021. It sets out the planning policies for England and how these should be applied in the determination of planning applications and the preparation of development plans. At the heart of the NPPF is a presumption in favour of sustainable development (paragraph 11). The policies in the 2021 NPPF are material considerations which should also be taken into account for the purposes of decision taking.

5.2.2 The following sections / policies set out within the NPPF are of most relevance:

- Section 2. Achieving sustainable development
- Section 5. Delivering a sufficient supply of homes
- Section 7. Ensuring the vitality of town centres
- Section 8. Promoting healthy and safe communities
- Section 9. Promoting sustainable transport
- Section 11. Making effective use of land
- Section 12. Achieving well-designed places
- Section 16. Conserving and enhancing the historic environment

5.2.3 In accordance with the National Planning Practice Guidance (PPG) and National Planning Policy Framework (NPPF) S74, the council must be able to demonstrate a 5 year housing land supply position (with a 5% buffer) when dealing with applications and appeals. The latest available evidence on housing delivery is that set out in the council's Housing Implementation Strategy (published 30 September 2021) which demonstrates a deliverable housing land supply position of 6.4 years. The council's position therefore is that it is able to demonstrate a deliverable 5 year housing land supply.

Other material considerations

5.3 Supplementary Planning Guidance

SPG 4: Spacing Guidance for new housing layouts

5.4 Other relevant considerations

5.4.1 The Planning (Listed Buildings and Conservation Areas) Act 1990 (PLBCA), S.66 and S.72;

5.4.2 Historic England, Good Practice Advice in Planning.

6.0 Consultation responses

6.1 Garstang town council

6.1.1 Neutral

6.2 Lancashire county council (highways)

6.2.1 No objections. Request for condition on cycling facilities.

6.3 Lancashire county council (public rights of way)

6.3.1 No comments received

6.5 The ramblers

6.5.1 No comments received

6.6 Wyre borough head of engineering services (drainage)

6.6.1 No objection

6.7 Wyre borough head of environmental health and community safety (noise)

6.7.1 No comments received. Comments previously received on application no. 21/00113/FUL were that following the receipt of further information in the form of a revised noise assessment, there is no objection provided the mitigation is installed i.e. upgraded glazing and trickle vents to the proposed apartments.

6.8 Wyre borough head of public realm and environmental sustainability (waste and recycling officer)

6.8.1 No comments received. Comments previously received on application no. 21/00113/FUL were that there does not appear to be a dedicated bin store facility for the residential apartments, but providing the residential apartments have access to the courtyard area and their bins can be stored in the Courtyard (in close proximity to the entrance at Garstang High Street), collections can be undertaken as there is direct access from Garstang High Street.

7.0 Representations

7.1 7 letters of objection have been received, points raised are as follows:

- loss of privacy and overlooking
- cill height of high level windows not specified, nor the opening arrangements
- noise disturbance from entrances and use of garden and path

- visually detrimental to the conservation area
- the proposed floor plans have no drawing number, key or annotations.
- the plans have no measurements or helpful detail
- access issues for waste removal and access along fenced off path for existing residents
- amenity and security issues with use of path along the rear of West View
- safety implications of use of roof top
- issues of security and privacy in relation to views from roof garden
- no public notices have been displayed
- comments on legislation relevant to 'repeat applications'
- no lift, therefore only suitable for able-bodied individuals
- Section 6, titled 'Planning Policy Assessment', states that "Apartment 1 will be accessed via the existing door located on the northern side of the building." This is factually incorrect, there is no existing door here.
- question of access for refuse vehicles or feasibility of commercial waste removal
- high-level windows do not provide acceptable living conditions for future occupants
- no details on the front balustrades including their height and safety implications of this
- noise assessment out of date
- no 3D imagery of northern elevation, questions reason for this
- inadequate detail about enclosure of rear garden
- threaten security of adjacent properties
- inadequate parking
- congestion along the back of West View and Graystons Weind

7.2 2 letters of support have been received, points raised are as follows:

- Flats more affordable for local people.
- Would not be to the detriment of the area.
- Need for more accommodation.

