

RECOMMENDATION FOR PLANNING AND DEVELOPMENT COMMITTEE

REFUSAL

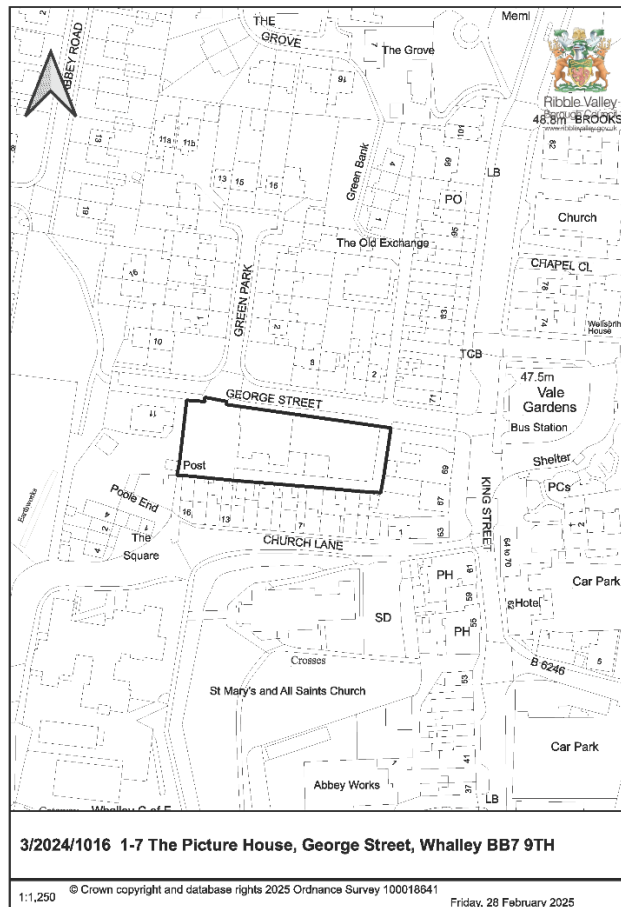
DATE: 17 APRIL 2025
REF: KH
CHECKED BY: LH

APPLICATION REF: 3/2024/1016

GRID REF: SD 373263 436244

DEVELOPMENT DESCRIPTION:

REGULARISATION OF WORKS INCLUDING EXTENSION TO GROUND FLOOR TO INCLUDE INTERNAL SECURE RESIDENTS CYCLE STORE WITH ROLLER SHUTTER DOOR; RE-INSTATE REAR BOUNDARY WALL TO 0.74M HIGH; ALTERATIONS TO REAR EXTERNAL STAIRCASE; UPVC WINDOWS AND DOORS TO FRONT, SIDE AND REAR; ALUMINIUM WINDOWS TO THE FRONT DORMER; SCREENING FEATURE TO THE REAR BALCONIES; GROUND FLOOR BIN STORE; CENTRAL CLADDING TO FRONT DORMER WINDOW ON THIRD FLOOR; ROOFLIGHTS; EXTERNAL LIGHTING SCHEME TO REAR AND TWO ELECTRIC CHARGING POINTS AT 1 TO 7 THE PICTURE HOUSE, GEORGE STREET, WHALLEY BB7 9TH



CONSULTEE RESPONSES/ REPRESENTATIONS MADE:

PARISH COUNCIL:

Whalley Parish Council formally objects to the proposed regularisation of works. The current application significantly deviates from the original planning permission and should not be considered a simple regularisation, as the development fails to conform to the previously approved plans.

We strongly believe that any modifications to the approved scheme should have been submitted as amendments to the planning application rather than seeking retrospective approval for an “as built” development. This approach undermines the planning process and sets a concerning precedent for future applications.

Our specific concerns include:

Materials and Design – The materials used should strictly adhere to those originally approved, ensuring the development respects the architectural character of the conservation area. The proposed amendments, including UPVC, are not in keeping with the area’s historic and conservation area standards.

Impact on Character – The alterations, impact on the building’s character and fail to align with conservation area policies.

Planning Policy Compliance – The proposed amendments appear to contravene local planning policies designed to protect the visual integrity and historic values of Whalley’s conservation area.

Proper Planning Process – The applicant should comply with the originally approved plans and submit a new application if the modifications are required, rather than seeking retrospective approval for unauthorised changes.

Given these concerns, Whalley Parish Council strongly objects to this application and urges the Planning Authority to reject the proposed regularisation in its current form as it undermines the planning process. We request that the applicant be required to adhere to the original approval and ensure all works conform to the standards expected within a designated conservation area.

LOCAL HIGHWAYS AUTHORITY (LCC HIGHWAYS):

Lancashire County Council acting as the Local Highway Authority (LHA) does not consider that the application as submitted fully assesses the highway impact of the proposed development and further information is required as set out in this response.

The building along the ground floor is divided into commercial units. Above these units on the first floor, the building has permission to convert the first floor into seven residential apartments following application reference 3/2021/1004.

The LHA acknowledges the applicant's proposal to reduce the number of Electric Vehicle Charging Points from 7 to 2 due to power supply concerns, and the LHA does not object to this modification given the availability of public charging points nearby and the potential for residents to share the private ones. However, it remains crucial to retain the 7 off-street parking bays and ensure that the car parking plan is updated to clearly identify which bays are designated for the

residential development. This will help provide clarity and maintain the integrity of the site's parking provisions.

Whilst it is understood that all the retail units which occupy the building, also use the existing car park adjacent to the Spar convenience shop which has 15 car parking spaces in total. There are also waiting bays directly outside the building which allow visitors to park for a maximum of 2 hours at a time, this short-stay car parking provision is more appropriate for those visiting the retail units.

The LHA has reviewed drawing number 2232-100 AB titled Proposed ground floor plan and noted an extension to the ground floor supports bin storage as well as cycle storage which is secure and provides one cycle space per apartment which is acceptable.

