

Planning and Highways Committee

Thursday, 21 December 2017

18:30

Meeting Room A, Blackburn Town Hall

AGENDA

PART I: ITEMS FOR CONSIDERATION IN PUBLIC

- | | | |
|-----|--|---------|
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| 2 | Minutes of the Previous Meeting | |
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| 3 | Declarations of Interest in Items on this Agenda | |
| | <i>If a Committee Member requires advice on any items involving a possible Declaration of Interest which could affect his/her ability to speak and/or vote he/she is advised to contact Democratic Services at least 24 hours before the meeting</i> | |
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PART 2: ITEMS FOR CONSIDERATION IN PRIVATE

Date Published: Wednesday, 13 December 2017
Harry Catherall, Chief Executive

PLANNING AND HIGHWAYS COMMITTEE
16th NOVEMBER 2017

PRESENT – Councillors; Dave Smith (in the Chair), Brookfield, Casey, Groves, Hussain I, Jan-Virmani, Khonat, Mahmood Q (substitute for Cllr Z Khan), Marrow (substitute for Cllr Jacqueline Slater), Murray, Nuttall, Oates, Riley, Slater N (substitute for Cllr Pearson), Slater J (substitute for Cllr Hardman)

OFFICERS – Ian Richardson (Director of Growth and Development), Gavin Prescott (Development Manager), Martin Kenny (Principal Planning Officer), Stuart Scott (Highways & Network Manager), Safina Alam (Highways Development Control Engineer) Rabir Saghir (Legal) and Wendy Bridson (Democratic Services).

RESOLUTIONS

24 **Welcome and Apologies**

The Chair welcomed everyone to the meeting. Apologies were received from Councillors Hardman, Khan Z, Pearson and Slater Ja.

25 **Minutes of the last Meeting held on 19th October 2017**

RESOLVED – That the minutes of the last meeting held on 19th October 2017 were confirmed and signed as a correct record.

26 **Declarations of Interest**

No Declarations of Interest were received.

27 **Planning Applications**

The Committee considered reports of the Director of Growth and Development detailing the planning applications listed overleaf.

In considering the applications, the Committee took into account representations or submissions provided by individuals with the officers answering points raised during discussion thereon.

RESOLVED – (1) That the following decisions be made on the applications set out overleaf:

| <u>Application No.</u> | <u>Applicant</u> | <u>Location and Description</u> | <u>Decision under Town and Country Planning Acts and</u> |
|------------------------|------------------|---------------------------------|--|
|------------------------|------------------|---------------------------------|--|

| | | | <u>Regulations</u> |
|------------|--|---|--|
| 10/17/0578 | Wainhomes (North West) Ltd Kelburn Court Daten Park Birchwood Warrington WA3 6UT | Land off Yew Tree Drive and Whinney Lane, Blackburn, BB2 7DN Full Planning Application for Residential Development comprising 272 homes, public open space, landscaping, drainage, associated highway works, infrastructure and engineering works and demolition of existing garages. | <p>Approve subject to delegated authority being given to the Head of Service for Growth and Development to approve planning permission subject to an agreement under Section 106 of the Town and Country Planning Act 1990, relating to the payment of a financial contribution towards off-site Affordable Housing provision, off-site highway infrastructure and education Infrastructure in the North Blackburn locality (As detailed in the report) with additional conditions as detailed in the Director's Report and a further additional condition covering the design and implementation of the off-site highway works as listed below;</p> <ul style="list-style-type: none"> • Provision of a footway along the full frontage of the side within the applicant site boundary, boundaries Whinney Lane; • Street lighting to be extended to the upper section of the frontage of the site along Whinney Lane; • Two site accesses into the site; <ul style="list-style-type: none"> a) Yew Tree Drive b) Whinney Lane • This is accompanied by the toucan crossing to aid the passage of pedestrians and cyclists across Ramsgreave Drive; and • Improvements along Whinney Lane where the footway/cycleway joins the highway. <p>Should the Section 106</p> |

| | | | |
|--|--|--|--|
| | | | agreement not be completed within 6 months of the date of the planning application being received, the Head of Service for Growth and Development would have delegated powers to refuse the application. |
|--|--|--|--|

28 Petition Report 10-17-1142 – Former Cattle Market, Sumner Street, Blackburn, BB2 2LD

A report was submitted to inform Members of the Committee of the receipt of a petition on 5th October 2017, containing 96 signatories objecting to planning application 10/17/1142, demolition of existing building and the erection of a school and further education college with associated parking and landscaping.

The grounds for objection to the application were outlined in the report.

The Committee were informed that in normal circumstances it would be recommended that the Lead Petitioner be informed of the decision once made, however, no details had been given for this to be undertaken.