8.0 **Contacts with applicant/agent**

8.1 Revised plans and noise assessment received 14/10/21

9.0 **Issues**

9.1 The main issues in this application are as follows:

- Principle of development
- Visual Impact / Design / Impact on the street scene
- Impact on residential amenity
- Impact on Highway / Parking
- Flood risk and drainage

Principle of development

9.2 The site is within the Town Centre of Garstang. It is also within the Garstang Conservation Area. The visual impacts on the Conservation Area are discussed in the next section. Policy SP1 of the Adopted Local Plan identifies Garstang as a key service centre and directs development to within settlement boundaries, including Garstang. The proposal would meet the sustainable development goals of Policy SP2 of the Adopted Local Plan, including “maximising the use of previously developed land” and “ensuring accessible places and minimising the need to travel by car”. The site is in an accessible location with services, employment and access to public transport within walking distance of the site. Policy EP4 of the Adopted Local Plan encourages a diversity of uses within defined centres to maximise their vitality and viability. The site is not allocated or protected for a specific use, with the site outside of the Primary Shopping Area. The proposal would make use of the first-floor of an existing supermarket, so would not result in the loss of retail provision in the Town Centre. On this basis it is not considered that the proposal would unacceptably impact on the vitality and viability of the Town Centre and therefore would comply with Policy EP4. Overall, the proposal is considered to be acceptable in principle.

9.3 Policy SP2 of the Local Plan requires development proposals to demonstrate a response to climate change. In this case, the site is in Flood Zone 1, the lowest classification for flood risk. There is the potential for some tree planting in the proposed rear garden, which could be agreed through a planning condition. In this case, it is not considered reasonable to require an electric vehicle charging scheme, as no car parking is proposed. Overall, based on the accessible location of this proposal and that it involves the reuse of part of a building and is in flood zone 1, it is considered to provide residential accommodation that forms sustainable development and provides an adequate response to climate change to meet the requirements of Policy SP2.

9.4 As the proposal would provide only 5 dwellings, there is not a Local Plan policy requirement for the provision of Green Infrastructure, affordable housing or contributions towards education or health care. For this small number of dwellings there is also no policy requirement for a certain housing mix be provided, or for it to be designed to be adaptable for older people. One of the representations refer to the lack of a lift, however, this is not a planning policy requirement, but may be covered by separate Building Regulations legislation on accessibility.

Visual impact / design / impact on the conservation area

9.5 The site is within the Garstang Conservation Area. The building is existing and is described by the Conservation Officer as ‘a modern, probably 20th Century, purpose-built retail store’ which ‘contributes nothing to the special character, appearance or historic value of the Garstang Conservation Area’. The proposal includes external alterations to the building, including the insertion of windows and doors, removal of the existing external staircase and

its replacement, and the erection of fencing. Some of the proposed windows are flush with the wall, and others are proposed as projecting windows. The council's Conservation Officer considers all of the external works to be in keeping with the style of the existing building and that the proposed development would preserve the appearance of the conservation area and sustain the significance of this designated heritage asset in conformity with S.72 of the PLBCA, Section 16 of the NPPF and policy CDMP5 of the Adopted Wyre Local Plan.

9.6 It is considered that the replacement external staircase would be in keeping with the building and would not stand out as obtrusive or be visually harmful to the conservation area. It would be of a scale and design in keeping with the main building. The proposed fencing to enclose the rear grassed area is considered to be visually acceptable in terms of its siting. As no materials details have been submitted for the proposed pathway, staircase or fencing these would need to be agreed by condition.

9.7 It is acknowledged that the building is a modern building and the insertion of windows in the structure would not be visually unacceptable in itself. On previously refused application no. 19/00769/FUL at appeal the Planning Inspector addressed the visual impact of proposed projecting windows on the building. It was stated 'whilst the frames of the projecting windows would be wide, this would reflect the existing bulky window frames to the front of the building. At first floor level they would draw the eye and be visible from the highway and nearby properties, however their scale would be minor, and their form would be in keeping with the angular appearance of the building. A planning condition could also ensure a suitable quality of materials'. The Planning Inspector went on to state 'there are no similar windows in the vicinity of the site, however, the building is already unique within the street scene, and for the above reasons they would not detract from the overall commercial nature of the building or the prevailing character and appearance of the area'. That application proposed three projecting windows, as does this current application, albeit in a different position. Overall, based on the advice from the council's Conservation Officer and the comments of the Inspector on the previous planning appeal, it is considered that the visual appearance of the proposed windows would be acceptable on this relatively modern building. A condition could be used to agree the details of the materials.