NEIGHBOUR RESPONSES:

Six responses from 5 different addresses have been received. The responses raise objections to the application on the following grounds:

- Rear Ground Floor Extension and Secure Cycle Store – introduces a significant change to the existing footprint which raises concerns about its scale and impact on the surrounding area. The roller shutter is incompatible with the building aesthetics in a conservation area and would negatively affect the visual amenity of the area, particularly when viewed from neighbouring properties;
- Rear Boundary Wall – the restatement of the wall while claimed to match the original footprint raises significant concerns. The height is disproportionate to the character of the area and further encloses the space. It has not been demonstrated that it is necessary or proportionate in terms of benefits;
- Staircase Alterations and Lack of Glazing – the alteration to the rear external staircases is problematic as it undermines the visual quality of the development and will present a safety risk. The resulting appearance is contrary to the original planning permission and should be restored to the agreed plans;
- EVCP- the proposal to install two EVCP instead of the require 7 contravenes Condition 11 of the approved planning application (3/2021/1004). This disregards the sustainability objectives and there is ample opportunity to integrate sufficient charging infrastructure;
- Replacement of UPVC windows – the application states that the new UPVC windows represent an improvement over the existing windows, the use of such materials remains highly contentious in conservation areas. The new windows are not compatible with the historic character of the area. The reference to the use of UPVC nearby does not justify this choice as it represents a broader trend of erosion of the conservation area's character;
- Removal of Commercial Extraction Equipment – the lack of clarity regarding potential future use of the site is concerning. The possibility of future occupiers requiring external extraction systems raises questions. Any new commercial use should be subject to a condition ensuring appropriate odour management and air filtration systems are in place prior to any new tenant occupation;
- Planter and Overlooking Concerns – the first-floor balcony planter does not offer sufficient protection. The proposed synthetic greenery does not mitigate the visual impact on neighbouring properties. The suggestion that no further screening is required for the second floor terrace is questionable. The development is in close proximity to other residential properties and more robust screening should be implemented;

- Wheelie Bin Store –the visual impact of waste storage areas in close proximity to residential properties is often understated. The location of the bin store may result in a poor visual amenity for the immediate environment and residents;
- Cladding and Fire Regulations Compliance –The central cladding to the third-floor dormer fenestration to meet fire regulations is another area of concern. This design change may introduce an unsightly feature that conflicts with the character of the building. The proposed material and aesthetic of the cladding should be scrutinised to ensure its functional and visually appropriate and any departure from originally approved materials justified;
- Removal of Solar Panels – Their removal is an unacceptable backward step as these were a vital part of the design to ensure the building met modern environmental standards;
- Amended Rooflight Specification – Whilst the amended rooflights are claimed to improve the visual quality of the streetscene should be carefully considered as they can have a detrimental effect on the overall appearance particularly in a conservation area;
- External Lighting Scheme –Whilst aimed at enhancing safety and security this must avoid light pollution or it could harm the environment and residential amenity. A more detailed plan should be submitted;
- Impact on Local Wildlife and Bats – it is essential to note that the building may provide habitats for local wildlife, including bats. Bats are protected species under UK law. The application makes no mention of a bat survey or an environmental impact assessment;
- I strongly urge the council to reject this application as the proposal does not meet the necessary planning policies or respect the conservation area and would result in a development detrimental to the local area’s character and the amenity of neighbouring residents;
- The original application had various stipulations and requirements critical to a property with heritage importance within the townscape of Whalley. Subsequent applications for conditions were correctly declined and therefore how can a developer apply for an as built planning permission and the Council consider the application as surely a precedent has been set. Would an acceptance of this application not lead to developers ignoring the planning approval and build what they want knowing they can use this case as an example;
- The original application was recommended for refusal and was called in to Planning Committee and approved with conditions. The development has not been built in accordance with the design, materials or architectural respect to the heritage of the area. Many of the changes have been confirmed as unacceptable in a recent refusal to discharge conditions;
- It is not accepted that the post approval changes have “improved the design and day to day practical workings of the scheme”, it is incorrect that the changes are minor these are major changes to the rear elevation;
- This latest application to detailed “regularise” and “as built” development has resulted in further deviation through the provision of inaccurate and inconsistent information to that which has actually been built;
- There are owls nesting on the roof of this building and it is disgraceful that this development seeks to destroy their habitat;
- If this application is approved without a full ecological survey, you will be failing in your duty to uphold the law and protect our environment;
- It is clear that the developer/applicant has continued to blatantly flout the planning process as evidenced by the failure to have the majority of the planning conditions formally discharged. The authority have already stated their disapproval with application 3/2024/0304 which was decided at Committee on 17th September, 2024. Nothing has changed with regard to the construction of the development since this decision and the current validation of this application;

- The costs of materials and timescales for the development are not acceptable reasons for the variations carried out. There have been several attempts to gain approval which have all been refused or withdrawn;
- Many residents live in the adjacent cottages which have grade 2 listing status and any assessment as to take account of the impact on these and the building which has a townscape merit designation within the conservation area;
- The rear stairwell has been externally and internally finished in aluminium standing seam and not zinc (heritage material);
- The rear stairwell has lighting installed to a level which is completely unacceptable which is exacerbated by the fact it has been left open to the elements;
- The new rendered wall to the stair has an unacceptable bulk and appearance;
- UPVC windows have been installed to the entire development these are not compatible with the historic character the area and undermine the integrity of the design and character of the building. The study of the area submitted is a futile attempt to justify the installations;
- The apartment layouts have been amended which raises concern over the level of occupancy and the car parking arrangements;
- The engraving of the developer's name into the stone turrets of the building is distasteful and act of architectural vandalism; and
- The removal of the historic lead cupola from the roof is also a highly insensitive act of destruction.

1. **Introduction, Site Description and Surrounding Area**

- 1.1 This application is being brought to Committee due to a Call-in request received by a ward member, citing multiple reasons including extensive public interest; the building is in a conservation area [and] concerns about fenestration, exterior lighting and privacy, screening and concerns about windows.
- 1.2 The site has permission for conversion, extension and alterations of the upper floors to create seven residential apartments as well as a rear extension to the ground floor retail unit which included the demolition of a loading bay and rebuilding of the boundary wall at the rear and associated alterations (planning permission ref 3/2021/1004). This was approved by P&D Committee at its meeting on the 7th April 2022 subject to conditions.
- 1.3 Since the permission was granted there has been minor material amendment and non-material amendment applications submitted (and refused) as well as a number of discharge of condition applications. Whilst some details have been agreed, some remain outstanding, either because the detail was not acceptable or was not within the scope of the original permission. The extent of the external works undertaken are considered to represent a fundamental change to the original permission as such the applicant was asked to submit a new planning application to regularise the works, which are now the subject of this application.
- 1.4 The application site consists of No.'s 1 to 7 George Street which is an imposing brick-built property sited within Whalley Conservation Area. It was constructed around 1910-11 as the Billington and Whalley Cooperative Society.
- 1.5 The building is recognised in the Whalley Conservation Appraisal 2006 as a Building of Townscape Merit and a Focal Building which reflects its positive contribution to the character and appearance of the conservation area. It is considered to be a good,

relatively unaltered example of its type. The Appraisal also identifies important views from George Street between this building and the adjacent No. 69 King Street to the rear of the cottages on Church Lane.

