

**DEPARTMENT OF REGENERATION**

**ORIGINATING SECTION:** Planning

**REPORT TO:** Planning & Highways Committee

**TITLE:** Outline Planning Application (access) for the erection of up to 180 dwellings, open space and associated works including the construction of a link road together with the demolition of the existing redundant office buildings

**AT:** Greenbank Terrace/ Milking Lane, Lower Darwen, Blackburn

(Ref: 10/15/1119)

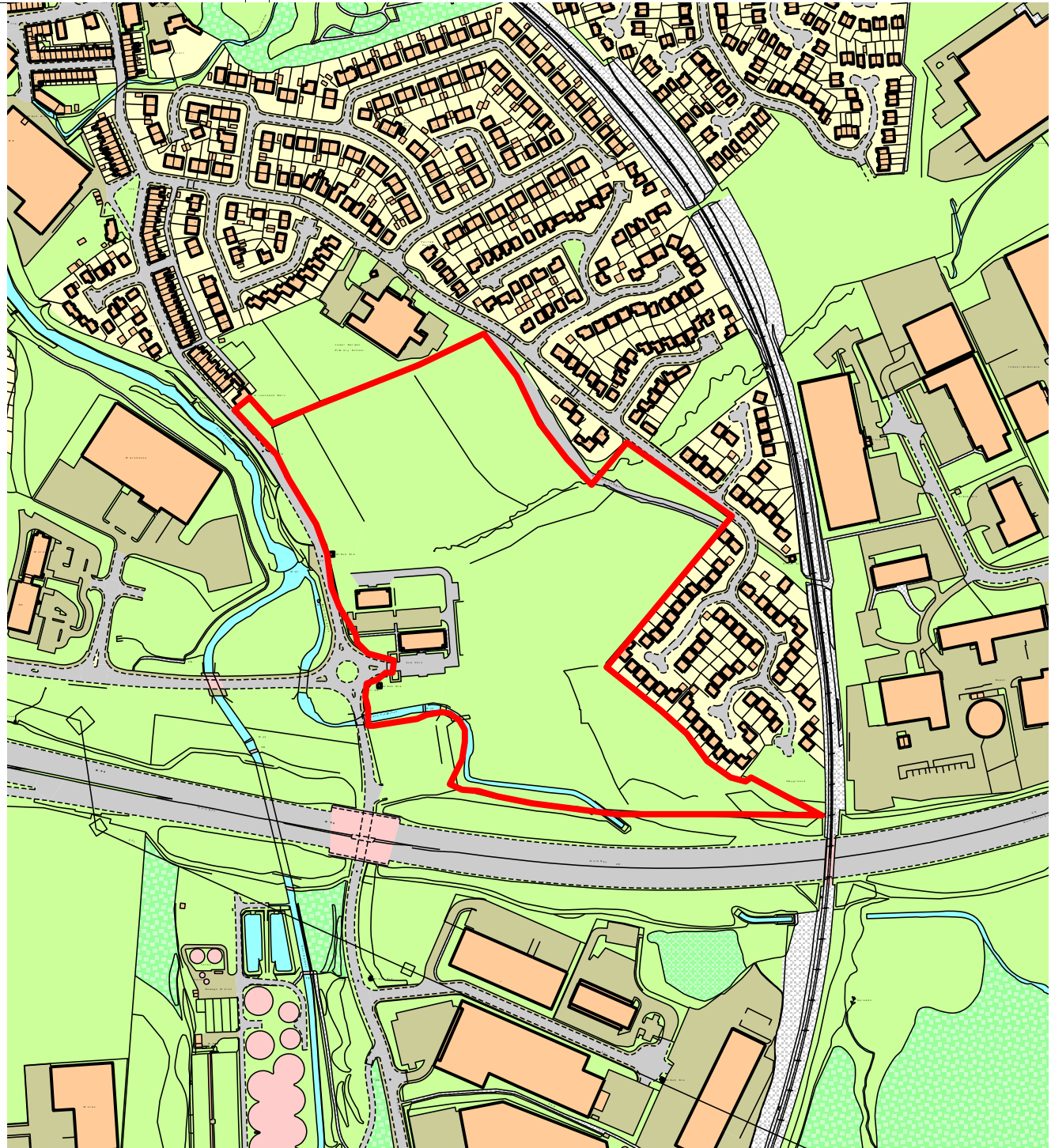
**Applicant:** Mr Richard Topham

**Ward:** Fernhurst

**Councillor Jacqueline Slater**

**Councillor John Slater**

**Councillor Denise Gee**



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## **1.0 SUMMARY OF RECOMMENDATION**