RESOLVED – That the petition be noted.

Signed:

Date:

Chair of the meeting
at which the minutes were confirmed

**DECLARATIONS OF INTEREST IN
ITEMS ON THIS AGENDA**

Members attending a Council, Committee, Board or other meeting with a personal interest in a matter on the Agenda must disclose the existence and nature of the interest and, if it is a Disclosable Pecuniary Interest or an Other Interest under paragraph 16.1 of the Code of Conduct, should leave the meeting during discussion and voting on the item.

Members declaring an interest(s) should complete this form and hand it to the Democratic Services Officer at the commencement of the meeting and declare such an interest at the appropriate point on the agenda.

MEETING: **PLANNING AND HIGHWAYS COMMITTEE**

DATE:

AGENDA ITEM NO.:

DESCRIPTION (BRIEF):

NATURE OF INTEREST:

DISCLOSABLE PECUNIARY/OTHER (delete as appropriate)

SIGNED :

PRINT NAME:

(Paragraphs 8 to 17 of the Code of Conduct for Members of the Council refer)

Material Consideration

“Material Considerations” are not limited to matters relating to amenity and can cover a range of considerations, in regard to public or private interests, provided that there is some relationship to the use and development of land.

Where it is decided that a consideration is material to the determination of a planning application the courts have held that the assessment of weight is a matter for planning judgement by the planning authority, rather than the court. Materiality is a matter of law for the Court, weight is for the decision maker. Accordingly it is for the Committee to assess the weight to be attached to each material consideration, but if a Council does not take account of a material consideration or takes account of an immaterial consideration then the decision is vulnerable to challenge in the courts.

By section 38(6) of the Planning & Compensation Act 2004 Act every planning decision must be taken in accordance with the development plan (taken as a whole) **unless material considerations indicate otherwise**. The policies and guidance contained in the hierarchy of planning documents are important material considerations and the starting point for the Committee in its assessment of development proposals and most decisions are usually taken in line with them.

However, the Committee is legally obliged to consider all material matters in determining a planning application and this means that some decisions will not follow published policy or guidance. In other words, the Committee may occasionally depart from published policy when it considers this is outweighed by other factors and can be justified in the circumstances of the particular case. Similarly, in making a decision where there are competing priorities and policies the Committee must exercise its judgement in determining the balance of considerations

The following provides a broad guide of what may and may not be material, though as with any broad guidance there will on occasions be exceptions

| <u>MATERIAL:</u> | <u>NOT MATERIAL:</u> |
|---|---|
| Policy (national, regional & local) | The identity of the applicant |
| development plans in course of preparation | Superceded development plans and withdrawn guidance |
| Views of consultees | Land ownership |
| Design | Private Rights (e.g. access) |
| Visual impact | Restrictive covenants |
| Privacy/overbearing/amenity impacts | Property value |
| Daylight/sunlight | Competition (save where it promotes a vital and viable town centre) |
| Noise, smell, pollution | Loss of a private view |
| Access/traffic/accessibility | “moral issues” |
| Health and safety | “Better” site or use” |
| Ecology, landscape | Change from previous scheme |
| Fear of Crime | Enforcement issues |
| Economic impact & general economic conditions | The need for the development (in most circumstances) |
| Planning history/related decisions | |

| | |
|--|--|
| Cumulative impact | |
| Need (in some circumstances – e.g. green belt) | |
| Impacts upon and provision of open/amenity space | |
| existing use/permitted development rights/fall back | |
| retention of existing use/heritage issues | |
| fear of setting a precedent | |
| composite or related developments | |
| Off-site benefits which are related to or are connected with the development | |
| In exceptional circumstances the availability of alternative sites | |
| Human Rights Act 1998 & Equality | |

Before deciding a planning application members need to carefully consider an application against the provisions of the Human Rights Act 1998.

Protocol 1 of Article 1, and Article 8 confer(s) a right of respect for a person's private and family life, their possessions, home, other land; and business assets.

Article 6, the applicants (and those third parties, including local residents, who have made representations) have the right to a fair hearing and to this end the Committee must give full consideration to their representation, and comments,

In taking account of all material considerations, including Council policy as set out in the Core Strategy and saved policies of the Unitary Development Plan, the Head of Planning and Transport has concluded that some rights conferred by these Articles on the applicant(s)/objector(s)/resident(s) and other occupiers and owners of nearby land that might be affected may be interfered with but that interference is proportionate, in accordance with the law and justified by being in the public interest and on the basis of the planning merits of the development proposal. Furthermore he believes that any restriction on these rights posed by the approval of an application is proportionate to the wider benefits of approval and that such a decision falls within the margin of discretion afforded to the Council under the Town and Country Planning Acts.