- 1.6 Church Lane which lies to the south (rear) of the site contains seven Grade II Listed cottages from no.10 to 16 consecutively. St Mary's and All Saints Church (Grade I Listed) lies beyond these cottages to the south as well as the Grade I Listed Whalley Abbey.
- 1.7 Public Right of Way (3-45-FP-47) runs along the east (side) and south (rear) of the site.
- 1.8 The immediate area is a mixture of commercial and residential type buildings with the site in close proximity to King Street which is the main commercial area of Whalley and contains further listed properties including The Swan and the former Whalley Arms.

2. **Proposed Development for which consent is sought**

2.1 The application seeks consent to regularise the following external works:-

- an extension to the ground floor at the rear including cycle and bin stores with roller shutter door
- reinstatement of the rear boundary wall
- alterations to the rear external staircases
- UPVC windows and doors to the front side and rear elevations
- changes to the approved front dormer including the introduction of a central cladded panel and aluminium windows
- changes to the approved rooflights
- an external lighting scheme
- two electric vehicle charging points.

2.2 The replacement rear boundary wall has been described as 0.74m high however on site it was apparent that the wall as constructed is higher. The agent has been requested to clarify this. Any update will be provided to the meeting.

2.3 A screening feature to the rear balconies is proposed (this is not in situ).

3. **Relevant Planning History**

3/2024/0944 - Approval of details reserved by conditions 3 (external materials), 4 (details of new windows/doors/rooflights/solar panels), 5 (cycle stores), 6 (south elevation glazing), 10 (odour assessment), 12 (boundary wall specifications) and 13 (rear balcony details) of planning permission 3/2021/1004 – Withdrawn.

3/2024/0933 - Non-material amendment to planning permission 3/2021/1004 involving changes to window. Change and increase of size from the extension to the retail unit at ground floor to a store room. Addition of a bin store adjacent to the store room. Addition of cycle storage within the store room. Addition of a rendered masonry wall covering the external stair. External glazing moved from the face of the rear stairwell. Roof/third floor level skylights amended – Withdrawn.

3/2024/0304 - Approval of details reserved by conditions 1 (commencement), 2 (approved plans), 3 (materials), 4 (windows doors rooflights and solar panel specifications and sections), 5 (secure cycle stores), 6 (glazing specification), 9 (noise attenuation), 10 (extraction/ventilation systems), 11 (electric vehicle charging points), 12 (boundary wall specifications) and 13 (rear balcony screening) from planning permission 3/2021/1004 – Conditions not discharged.

3/2023/0538 - Approval of details reserved by conditions 3 (materials), 4 (specifications and cross sections), 5 (cycle stores), 6 (glazing), 7 (building recording and analysis), 12 (boundary wall) and 13 (balcony details) of planning permission 3/2021/1004 – Split Decision

3/2023/0264 - Proposed conversion, extension and alterations to the upper floors to create seven residential apartments. Rear extension to ground floor unit. Demolition of loading bay and rebuilding boundary wall at the rear and associated alterations (pursuant to variation of condition 2 (approved plans) on planning permission 3/2021/1004 involving changes to building facade, additional footprint at rear and changes to internal configuration – Refused.

3/2022/0566 - Discharge of Conditions 7 (Scheme of Investigation) and 8 (Noise Assessment Report) of planning application 3/2021/1004 – Approved

3/2021/1004 - Proposed conversion, extension and alterations to the upper floors to create seven residential apartments. Rear extension to ground floor retail unit. Demolition of loading bay and rebuilding boundary wall at the rear and associated alterations – Approved.

3/2020/0509- Prior notification of change of use from ground floor shop (use class A1) to cafe/coffee shop (A3) for three years – Permission not required.

4. **Relevant Policies**

Ribble Valley Core Strategy

Key Statement DS1 – Development Strategy

Key Statement DS2 – Sustainable Development

Key Statement EN5 – Heritage Assets

Key Statement EC1 – Business and Employment Development

Key Statement DMI2 – Transport Considerations

Policy DMG1 – General Considerations

Policy DMG2 – Strategic Considerations

Policy DMG3 – Transport & Mobility

Policy DME4 – Protecting Heritage Assets

Planning (Listed Buildings and Conservation Areas) Act 1990

National Planning Policy Framework (NPPF)

5. **Assessment of Proposed Development**

5.1 **Principle of Development:**

- 5.1.1 Planning permission ref 3/2021/1004 has established the principle of seven residential apartments together with a rear extension for the ground floor retail units, and the application does not seek to change the approved uses or type of development albeit it seeks approval for a larger ground floor rear extension and other external works.
- 5.1.2 Whilst the development of the site for these purposes has been established a detailed assessment of the material considerations in respect of the specific external works being applied for and the impacts of these compared to the existing permission is required.