9.8 Balustrading is proposed to the front elevation to enclose existing flat roof areas and to the proposed roof top at the rear. It is considered that this would also be in keeping with the appearance of the building, and the materials details could be agreed through condition as could the materials of the external bin store. Overall, the proposal would not have an unacceptable impact on the visual appearance of the area, including the character and appearance of the conservation area and the setting of the Public Right of Way (PROW).

9.9 A communal garden area is shown to the rear of the site. This is already a grassed area, but would be fenced off and would serve the

development. It is considered reasonable that a condition be used to require a maintenance plan for this area of open space. A path and area of hardstanding is shown around the building. The details of this could be agreed through condition.

Impact on residential amenity

9.10 Light – it is proposed to build a new staircase on the southern side of the building. This would have a flat roof, which would have a height of 6.93m. It would project out beyond the existing side elevation by 1.2m. It would be directly opposite the gardens of 'The Old Smithy' and 'No. 39' to the south of the site. At present the gardens of these properties are already enclosed to this side by the supermarket building, which is higher than the proposal, so it is not considered that the staircase being 1.2m closer would have a significantly greater impact over the existing situation in terms of being overbearing or causing loss of light. The main rear elevation of 'The Old Smithy' would have an angled view of the extension, however, it is not considered that this would be significantly more harmful than the present layout. The roof height of the south-west corner of the supermarket is to be reduced, which may present a reduced sense of enclosure to this neighbour than at present. A new 2m high fence is proposed to enclose the rear grassed area. This would include a fence along the western boundary opposite the rear elevations of properties on Park Hill Road. Some of these properties have rear extensions themselves, bringing them closer to the boundary with the site. The general separation distance from the fence would be around 7m, but in some cases it would be reduced to around 3.6m. Despite this proximity, it is considered that this would still provide a sufficient gap for the 2m high fencing not to be overly enclosing to the ground floor windows of these properties or harmfully reduce their light. It should be noted that generally fencing of this height could be erected without requiring planning permission.

9.11 Overlooking – new window openings are proposed in the rear and sides of the building. There are already large windows in the front of the building. The distance between the front windows and the properties on the opposite side of the High Street is at least 30m, so it is not considered that there would be an unacceptable overlooking impact from these front windows serving residential flats. Balustrades would be provided and the flat roof areas made accessible to the occupants. These would be over 21m from the properties opposite, so would not cause unacceptable overlooking. A first-floor window is proposed in the angled part of the southern elevation at the front. This would face the High Street and would not cause unacceptable overlooking. A projecting window in the northern side would also face the High Street. It would potentially also have a view of the side of 'Car Care', which would not cause unacceptable harm.

9.12 First-floor windows are proposed in the southern side elevation. Two are shown to be projecting windows with angled windows. The projecting windows would face the rear elevation and part of the rear garden of 'No. 39'. This neighbouring property has a takeaway at part of the ground-floor. There is a 2m high wall to the adjacent Weind. There is a door and window in the

rear of the takeaway kitchen that would be directly faced. As these do not serve residential accommodation, this would be acceptable. Until recently there was a ground-floor window in the side of No. 39 serving a residential flat, around 5m from the proposed windows. However, since the last application (no. 21/00113/FUL) this window has been bricked up, as it is under the ownership of the applicant. This means that there would not be overlooking to a side ground-floor window at No. 39. The first-floor window in the side of No. 39 is obscure glazed, so this does not present overlooking concerns. Part of an outdoor area would also be faced. As this is already directly faced by the window in the takeaway kitchen and forms a relatively small area of the outdoor space, with the main garden space not overlooked, it is not considered that this would present an unacceptable impact on amenity.

9.13 A ground-floor door and doors to the bin store are also proposed to this southern side elevation. As there is already a Public Right of Way along this side of the site, it is not considered that the potential for overlooking would be more harmful to neighbouring amenity than at present. First-floor windows are proposed in the southern side towards the rear of the building. These would be 20m from the main windows in the rear of 'The Old Smithy' and over 14m from their garden. Although not a typical residential situation, the principle of the spacing standards in SPG4 can be applied. Normally, 21m is an expected separation distance between main first-floor windows, therefore, the proposal would be 1m short of this. A parapet wall and balustrading is proposed to enclose the roof top area. A section has been proposed showing the parapet wall to be 0.8m above the floor level and the glazing would be 1.2m above this, providing 2.1m of screening above floor level. It is considered that this would sufficiently provide adequate screening from the windows towards this neighbouring property, so as to prevent unacceptable overlooking. A condition could be added for this screening to be provided. With the separation distance to be provided, there would not be unacceptable overlooking of the neighbour's garden.