Other duties have to be taken into account in determining planning applications for example the promotion of measures to reduce crime, the obligation not to act in a discriminatory manner and promote equality etc.

NB: Members should also be aware that each proposal is treated on its own merits!

Reasons for Decision

If members decide to go against officer recommendations then it is their responsibility to clearly set out their reasons for doing so, otherwise members should ask for the application to be deferred in order that a further report is presented setting out the background to the report, clarifying the reasons put forward in the debate for overriding the officer recommendation; the implications of the decision and the effect on policy; what conditions or agreements may be needed; or just to seek further information.

If Members move a motion contrary to the recommendations then members must give reasons before voting upon the motion. Alternatively members may seek to defer the application for a further report. However, if Members move a motion to follow the recommendation but the motion is lost. In these circumstances then members should be asked to state clearly their reasons for not following the recommendations or ask that a further report be presented to the next meeting

REPORT OF THE DIRECTOR OF GROWTH & DEVELOPMENT

LOCAL GOVERNMENT (ACCESS TO INFORMATION) ACT 1985
BACKGROUND PAPERS

There is a file for each planning application containing application forms, consultations, representations, Case Officer notes and other supporting information.
Gavin Prescott, Development Manager – Ext 5694.

NEIGHBOUR NOTIFICATION: The extent of neighbour notification is shown on the location plans which accompany each report. Where neighbours are notified by individual letter, their properties are marked with a dot. Where a site notice has been posted, its position is shown with a cross.

PLANNING APPLICATIONS FOR DETERMINATION Date: 21/12/2017

| Application No | Applicant | Site Address | Ward |
|--|--|---|-----------------------------------|
| Application Type | | | |
| 10/17/1142 | Wates Construction Mr Stan Inskip The Royals 353 Altrincham Road Sharston Manchester M22 4BJ UK | Former Cattle Market Sumner Street BLACKBURN BB2 2LD | Wensley Fold |
| Full Planning Application for Full Planning Permission for demolition of existing building and the erection of a school and further education college with associated parking and landscaping | | | |
| RECOMMENDATION: Permits | | | |
| 10/17/1380 | Mr Tatersall - Old Blackburnians Old Blackburnians Memorial Ground Lammack Road Blackburn BB1 8LA | Old Blackburnians Memorial Ground Lammack Road BLACKBURN BB1 8LA | Beardwood With Lammack Roe Lee |
| Variation of condition/minor material amendment for Variation of Condition No.4 pursuant to planning application 10/16/0077 to replace drawing number no. BS 12-106/11 with Drawing no. BS 12-106/11 Rev A to provide an improved arrangement of the playing pitches | | | |
| RECOMMENDATION: Permits | | | |
| 10/17/1391 | Mr Tatersall - Old Blackburnians C/O Agent | Memorial Ground Lammack Road Blackburn. | Beardwood With Lammack Roe Lee |
| Variation of Legal Agreement/S106 for Reflect changes to proposed pitch re-orientation works set out within planning application 10/17/1380 relating to the Variation of Condition No.4 pursuant to planning application 10/16/0077 | | | |
| RECOMMENDATION: Permits | | | |