5.2 Impact upon Heritage:

- 5.2.1 The proposal is sited within Whalley Conservation Area and adjacent to a number of designated heritage assets. In particular, the Grade II Listed cottages on Church Lane located approximately 20m to the south and Grade I Listed Church of Mary and All Saints located 30m further to the south.
- 5.2.2 In addition, the Whalley Conservation Area Appraisal lists the following with regard to their significance and contribution made:
- *‘A number of the larger, more prestigious buildings in Whalley act as focal points in views: St Mary and All Saints Church is the most important one ... The Maureen Cookson Department Store is a very dominant building, especially when viewed along George Street’ (Spaces and views; both buildings identified as Focal Buildings on the Townscape Appraisal map);*
 - *An Important View from George Street (at the east gable of the site) towards Church Lane and the Church of St Mary and All Saints (Townscape Appraisal map);*
 - *The adjacent nos 63, 69 and 71-77 King Street, 1-10 Church lane and the site to be Buildings of Townscape Merit (‘considered to be good relatively unaltered examples, of their type. The survival of original materials and details, and the basic, historic form of the building, is important’) making a positive contribution to the character and appearance of the conservation area;*
 - *‘Whalley is notable for the following townscape features ... 14th century parish church of St Mary and All Saints ... 17th, 18th and mainly 19th century buildings along King Street and Church Lane’ (General character and plan form);*
 - *‘Most of the historic buildings in the conservation area were built as houses, often in a terrace form. The majority of these buildings date to the 19th century and good groups of both listed and unlisted buildings can be seen along Church Lane and facing King Street’ (Architectural qualities);*
 - *The site is within the immediate setting of the Church of Mary and All Saints (Grade I listed). There is an important and interesting inter-visual relationship between the site and the church’s C15 tower.*
 - *The site is also within the immediate setting of Grade II listed late Georgian, mid C19 and C17 houses at ‘10-13 Church Lane’, ‘14 and 15 Church Lane’, ‘16 Church Lane’, ‘1,2 and 3 Poole End’, ‘Poole House’ and ‘2,3 and 4 The Square’ (all Grade II listed) which adjoin the site to the south and south-west.*

- 5.2.3 It is therefore evident from the above that the site sits in an extremely sensitive context both with regard to adjacent listed buildings, and the Whalley Conservation Area.
- 5.2.4 As such, in assessing the proposal, regard must be given to the statutory duties imposed on the authority in respect of the preservation and enhancement of such assets. In this respect, at a local level, Key Statement EN5 and Policy DME4 are primarily, but not solely, engaged for the purposes of assessing likely impacts upon designated heritage assets resultant from the proposed development.
- 5.2.5 Key Statement EN5 states that there will be a presumption in favour of the conservation and enhancement of the significance of heritage assets and their settings. This will be achieved through:
- Recognising that the best way of ensuring the long-term protection of heritage assets is to ensure a viable use that optimises opportunities for sustaining and enhancing its significance.
 - Keeping Conservation Area Appraisals under review to ensure that any development proposals respect and safeguard the character, appearance and significance of the area.
 - Considering any development proposals which may impact on a heritage asset or their setting through seeking benefits that conserve and enhance their significance and avoids any substantial harm to the heritage asset.
 - Requiring all development proposals to make a positive contribution to local distinctiveness/sense of place.
 - The consideration of Article 4 Directions to restrict permitted development rights where the exercise of such rights would harm the historic environment
- 5.2.6 With Policy DME4 stating, in respect of development within conservation areas or those affecting the listed buildings or their setting, that development will be assessed on the following basis:

1: CONSERVATION AREAS

Proposals within, or affecting views into and out of, or affecting the setting of a conservation area will be required to conserve and where appropriate enhance its character and appearance and those elements which contribute towards its significance. This should include considerations as to whether it conserves and enhances the special architectural and historic character of the area as set out in the relevant conservation area appraisal. development which makes a positive contribution and conserves and enhances the character, appearance and significance of the area in terms of its location, scale, size, design and materials and existing buildings, structures, trees and open spaces will be supported.

In the conservation areas there will be a presumption in favour of the conservation and enhancement of elements that make a positive contribution to the character or appearance of the conservation area.

2: LISTED BUILDINGS AND OTHER BUILDINGS OF SIGNIFICANT HERITAGE INTEREST

Alterations or extensions to listed buildings or buildings of local heritage interest, or development proposals on sites within their setting which cause harm to the significance of the heritage asset will not be supported. Any proposals involving the demolition or loss of important historic fabric from listed buildings will be refused unless it can be demonstrated that exceptional circumstances exist.

- 5.2.7 Of particular concern is the materials that have been used on the development. In terms of the UPVC windows, this use of modern bulky UPVC materials on prominent front, rear and side (east facing) elevations is not appropriate to this building of Townscape Merit or its setting within the conservation area and immediately adjacent to listed buildings. In this instance the side and rear elevations are as important as the frontage due to the public viewpoints along the public right of way to the rear of the site and the proximity of the listed cottages to the southwest of Church Lane.
- 5.2.8 The agent states that there are other properties in the conservation area that have plastic windows and doors installed and that these premises previously had white UPVC windows installed. However, no permission had been granted for the use of such modern materials in this building, which has retained a lot of traditional features and is considered to be part of the historic fabric of the conservation area, being prominently sited and making a positive contribution to its significance, as well as the significance of nearby listed buildings. Furthermore no materials details for the windows and doors were submitted with the 2021 application, as such the permission imposed conditions requiring details to be submitted and agreed in this regard, but such agreement has not been forthcoming.
- 5.2.9 The aluminium windows in the dormer to the North (front) elevation whilst different to that previously approved is more acceptable due to its slimmer aluminium frame. However a dark grey cladding panel has been installed between the windows and as a frame to the dormer. This same dark grey cladding has been used on the rear projecting gables / stairwell enclosure. This cladding alongside the windows in UPVC material is not considered to be sympathetic to the building when viewed from within the conservation area.
- 5.2.10 With regard to the single storey extension, rear stairwell enclosure, bin store and the white render to the rear elevation, whilst stark, these do not result in an unacceptable form of development in itself when compared to the approved scheme. However, there is a lack of screening and greenery of the site and in particular softening of the large first floor terrace/balcony and its surrounding wall is considered to be required. It is proposed to introduce an artificial hedge along the perimeter wall of the first-floor terrace to help to mitigate its visual impact (as well as mitigate overlooking). However this would not be an appropriate feature in the conservation area and therefore to date no suitable mitigation has been put forward.
- 5.2.11 RVBC Environmental Health Department have raised concerns in respect of the lighting scheme installed and light pollution when viewed from public vantage points along Church Lane and public right of way FP-3-45-FP-47 which runs along the rear of Church Lane and the nearby Church of Mary and All Saints. Photographs submitted by a neighbouring resident illustrate the extent of

illumination, which does impact on the character of the conservation area, and the listed properties on Church Lane and the Listed Church.