### **1.1 REFUSE**

## **2.0 KEY ISSUES/SUMMARY OF PLANNING BALANCE**

2.1 The application received a resolution to approve by Members at December 2015 Planning and Highways Committee. The resolution to approve was on that basis that a planning obligation Section 106 agreement was entered into to provide for affordable housing in line with Core Strategy and Local Plan policies. However, despite numerous requests for the Section 106 to be finalised, this has not been forthcoming. As such, without a completed Section 106 agreement, the application cannot be considered favourably.

## **3.0 RATIONALE**

### **3.1 Site and Surroundings**

3.1.1 The application site comprises an area of land that lies to the immediate west of Milking Lane and to the east of Greenbank Terrace. The site is immediately bound by Lower Darwen Primary School to the north, dwellings to the east/ south and the watercourse of Davy Field Brook/ Alum House Brook to the west, the motorway corridor is also in proximity to the south. The site can be split in two by topography having a lower section currently occupied by a part constructed office development accessed via a roundabout on Greenbank Terrace, and a flat upper portion off Milking Lane. The site is linked to junction 4 of the M65 motorway via the Eccleshill Link Road to the west via Greenbank Terrace.

3.1.2 This site has an area of approximately 9 hectares. The upper portion of the site comprises two distinct elevated areas of land which are separated by a stream and its associated valley. The stream leads to the River Darwen via a culvert which runs through the lower portion of the site and under Greenbank Terrace to the west. This portion of the site has a public footpath located to the rear of existing dwellings on Milking Lane and is littered with self-seeded trees, with more established trees and hedgerow to the perimeter. The shell of buildings associated with the office development are visible on the lower site, and have been subject to vandalism/ anti-social behaviour following cessation of the construction works.

## **3.2 Proposed Development**

- 3.2.1 The proposal seeks outline planning permission (access) for residential development on both the upper and lower portions of the application site. All other matters (appearance, landscaping, layout and scale) are to be determined under future reserved matters application(s). It is noted that the applicant refers to three development parcels in the submission, namely Parcel 1 (adjacent to Lower Darwen Primary School), Parcel 2 (to the east of the stream) and Parcel 3 (the former office development located on the lower portion of the site) and a drawing has been submitted to illustrate. This description of the three parcels of land will be used in the remainder of the report.
- 3.2.2 The proposal will involve demolition of the part constructed office accommodation. Two new access points are proposed from Milking Lane, both serving Parcels 1 and 2, the second access to Parcel 2 will also form the basis of a link road joining Milking Lane to Greenbank Terrace. Retention of the existing footpath is also annotated on plan.
- 3.2.3 Illustrative plans show that the upper Parcels 1 and 2 could accommodate around 84, with the majority of dwellings located to the lower Parcel 3. This includes a mix of detached, semi-detached and mews style dwellings. The detailed mix of properties and their disposition across the site would be determined under reserved matters.

## **3.3 Development Plan**

- 3.3.1 The Development Plan comprises the Core Strategy and adopted Local Plan Part 2 – Site Allocations and Development Management Policies. In determining the proposal the following are considered to be the most relevant policies:

### **3.3.2 Core Strategy:**

- CS1 – A Targeted Growth Strategy
- CS5 - Locations for New Housing
- CS6 – Housing Targets
- CS7 – Types of Housing
- CS16 – Form and Design of New Development
- CS18 – The Borough’s Landscapes
- CS19 – Green Infrastructure

### 3.3.3 Local Plan Part 2:

- Policy 1 – The Urban Boundary
- Policy 7 – Sustainable and Viable Development
- Policy 8 – Development and People
- Policy 9 – Development and the Environment
- Policy 10 – Accessibility and Transport
- Policy 11 – Design
- Policy 12 – Developer Contributions
- Policy 16 – Housing Land Allocations (notably Allocation 16/17)
- Policy 18 – Housing Mix
- Policy 40 – Integrating Green Infrastructure and Ecological Networks with New Development
- Policy 41 - Landscape

### 3.4 **Other Material Planning Considerations**

3.4.1 Residential Design Guide Supplementary Planning Document (September 2012). This document provides targeted advice to ensure high quality new homes. It ensures that new development reflects the individual and collective character of areas of the Borough and promoted high standards of design. The document also seeks to ensure a good relationship between existing and proposed development in terms of protecting and enhancing amenity.