9.14 First-floor windows are proposed in the rear of the 'cut-out' rear wall. These would be 17m to the neighbours' gardens and 20m to the closest main window. As set out above, screening is proposed to the roof-top area. If provided as set out above, this would prevent unacceptable overlooking. There is an existing first-floor window in the angled rear wall in the north-west. This currently serves a staff room, and is proposed to serve a bedroom. This is approximately 4.5m from the boundary with the bungalow to the north, known as 'Oddfellows Hall' and 9.5m to the closest neighbour's garden on West View and 12m from their rear windows. As this room being a staffroom, can already be used by staff during the supermarket opening hours, it is not considered that its use as a bedroom would have significantly greater potential for overlooking than at present. Ground floor doors on this side would be adequately screened by an existing hedgerow to the boundary. First-floor windows are proposed in the northern side of the building. Some of these would be high-level windows. Two high-level windows serving a stairwell and plant room would be closest to the boundary, with a separation distance of 3m from the boundary and 6m from the main elevation of the neighbour. A

condition could be used to ensure that they are obscure glazed and non-opening to prevent overlooking. Other windows are proposed in this side, which would be a minimum of 12m from the boundary and 14.45m from the main rear elevation. The separation distance from the garden meets the standard required distance, typically found in residential situations. In the decision notice for the appeal on application no. 19/00769/FUL, which is a material consideration, the Inspector stated 'an existing wall and high level planting provide screening for the windows to the side of Oddfellows Hall. This in combination with the separation would prevent loss of privacy'. As the windows on the current application are proposed in a similar position as on that application, with the same situation as previously in terms of the separation distance and boundary treatment, it is considered that the proposal would not result in unacceptable overlooking to the neighbouring property to the north to warrant the refusal of the application. A neighbour has commented that the cill height and opening arrangements of the high-level windows are not shown. However, as it is considered that there would not be unacceptable overlooking in this direction based on the above assessment, there is no requirement for this information.

9.15 Two windows are proposed in the rear part of the building facing towards the front of the site behind the delivery area. For the same reasons as above, plus the angled view, these would not cause unacceptable overlooking to the bungalow to the north.

9.16 Noise/disturbance – the proposed use is residential and it is considered that this would be compatible with the adjacent residential uses. Some neighbours have objected about noise/disturbance, but in this town centre location it is not considered that the proposal would have a significantly greater impact over the existing situation. There will already be people coming and going, activity at the supermarket delivery yard and general background noise. Residential uses are generally compatible with each other, and if a resident is considered to be unacceptably noisy this could be dealt with through separate legislation. No external lighting is proposed and a condition could be added to ensure that any external lighting is agreed with the Council. Light from within the rooms of the flats would be that typically found in residential situations, and it is not considered that it would be unacceptably intrusive. A 2m high fence has been proposed to enclose the rear grassed area. This would provide privacy to the adjoining gardens and could be conditioned to be provided.

9.17 Concerns have been raised from neighbours about the use of the roof-top area. This has not been shown to be accessible on the proposed plans, with no door access. A condition can be imposed such that the insertion of a door would require planning permission and any such proposal could then be considered on its own merits.

9.18 Amenity of occupants – each main room of the flats would have a window providing a view and outlook. This would present adequate amenity to the occupants of the proposal. A communal outdoor garden area is proposed

to the rear for the users of the flats. This would be adequate outdoor amenity space in a town centre location.

9.19 A bin store has been shown to the ground-floor of the building under the stairwell to serve the flats and in the communal garden area. The internal bin store would be 24m from the High Street. The external bin store would be around 22m from Park Hill Road. LCC Highways state 25m is the maximum distance a two wheeled refuse container is to be transported to the refuse wagon. Therefore, the bins stores proposed are considered to meet this requirement and there will be adequate waste facilities compliant with Policy CDMP3 of the Adopted Local Plan. A condition could be added for them to be provided as shown.

9.20 A noise assessment has been provided, which is as submitted on the previous application. Environmental Health previously commented on this information, on application no. 21/00113/FUL, and had no objections. As the circumstances in relation to noise are the same in this current application, the comments are still considered to be relevant. The mitigation measures requested by environmental health can be conditioned, which are upgraded glazing and the provision of trickle vents. This will provide adequate amenity to the occupants of the flats.