- 5.2.12 As a result of the above in this respect it is considered that the revised scheme results in adverse impacts upon the setting of Whalley Conservation Area and the nearby listed buildings due to the proximity of these heritage assets. This impact is assessed as less than substantial harm at a moderate level.
- 5.2.13 The NPPF (2024) states at Paragraph 215 that '*where a development proposal will lead to less than substantial harm to the significance of a designated heritage asset, this harm should be weighed against the public benefits of the proposal*'.
- 5.2.14 The public benefits of the scheme are minimal, if any, as the previous planning permission had already secured the optimum use of the building with the provision of private residences and an extension associated with the retail units. It had also secured benefits of jobs during construction of the works. As such there is insufficient justification to justify the harm identified.
- 5.2.15 Taking account of the above matters, it is considered that the proposed development raises significant direct conflicts with Key Statement EN5 and Policy DME4 of the Ribble Valley Core Strategy, Sections 16 and 66 of the Planning (Listed Buildings and Conservation Areas) Act 1990 and Paragraphs 210 and 212 of the National Planning Policy Framework.

5.3 Visual Amenity/External Appearance

- 5.3.1 Policy DMG1 sets out general Development Management considerations, with the policy having a number of inherent criterion that are relevant to the assessment of the proposal, which state:

In determining planning applications, all development must:

DESIGN

1. Be of a high standard of building design which considers the 8 building in context principles (from the CABE/English Heritage building in context toolkit).
2. Be sympathetic to existing and proposed land uses in terms of its size, intensity and nature as well as scale, massing, style, features and building materials.
3. Consider the density, layout and relationship between buildings, which is of major importance. particular emphasis will be placed on visual appearance and the relationship to surroundings, including impact on landscape character, as well as the effects of development on existing amenities.

AMENITY

1. Not adversely affect the amenities of the surrounding area.

ENVIRONMENT

1. All development must protect and enhance heritage assets and their settings.

- 5.3.2 In respect of visual impacts the building is afforded a high degree of visibility from the public realm, also being afforded significant visibility from multiple viewpoints within neighbouring properties. It is considered that the number and style of UPVC

windows installed on prominent elevations together with the use of dark grey cladding on the front dormer and rear gable features, results in the introduction of a discordant, incongruous and anomalous design and external appearance to the area. In addition, no acceptable mitigation has been proposed to soften the impact of the solid walls enclosing the first-floor terrace / balcony areas, which in the absence of such undermines the character of the area particularly when viewed against the proposed enlarged rear extension and enclosed rear stairwell.

- 5.3.3 RVBC Environmental Health Department have raised concerns in respect of the lighting scheme installed in terms of unacceptable light spill on the nearest receptors on Church Lane as well as light pollution when viewed from public vantage points along Church Lane and public right of way FP-3-45-FP-47 which runs along the rear of Church Lane and the nearby Church of Mary and All Saints.
- 5.3.4 There are a total of nine external light fittings to the rear elevation which are wall and ceiling mounted. The supporting information states that the lamps have been professionally set up to that they are not permanently switched on and the lamp illumination brightness is adjustable. However, based on the submitted information, information obtained from the site visit and photographs submitted by neighbouring residents, the lighting units as installed are considered to be visually harmful to the character of the area.
- 5.3.5 In this respect, the proposal fails to accord with Policy DMG1 in that the proposal fails to meet criterion (2) of the Policy which requires that development proposals be *'sympathetic to existing and proposed land uses in terms of its size, intensity and nature as well as scale, massing, style, features and building materials'*.
- 5.3.6 As such, taking all of the above matters into account. The proposal is considered to be in direct conflict with Policy DMG1 of the Ribble Valley Core Strategy insofar that the proposed development would result in a detrimental impact on the character and visual amenities of the area by virtue of its failure to respond positively to the character of the area and removal of its inherent defining characteristics.

5.4 Impact upon Residential Amenity:

- 5.4.1 The proposal has a direct relationship with a number of residential dwellings, as such consideration must be given in respect of the potential for the proposal to result in undue impacts upon existing or future residential amenities.
- 5.4.2 In this respect, regard must be given to the proximity of numbers 2 to 16 Church Lane which are residential properties which lie between 4.25m to 5m from the southern boundary of the site to the garden boundary and between 10m and 15m from the rear boundary of site to the rear elevations of the properties. In terms of the gable staircase and the first floor terrace the distances range from 16m to 20m and 13m to 17m respectively from no.'s 5 to 10.
- 5.4.3 Taking into account the submitted information it is considered that the proposal would result in significant impacts to nearby properties in terms of loss of privacy resulting from overlooking due to the proximity of the large rear first floor terrace and the lack of screening provided, as was required in the previous permission.

There are also concerns about the absence of suitable glazing / screening installed or proposed in the rear gable which houses the external staircase to access apartment G, again which was required in the previous permission to minimise direct overlooking from the rear elevation being (Conditions 4, 6 and 13). Despite being required in the previous permission, no suitable details have been submitted and agreed. The Planning Statement does make reference to a new planter 1.5m wide and 1.2m high, set back from the balcony edge with synthetic greenery to a minimum of 1.5m. No details of this have been submitted in plan form and, in any event, this would not be an appropriate solution in this sensitive location.

5.4.4 RVBC Environmental Health Officers have carried out an assessment of the lighting as installed and found that there was illumination of no's 6 and 7 Church Lane which are directly affected by the lighting with the rear boundary of no.6 measuring 7.5 lux. The lights are triggered by Passive Infrared Sensor (PIR) for a five minute interval, however, these are triggered when accessing the apartments from the rear and can be triggered throughout the night. The lights are white light in colour and circular bulkheads in type. There is no directionality to the light fittings and due to the white render on the stairwell and gable wall there is illumination of the rear walls. These types of fittings are not appropriate this close to residential properties and result in glare to the neighbouring properties to an unacceptable degree particularly no's 6 and 7 Church Lane.