3.4.2 National Planning Policy Framework (NPPF). In particular Section 6 which relates to delivering a wide choice of high quality homes.

### 3.5 **Assessment**

3.5.1 Members resolved to approve the application at December 2015's Planning and Highways Committee, subject to:

(1) *“Committee delegating authority to the Head of Service for Planning and Transport to approve planning permission subject to negotiation of an agreement under S106 of the Town and Country Planning Act 1990 requiring further assessment of the developments viability if construction of the development has not commenced within 3 years of the date of the decision notice, or.*

(2) *following negotiation the granting of planning permission without such an agreement.”*

3.5.2 Prior to the application being determined by Members, the applicant had confirmed he was willing to enter into a legal agreement. However, the site is part owned by a bank and despite the applicant's best intentions and repeated attempts; they have been unable to engage in any meaningful communication with the bank. As the bank will need to be a signatory to the agreement, the applicant considers that there is limited prospect of delivering a signed agreement in the near future.

3.5.3 The Section 106 agreement is a key mechanism which makes this development proposal acceptable in planning terms. It focusses on the site specific mitigation of the impact of development, notably, the provision of affordable housing. This is to ensure compliance with Policy CS8 of the Core Strategy and Policy 12 of the Local Plan Part 2.

3.5.4 Members will be aware that the residential development was considered to be the optimum use for the site; and we are very keen to see high quality residential development take place. However, this cannot take place if the obligations sought through the Section 106 agreement are not provided. The decision to bring the application back to Committee with a recommendation to refuse is a last resort, but the Council cannot keep an application open indefinitely.

#### **4.0 RECOMMENDATION**

##### **4.1 REFUSE**

4.2 Reason: Given the failure to enter into the Section 106 planning obligation, the application fails to provide for affordable housing; thus failing to comply with Policy CS8 of the Blackburn with Darwen Core Strategy and Policy 12 of the Blackburn with Darwen Local Plan Part 2.

#### **5.0 PLANNING HISTORY**

5.1 There is no planning history of direct relevance to the current proposal.

#### **6.0 CONSULTATIONS**

6.1 No new consultations since those reported in November 2015.

**7.0 CONTACT OFFICER:** Kate McDonald, Acting Team Leader (Planning Implementation)

**8.0 DATE PREPARED:** 20 October 2016

9.0 Summary of representations

Objection Lee Sharples 10 Lady Close

I put in writing my objection to the above planning application

the reason

there is already insufficient access out of Milking Lane at peak times causing huge tailbacks made even worse by the school at the lower stretch of milking Lane  
Adding still more houses would make the existing problem impossible

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## Comment John Airey 18 Viscount Avenue

Thank you for the information regarding the proposed development at Greenback Terrace/Milking Lane in Lower Darwen.

One positive is the fact that the previous development which is now an eyesore will be gone.

In its current state it is a very poor gateway in to Lower Darwen.

However some points which I wish to raise are as follows;

- Play area for children.

Looking at the plans It would seem that the houses will have between 2 & 4 bedrooms. This I imagine would mean that the development is to be targeted towards family occupancy.

What provision has been made for children to play?

The plans would appear to show that there is no provision for this.

- Traffic flow on Milking Lane.

Currently, as I am sure you will know and at times when children are coming to and leaving school, the traffic situation on Milking Lane is at times dangerous. It often makes me wonder how the current traffic situation would cope if an emergency vehicle needed to have access to the Lane at peak School times.

Once the new development is completed there is going to be increased traffic usage in the area around the school.

Although a new road is proposed it won't stop parked vehicles parking on Milking Lane at peak School times.

Would it be possible to operate a one way system along Milking Lane and the new road?

- Will the development be completed?

As I am aware the plans have been submitted by the same company who started to build the office development which is now abandoned.

Why was the office development abandoned?

Was it due to a lack of funds?

Will the new development be completed or is there a possibility it will be abandoned mid build?

Thank you for allowing opportunity to make comment regarding the proposed development.

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