Impact on highway / parking

9.21 Lancashire County Council (LCC) Highways have been consulted on the application. There are no concerns raised about traffic or highway safety. Whilst no on-site parking is proposed, as the site is in the town centre, LCC Highways have no objections to this. It would be expected that residents would use sustainable transport and therefore the lack of parking is considered to be acceptable in this location. It is considered that the proposal would provide acceptable cycle storage and this would need to be conditioned to be provided. A fence is shown to separate the flats off from the delivery yard, which will support safe access. A condition could be added for this fence to be installed prior to occupation.

Flood risk

9.22 The site is in Flood Zone 1. The council's drainage engineer has been consulted on the application and has no objections. There are no flood risk concerns with the proposal. A sequential/exception test is not required to be carried out for this development in Flood Zone 1.

9.23 There is considered to be a technical means of suitably draining the site. Surface water and foul drainage details are required and these could be conditioned to be provided. This would ensure suitable drainage is utilised and the sustainable urban drainage (SUDs) hierarchy followed.

Other issues

9.24 A Public Right of Way (PROW) runs along the southern side of the building. LCC Public Right of Way Officer and The Ramblers have been consulted on the application but have not commented. The site plan shows the route to remain open, therefore it is considered that the proposal would comply with Policy CDMP6 of the Adopted Local Plan, which requires proposals to not have an adverse impact on an existing Public Right of Way and the public's enjoyment of it. As a precaution an informative could be used to ensure that the developer is aware that this route should not be blocked. Neighbour comments have been provided raising concerns about congestion on the route and encroachment onto the PROW. As the route can be used by the public and is in a town centre location, it is not considered that the potential additional users from 5 apartments, would cause a significantly greater level of congestion. When the internal bin and cycle stores are being used, there may be some additional activity on the route, but it is considered that this would cause minimal interference for users, and akin to any general delays caused on the highway when refuse is collected.

9.25 A neighbour has raised a point that the existing hedge is not shown on the plans. Any existing landscaping within the application site could be shown on a landscaping scheme to be agreed through condition. Any vegetation on neighbouring land, outside of the application site or applicant's ownership would not be under the applicant's control.

9.26 Concerns have been raised about security of the entrances and site in general. This would be a private matter that would be the responsibility of the site owner and flat owners/occupiers. The grassed area to the rear is currently open to the Public Right of Way, so does not currently provide security.

9.27 Concerns have been raised about access to the rear of properties on Park Hill Road, including for bin collection and emergency vehicles. The site plan shows the existing path to the rear of these properties to be retained. These neighbours do not currently have any control of the land within the application site, and any access rights on such land would be a private matter between the parties involved. It should be noted that the erection of fencing or means of enclosure on land can generally be carried out without planning permission as permitted development.

9.28 Concerns have been raised about the safety of the balustrades and roof top. Health and safety of structures is not a planning matter, but covered by separate legislation, however, it should be noted that there is no door access proposed to the roof top, as set out above.

9.29 Comments were raised about the lack of information (scale, key, etc.) on one of the drawings. This has been corrected. A site notice has been erected at the application site, as set out above. Comments have been raised about 'repeat applications', however, there are considered to be material differences with this application over those previously submitted, as such the council is required to determine it.

10.0 Conclusion

10.1 In this town centre location it is considered that the proposal is acceptable in principle, providing housing in an accessible location and within the settlement boundary on previously developed land. The proposal has been designed so as to be visually acceptable, respecting the character and appearance of the conservation area. The bin and cycle storage proposed to the flats would be adequately located so as to enable the convenient and safe removal of the domestic waste or access to cycles. The proposal would provide adequate amenity for the occupants of the flats themselves and would not unacceptably impact on the amenity of neighbouring properties. There are no highway safety concerns with the proposal. As such the proposal is considered to comply with the NPPF and aforementioned Local Plan Policies.

11.0 Human rights act implications

11.1 article 8 - Right to respect the private and family life has been considered in coming to this recommendation.

11.2 article 1 - of the First Protocol Protection of Property has been considered in coming to this recommendation.

12.0 Recommendation

12.1 Grant full planning permission subject to conditions.

Recommendation: Permit

Conditions: -

1. The development must be begun before the expiration of three years beginning with the date of this permission.

Reason: This condition is required to be imposed pursuant to Section 91 of the Town and Country Planning Act 1990 as amended by Section 51 of the Planning and Compulsory Purchase Act 2004.