5.4.5 Taking account of the above matters, the proposal is considered to be in direct conflict with Policy DMG1 of the Ribble Valley Core Strategy insofar that the proposed development would result in significant measurable harm to the residential amenities of the occupiers of numbers 2 – 16 Church Lane by virtue of loss of privacy and overlooking impacts due to the proximity of these sensitive receptors which would significantly undermine the level of enjoyment afforded to the occupiers of these properties. In addition, in respect of no's 6 and 7 Church Lane there are additional unacceptable impacts in terms of light pollution.

5.5 Landscape and Ecology/BNG:

5.5.1 The site has been previously assessed in terms of landscape and ecology with no adverse impacts identified and no requirement for any new landscaping. In terms of mandatory Biodiversity Net Gain the development meets one of the exception tests and therefore this is not applicable.

5.5.2 Concerns have been raised regarding conservation species on the site, specifically concerns relating to nesting owls, however as the works for this scheme have been completed no additional impacts are identified to the previous application, where the scheme was judged to align with the requirements of Key Statement EN4 and Policy DME3 in terms of there being no adverse conservation impacts. Nesting birds on the site would be protected by wildlife legislation but it is more likely that the owls are foraging in the area and use this elevated building to perch on.

5.5.3 Comments suggest that the scheme should be subject to an Environmental Impact Assessment, however that is not required for a development of this scale and nature.

5.6 Highway Safety and Accessibility:

5.6.1 LCC Highways would prefer each residential unit to be served with an Electric Vehicle Charging Points, however, does not object to the proposal for two given the availability of public EVCP nearby. In this respect the scheme is not considered to conflict with Policy DMG1 and DMG3 of the Ribble Valley Core Strategy. Nonetheless, the approval of this detail does not negate the need for the applicant to adhere to condition 11 of planning permission 3/2021/1004 which still stands for the residential units and requires that each dwelling should have an EVCP.

6. **Observations/Consideration of Matters Raised/Conclusion**

- 6.1 For the reasons outlined above the proposed development, in particular the uPVC windows on the front, rear and side elevations, the dark grey cladding on the front dormer and rear gables, the rear wall enclosing the first floor terraced area and balcony areas in the absence of any suitable mitigation and the lighting scheme, is considered to be in significant direct conflict with policy insofar that approval would result in unacceptable impacts on the Whalley Conservation Area and adjacent Listed Buildings.
- 6.2 It is further considered that the development, in particular the uPVC windows on the front, rear and side elevations, the dark grey cladding on the front dormer and rear gables, the rear wall enclosing the first floor terraced area and balcony areas in the absence of any suitable mitigation and the lighting scheme, results in the introduction of an incongruous and discordant form of development that fails to respond positively to the inherent character of the area, being in direct conflict with policy.
- 6.3 The development, in particular the rear first floor terraced area and rear stairwell providing access to apartment G in the absence of any proposed mitigation, would be in significant direct conflict with policy in terms of loss of privacy and overlooking for neighbouring properties 4-8 Church Lane resulting in a detrimental impact on residential amenity. Furthermore, in the case of neighbouring properties 6 and 7 Church Lane, unacceptable light pollution is also identified.

RECOMMENDATION: That the application be REFUSED for the following reasons:

1. The proposed uPVC windows on the front, rear and side elevations, the dark grey cladding on the front dormer and rear gables, the rear wall enclosing the first floor terraced area and balcony areas in the absence of any suitable mitigation and the lighting scheme, are prominent, incongruous and conspicuous and result in a harmful impact upon the character and appearance of Whalley Conservation Area and the setting of nearby listed buildings namely 10 – 16 (consecutive) Church Lane and the Church of Mary and All Saints. This is contrary to The Planning (Listed Buildings and Conservation Areas) Act 1990, Key Statement EN5 and Policies DME4 and DMG1 of the Ribble Valley Core Strategy 2008 – 2028 as well as the National Planning Policy Framework.
2. The proposal fails to demonstrate that the scheme does not result in significant measurable harm to the residential amenities of the occupiers of numbers 4 - 8 (consecutive) Church Lane by virtue of overlooking and loss of privacy from the first floor rear terraced area and rear stairwell access to apartment G. In addition, the proposed lighting scheme would have an unacceptable impact on neighbouring properties 6 and 7 Church Lane, by virtue of the resultant light pollution. This would undermine and diminish

the enjoyment of the occupiers of the properties contrary to Policy DMG1 of the Ribble Valley Core Strategy 2008 – 2028 as well as the National Planning Policy Framework.

3. The proposed uPVC windows on the front, rear and side elevations, dark grey cladding on the front dormer and rear gables, rear wall enclosing the first floor terraced area and balcony areas in the absence of any suitable mitigation, and the lighting scheme, results in an incongruous, unsympathetic, and discordant form of development, that fails to respond positively to the visual character of the area contrary to Policy DMG1 of the Ribble Valley Core Strategy 2008 – 2028 and the National Planning Policy Framework.

7 UPDATE PRIOR TO PLANNING AND DEVELOPMENT COMMITTEE MEETING OF THE 13 MARCH 2025 (AS REPORTED ON LATE ITEMS SHEET)

- 7.1 Supplementary information has been submitted by the applicant in response to concerns raised by the Planning Officer about the lighting scheme. No changes to the scheme as implemented are proposed but the applicant has undertaken a lighting assessment and details of this have been submitted to the officer on the 11th March, together with light meter readings.

- 7.2 The officer's observations are as follows:
No details of the person who has undertaken the assessment including details of their expertise (the person has been referred to as an expert by the planning agent), qualifications or company name have been provided.

- 7.3 The information has been reviewed by the Council's Environmental Health and their comments are as follows:

- *The issues for this site relate to the amenity perspective of residents and therefore the assessment should be made from the local resident's premises;*
- *The planning agent cites light guidance to argue their case Recommended Outdoor Lighting Levels: A Comprehensive Guide which is not the relevant guidance for assessing lights on existing residents and links to an American website whilst reference is made to the British Standard for outdoor lighting levels but this, in isolation, does not consider if the lighting installed would result in any unacceptable impacts to nearby residential receptors. There has been no consideration of the directionality of the lights, angling of the lights to illuminate downwards or consideration of any beam width. Having seen the lights installed they are of a wide beam angle, with no directionality or angling/shielding of the lights, the lights have been installed vertically, shining down towards the properties at the rear (Church Lane) which inevitably leads to overspill onto the existing properties and this is the issue that has not be satisfactorily addressed.*
- *The correct guidance for the installation and assessment of lights from an amenity perspective is the Institute of Lighting Professionals Guidance Note 1 for the reduction of obtrusive light 2021 for amenity protection of residents. Any measurements taken using this guidance must be in the vertical plane, from the existing resident's premises. It would appear from the photos submitted with the assessment that the light meter was used on the horizontal plane within the development site. Used in the wrong position this would measure the reflected light from the boundary wall and not provide accurate results.*
- *No details of the calibration of the device in terms of certificates or lab used to calibrate the device have been provided.*

- 7.4 Furthermore, amended plans of the rear elevation (plan ref: 2232-301) and rear boundary wall (2232410) have been submitted on the 11th March.

The officer's observations are as follows:

The amended plans show a number of vertical aluminium slats proposed to be erected over more than half of the exposed rear gable with gaps of less than 100mm in an attempt to address the concerns of overlooking and loss of privacy from the external staircase used to access apartment G. It is not clear how effective this would be in terms of mitigation and there is concern about the introduction of a heavy screening with an industrial appearance that would be visually prominent on a building of townscape merit within the conservation area as well as the impact on the nearby listed buildings. In this regard the harm to the heritage assets would outweigh the benefit in terms of reducing overlooking, and it is considered that a more appropriate effective and sympathetic screen is required.

- 7.5 A supporting email confirms that the rear boundary wall has been constructed on the original foundations, however, the heights indicated on the amended plan (although slightly higher than previously submitted at 0.9m plus capping stone 0.55m) from the access road/public footpath does not seem to correspond with the built height and the height internally within the site is not clearly indicated. Further information in the form of a dimensioned elevational plan with section indicated have been requested.
- 7.6 In relation to the dark grey cladding described in the report i.e. on the rear gable and front dormer this has been confirmed as Anthracite coloured aluminium with standing seam detail, however the officer's views on this have not changed from those stated within the main report.
- 7.7 An image showing the proposed artificial box hedge to the top of the planter on the rear terrace has also been submitted. This image shows the proposal from the terrace and not from the rear public viewpoints nor has it been accurately reflected on the amended elevation plan (2232-301). The officer's views on this have not changed from those stated within the main report.

8 UPDATE FOLLOWING PLANNING AND DEVELOPMENT (P&D) COMMITTEE MEETING OF THE 13TH MARCH 2025

- 8.1 On the 13th March 2025, Committee deferred the application to allow the applicant more time to address the officers' concerns outlined in the three drafted refusal reasons.
- 8.2 The Case Officer duly emailed the agent on the 14th March to re-iterate what officers require to be able to support the application. Email exchanges that followed resulted in officers setting out what materials could be supported and sending links to potential lighting, planting and screening options.
- 8.3 Some details were submitted by the agent on the 1st April 2025 relating to the lighting specification together with a position statement which lists the reasons why the scheme as built should be allowed.

8.4 A full suite of amended plans and documents have been submitted on the 3rd April 2025. The amendments relate to screening to rear terrace and screening to rear open staircase (for further details see below).

8.5 In terms of the lighting no revised lighting assessment has been undertaken. The additional details consist of an A4 sheet listing details of the lights presumably already installed and details of eyelids that can be attached. This is insufficient information to enable us to assess what impact, if any, this would achieve. The agent had previously requested details of what type of lighting would be acceptable here. An example of a downlighter was provided. This has not been considered.

8.6 The current position on each element is set out below:

1. Screening to Rear Terrace –

Planning Officer suggested: Erection of fretwork metals screens to the first-floor terrace wall and large planters to be sited on the terrace with ornamental trees/shrubs.

Agents Comments: A synthetic hedge is to be erected around the balcony edge attached to the substantial screening feature (planter box) already in situ. We have extended the planting up the stairs from ground floor to the balcony which will add verticality and break up the extent of the render. This planting is widely used and provides effective screening all year round and is low maintenance. No material weight increase to structural roof. This approach removes any potential for overlooking of properties to the rear from the balcony. Amended plans and visuals submitted showing a synthetic hedge.

Officer's Response: Limited information on this has been submitted with only illustrative plans that lack dimensions or details of the hedge. Therefore, this does not demonstrate that the proposal would address the privacy concerns, moreover, a synthetic hedge would not be acceptable in this sensitive location. No evidence has been submitted to support the view that the addition of soil and plants to the terrace planter would result in an unacceptable weight impact on terrace structure to the detriment of stability.

2. Rear Open Staircase –

Planning Officer suggested: Erection of blockwork wall with staircase windows to be obscurely glazed or glazing to be obscured/tinted/reflective to reduce overlooking and privacy issues

Agents Comments: The officer's suggestions have been considered. A fully enclosed staircase is not achievable due to fire safety issues. Unrestricted access required to the installed fire hydrant. Therefore, the decision was made to move back to the original design. Critically this approach secures the requires required to protect residential amenity officers raised as a key issue. Amended plans and visuals submitted showing vertical larch wood cladding (which the agent states is as per original consent to prevent overlooking).

Officer's Response: The approved elevation with majority glazing and a small amount of vertical wood cladding is the preferred option. Notwithstanding that this would require some mechanism to address privacy concerns this could have been achieved by the type of glazing inserted being tinted or reflective. This would also address the lighting issues

to some degree. Discussions with Building Control do raise issues with fire safety, however, it is not clear that this has been addressed in terms of the position of the fire hydrant and the proposed cladding. A fully enclosed staircase would require the addition of smoke vents to the roof of the staircase which is an easy solution here. The position of the fire hydrant appears to have been agreed and whilst this would require access this only needs to be in the form of an accessible door. Any cladding whether metal or timber would need to be treated to comply with building regulations. Whilst the proposed vertical larch wood cladding would address the overlooking concerns in the second refusal reason, it covers a much larger expanse than previously approved and without the glazed elements would result in a solid, vertical emphasis which does not complement the existing materials or achieve a cohesive form of development. As such, it would fail to be sympathetic to the conservation area and would result in visual harm.

3. Appropriateness of uPVC Window Replacements –

Planning Officer suggested: Replace the bulky, dark grey upvc frames with aluminium frames or perhaps slimmer conservation type frames of a different colour.