2. The development shall be carried out, except where modified by the conditions to this permission, in accordance with the Planning Application received by the Local Planning Authority on 22 July 2021 including the following plans/documents:

- Location plan 1:1250
- Proposed site plan 2021-PSP-01C
- Site plan with interface distances 2020-PR-03C
- Proposed site plan and balustrading detail 2020-PR-05
- Proposed elevational plans 2021-PR-02D
- Proposed elevations 2020-PR-06
- Proposed floor plans 2021-PR-01C

The development shall be retained hereafter in accordance with this detail.

Reason: For the avoidance of doubt and so that the Local Planning Authority shall be satisfied as to the details.

3. Prior to the first occupation of any apartment hereby permitted, a plan indicating the positions, design, materials and type of boundary treatments to be erected, shall be submitted to and approved in writing by the Local Planning Authority. The approved boundary treatments shall be completed before the apartments are first occupied and shall thereafter be maintained and retained in accordance with the approved details.

Reason: In the interests of the appearance of the locality and the residential amenity of occupants/neighbours in accordance with policy CDMP3 of the Wyre Local Plan (2011-31).

4. Prior to the commencement of development, a drainage scheme, which shall detail measures for the attenuation and the disposal of foul and surface waters, shall be submitted to and approved in writing by the Local Planning Authority. The surface water drainage scheme shall be in accordance with the hierarchy of drainage options outlined in Policy CDMP2 of the Adopted Local Plan 2011-31 or any equivalent policy in an adopted Local Plan that replicates the existing Local Plan, with evidence of an assessment of the site conditions to include site investigation and test results to confirm infiltrations rates to be submitted. For the avoidance of doubt, surface water must drain separate from the foul and unless otherwise agreed in writing by the Local Planning Authority, no surface water shall discharge to the public sewerage system either directly or indirectly.

No part of the development shall be occupied or brought into first use until the drainage works and levels have been completed in accordance with the approved scheme. Thereafter the agreed scheme shall be retained, managed and maintained in accordance with the approved details.

Reason: To promote sustainable development using appropriate drainage systems, ensure a safe form of development that poses no unacceptable risk of pollution to water resources or human health, to prevent an undue increase in surface water run-off to reduce the risk of flooding and in the interests of visual and residential amenity in accordance with policies CDMP2 and CDMP3 of the Wyre Local Plan (2011-31) and the National Planning Policy Framework. The condition is required to be approved prior to commencement of development to ensure that full details are provided, that have not been forthcoming with the application, to ensure a suitable form of drainage is provided in that specific area taking into consideration land conditions and proximity to existing services.

5. No apartment hereby approved shall be first occupied until full details of both hard and soft landscaping works have been submitted to and approved in writing by the Local Planning Authority. These details shall include, areas of

soft landscaping (including any retained trees, hedgerows and other planting and any replanted or transplanted hedgerows), hard surfaced areas and materials, planting plans specifications and schedules (including plant size, species and number/ densities), existing landscaping to be retained, and shall show how account has been taken of any underground services.

The landscaping works shall be carried out in accordance with the approved details prior to first occupation of any apartment hereby approved or otherwise in accordance with a programme agreed in writing by the Local Planning Authority and shall thereafter be retained and maintained.

Any trees or shrubs planted in accordance with this condition which are removed, uprooted, destroyed, die, or become severely damaged or seriously diseased within 7 years of planting, or any trees or shrubs planted as replacements shall be replaced within the next planting season by trees or shrubs of similar size and species to those originally required to be planted, unless the Local Planning Authority gives its written consent to any variation.

Reason: To ensure the site is satisfactorily landscaped in the interests of visual amenity and sustainable development, in accordance with Policies CDMP3 and SP2 of the Wyre Local Plan (2011-31).

6. No development above ground level shall be commenced until details of the materials to be used in the construction of the external surfaces of the development (including the external walls, roof, balustrades, windows and external bin store) have first been submitted to and approved in writing by the Local Planning Authority. The development shall be carried out using the approved materials.

Reason: To safeguard the visual amenities of the locality including the Conservation Area in accordance with Policies CDMP3 and CDMP5 of the Wyre Local Plan (2011-31).

7. The refuse storage area(s) shown on the approved plans shall be provided in accordance with the approved details prior to first occupation of any apartment and shall thereafter be maintained and retained.

Reason: In the interests of the appearance of the site and locality and the residential amenity of occupants and neighbours, in accordance with Policies CDMP1 and CDMP3 of the Wyre Local Plan (2011-31).