Agents Comments: Original uPVC windows fitted during 1986 retail showroom refurbishment undertaken by Ingham's Builders, Clitheroe. The windows (design and finish) are considered appropriate in this location/context. Choice of uPVC material was largely driven by technical advice to maximise thermal performance and in design terms screen the floor levels which cross these openings. The grey colour (RAL 7016 Anthracite Grey) matches the grey slate roof and compliments the black ground floor units. Any replacement is costly, disruptive and unnecessary for the existing residents and neighbours. Any change to the colour and finish is not considered necessary. However, if considered essential the applicant would accept appropriately worded conditions to this effect.

Officer's Response: Insufficient evidence has been submitted to confirm that all the windows replaced were previously upvc and in any event the approved permission under 3/2021/1004 required details of the windows to be submitted and approved. Images on street view indicate that some of the windows at first floor on the front elevation were white upvc and that those to the side (east) gable were all timber, some sash and only one upvc all in white. All of these had a slimmer frame. The agents justification remains as previously stated and does not justify, in my opinion, the inappropriate bulky uPVC frames used.

4. Front Dormer Cladding –

Planning Officer suggested: The original permission had a fully glazed dormer without any cladding.

Agents Comments: Choice of aluminium cladding materials is based not only on appearance and finish. But also, on technical advice and fire safety. The design change was because of the need for fire resistant distance between the two apartments and enabled internal design to be approved. We consider there is limited difference visually or aesthetically. Dormer external design amendment improved internal layout. As with uPVC windows, if Members consider a different colour/finish to be inappropriate then presumably a colour finish can be agreed by condition.

Officer's Response: The internal fire resistant measures are agreed, However, the advice from Building Control is that the resultant cladding was not the only option, and this could have been fire resistant glazing which would have achieved the same effect but allowed the dormer to be fully glazed externally. The agents justification does not justify, in my opinion, the inappropriate cladding material used.

5. Rear Lighting Scheme –

Planning Officer suggested: Erection of more appropriate, downlighter lighting which reflect the higher quality required in a conservation area as well and directing the light spill away from nearby residential properties. A lighting impact assessment by a qualified person is required to support a revised scheme.

Agents Comments: The rear lighting scheme is to be retained but we highlight that these lights are motion activated and not therefore permanently illuminated. Light deflector eyelids to be fitted which have the effect of turning these into downlighters and further limit the potential for light spill. Amended details including general specification submitted showing Kosnic Blanca fittings with eyelid light-deflector option.

Officer's Response: No evidence has been submitted to support the view that the addition of "eyelids" to the installed lighting would alleviate the current impact on residential and visual amenity. The general specification provided is limited in detail and fails to assess the impact (which is why a lighting impact assessment by a qualified person had been requested).

6. Other Matters –

Agents Comments: Cycle Store repositioned. This will be retained inside the building as submitted to improve security and ease of access. Bin Store retained. Roller Shutter Door retained. EV Charging Points x 2. Expert/qualified advice received on limited grid-load capability. There is no development plan requirement for 1 EV Charging Point per dwelling. Retained rear boundary wall on original foundation. Wrongly described as re-positioned. New wall has been built on original foundations. More secure with better access.

Officer's Response: The cycle store, bin store and roller shutter door are acceptable subject to compliance with any conditions attached to the original permission 3/2021/1004. The EV charging points need to be implemented in accordance with the condition attached to 3/2021/1004. The rear height of the rear boundary wall has been confirmed and this element is acceptable.

8.7 The agent goes on to states other benefits of the scheme, as well as securing the future of the building, which include:

- 7 new homes in sustainable location
- Total invest of circa £2.3 million
- Employment of approx. 80 to 100 full and part time contractors during construction
- Ongoing maintenance workers of around 10 contractors retained
- Around £15,000 per year Council Tax Revenue

- 8.8 The Officer's view is that seven new homes were approved and achievable without the changes proposed. The same with the economic benefits listed. This carries limited, if any weight, and does not outweigh the harm identified to a Building of Townscape Merit within Whalley Conservation Area.
- 8.9 Based on the above, the drafted refusal reasons therefore remain unchanged save for the updates required in relation to the proposed larch cladding to the rear stairwell.

RECOMMENDATION: That the application be REFUSED for the following reasons:

1. The proposed uPVC windows on the front, rear and side elevations, the dark grey cladding on the front dormer and rear gables, the rear wall enclosing the first floor terraced area and balcony areas in the absence of any suitable mitigation, the lighting scheme and the proposed larch cladding to the rear stairwell, are prominent, incongruous, and conspicuous and result in a harmful impact upon the character and appearance of Whalley Conservation Area and the setting of nearby listed buildings namely 10 – 16 (consecutive) Church Lane and the Church of Mary and All Saints. This is contrary to The Planning (Listed Buildings and Conservation Areas) Act 1990, Key Statement EN5 and Policies DME4 and DMG1 of the Ribble Valley Core Strategy 2008 – 2028 as well as the National Planning Policy Framework.
2. The proposal fails to demonstrate that the scheme does not result in significant measurable harm to the residential amenities of the occupiers of numbers 4 - 8 (consecutive) Church Lane by virtue of overlooking and loss of privacy from the first floor roof terraced area. In addition, the proposed lighting scheme would have an unacceptable impact on neighbouring properties 6 and 7 Church Lane, by virtue of the resultant light pollution. This would undermine and diminish the enjoyment of the occupiers of the properties contrary to Policy DMG1 of the Ribble Valley Core Strategy 2008 – 2028 as well as the National Planning Policy Framework.
3. The proposed uPVC windows on the front, rear and side elevations, dark grey cladding on the front dormer and rear gables, rear wall enclosing the first floor terraced area and balcony area in the absence of any suitable mitigation, the lighting scheme and the proposed larch cladding to the rear stairwell, results in an incongruous, unsympathetic, and discordant form of development, that fails to respond positively to the visual character of the area contrary to Policy DMG1 of the Ribble Valley Core Strategy 2008 – 2028 and the National Planning Policy Framework.

BACKGROUND PAPERS

https://webportal.ribblevalley.gov.uk/site/scripts/planx_details.php?appNumber=3%2F2024%2F1016