8. Prior to the first occupation of any apartment hereby approved, an Open Space Management Plan, including long term design objectives, management responsibilities and maintenance schedules for the area of open space, shall be submitted to and approved in writing by the Local Planning Authority. The Management Plan shall be implemented in accordance with the approved details during the lifetime of the development.

Reason: To ensure the long term management and maintenance of amenity space within the site in the interests of visual amenity and the health

and wellbeing of occupants in accordance with Policies SP8 and HP9 of the Wyre Local Plan (2011-31).

9. Prior to the first occupation of any apartment hereby approved, the following noise mitigation measures shall be implemented:

- All apartment windows shall be fitted with 10mm/16mm argon/8.8mm Pilkington Optiphon glazing unit offering 44(-2;-6) dB Rw or similar; and
- All apartment windows shall have Titon SF Xtra TA5225 (V75) + TA5206 (C75) 2500EA trickle vents fitted that will achieve a level of Dnew (C;CTr) of 44(- 2;-3) dB

These noise mitigation measures shall thereafter be retained and maintained.

Reason: To ensure there is no adverse effect on the health and quality of life of future occupants and to avoid an unacceptable impact on residential amenity by virtue of noise in accordance with Policy CDMP1 of the Wyre Local Plan (2011-31).

10. Prior to the first occupation or use of the development hereby approved, the floor window(s) in the north elevation(s) serving the stairwell and plant room shall be:

- i) obscure glazed at a scale of 5 (where 1 is hardly obscured and 5 is totally obscured), and
- ii) non-opening unless the parts of the window which can be opened are more than 1.7 metres above the floor of the room in which the window is installed.

The window(s) (including any subsequent repaired or replacement window) shall be maintained and retained thereafter in accordance with this detail.

Reason: To safeguard the privacy of adjoining residents and in accordance with Policy CDMP3 of the Wyre Local Plan (2011-31).

11. Prior to first occupation of any part of the development hereby approved, the secure cycle storage provision shown on the approved plans (Proposed floor plans 2021-PR-01C) shall be provided and thereafter maintained and retained.

Reason: To enable access to and from the property by sustainable transport mode, in accordance with policy CDMP6 of the Wyre Local Plan (2011-31).

12. Prior to the installation of any external lighting associated with the development hereby approved, a scheme for the provision of external lighting shall be submitted to and approved in writing by the Local Planning Authority.

The lighting shall be installed and operated in accordance with the approved scheme details, which shall be maintained and retained thereafter.

Reason: To safeguard residential amenity in accordance with Policy CDMP1 of the Wyre Local Plan (2011-31).

13. Prior to the first occupation of any of the residential units hereby approved, a 0.9m parapet wall (from floor level) and 1.2m high obscure glazing screening above this, shall be provided to the rear flat roof as shown on the approved plans (Proposed site plan and balustrading detail 2020-PR-05 and Proposed elevational plans 2021-PR-02D). The obscure glazing shall be at a scale of 5 (where 1 is hardly obscured and 5 is totally obscured). The glazing (including any subsequent repaired or replacement glazing) shall be maintained and retained thereafter in accordance with this detail).

Reason: To protect residential amenity in accordance with Policy CDMP3 of the Wyre Local Plan (2011-31).

14. Notwithstanding the provisions of the Town and Country Planning (General Permitted Development) (England) Order 2015 (or any Order revoking or re-enacting that Order with or without modification), there shall be no new first floor openings created with direct access onto the rear rooftop area nor shall there be any alterations to the existing first floor windows with direct outlook onto the rear rooftop area without express planning permission from the Local Planning Authority.

Reason: To ensure that the Local Planning Authority have control over any future development to prevent access to the flat roof at the rear of the building in order to protect adjoining properties from overlooking and noise disturbance and to comply with Policy CDMP3 of the Wyre Local Plan (2011-31).

Notes: -

1. This permission does not relate to the display of any advertisements which may require consent under the Town and Country Planning (Control of Advertisements) Regulations 1989.
2. If any part of the proposed development encroaches onto neighbouring property the approval of the adjoining owners should be obtained before the development is commenced.
3. The grant of planning permission does not authorise any closure, obstruction or diversion of a public right of way. Any proposed stopping-up or diversion of a public right of way should be the subject of an Order under the appropriate Act and Lancashire County Council should be contacted for advice in the first instance.