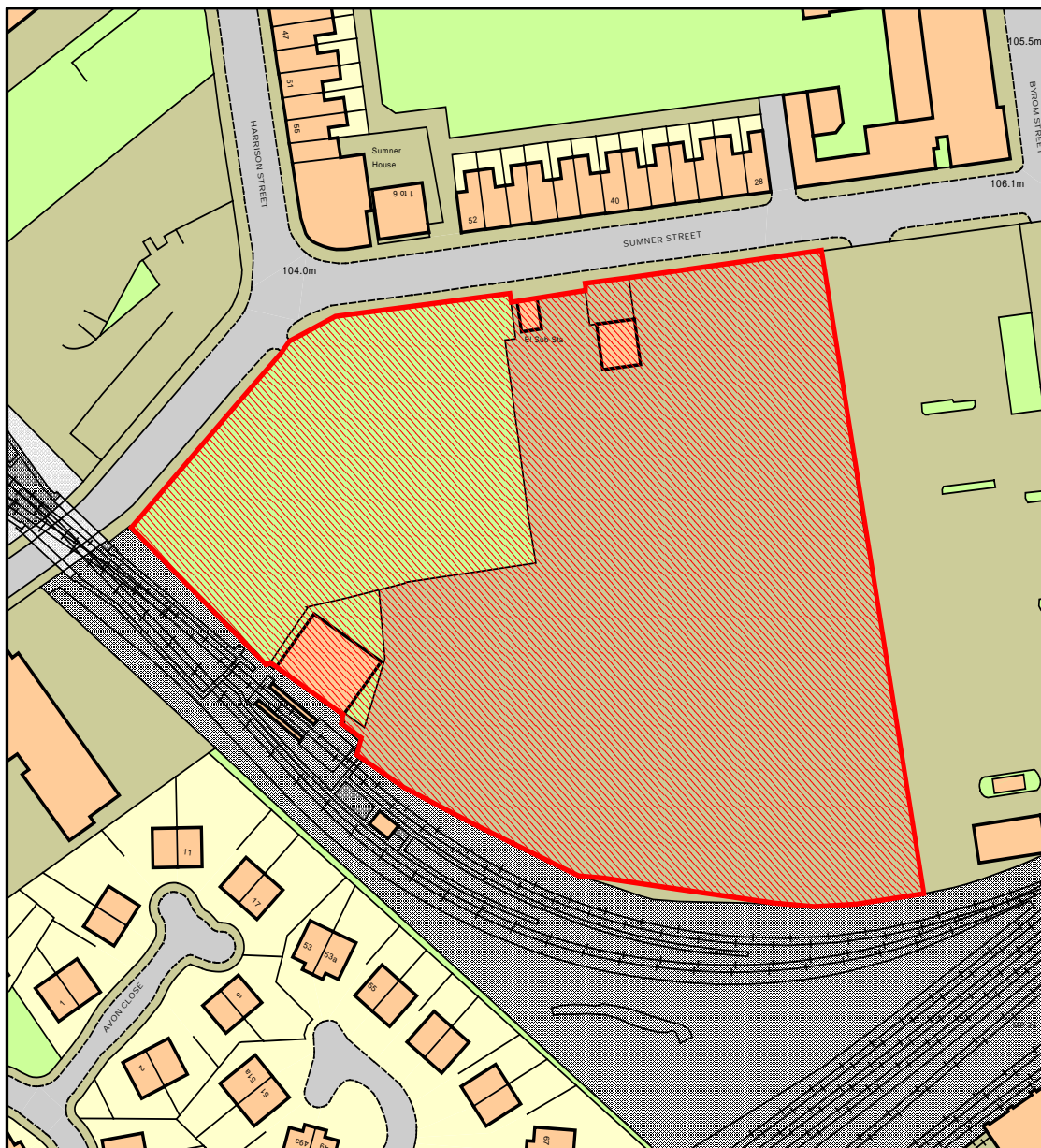
Proposed development: Full Planning Permission for demolition of existing building and the erection of a school and further education college with associated parking and landscaping.

Site address: Former Cattle Market, Sumner Street, Blackburn, BB2 2LD

Applicant: Wates Construction

Ward: Wensley Fold

| | |
|--|--|
| Councillor Dave Harling | |
| Councillor Mohammed Khan O.B.E. | |
| Councillor Quesir Mahmood | |



1.0 SUMMARY OF RECOMMENDATION

Item 4.1

1.1.1 APPROVE – subject to additional highways information and recommend conditions.

2.0 KEY ISSUES/SUMMARY OF PLANNING BALANCE

2.1.1 The proposal will deliver a modern High School development which will support the Borough's aspirational aims of raising the education attainment level currently achieved across Blackburn and Darwen. It supports the Borough's planning strategy for community hubs as set out in the Core Strategy. The development will also see the re-development of a derelict brownfield site within a defined Inner Urban Area which is supported by Local Plan Part 2 Policy 2.

2.1.2 The proposal is also satisfactory from a technical point of view, with all issues having been addressed through the application, or capable of being controlled or mitigated through the recommended planning conditions.

2.1.3 The key issues to be addressed are as follows:

- Development Plan designation & principle of development
- Site layout and design issues
- Impact on amenity
- Highways & transportation
- Drainage and flood risk
- Ecological considerations

3.0 RATIONALE

3.1.1 Site and Surroundings

3.1.2 The application site is located within the urban boundary of Blackburn. It comprises an irregular parcel of land previously in use as an abattoir and animal feed suppliers. Access to the eastern portion of the site is currently taken from Sumner Street, with access to the western area of the site taken from the junction of Sumner Street and Galligreaves Street.

3.1.3 The site is bounded to the south by network rail railway sidings which following a prior approval application approved under 10/16/0531 are now understood to be back in full use. To the east by a British Telecoms' vehicle depot, and to the north by Sumner Street with residential properties lining the north side of the road. The area generally is characterised as mixed development, comprising employment units and residential properties.

3.1.4 The topography of the site sees the levels fall gradually from east to west in the region of 4m to a low point to the North West Corner at which point the site falls within the designated flood zone (Zone 2).

3.2 Proposed Development

3.2.1 Planning permission is sought for the construction of a Boys High School which will be set over a three storey main school building (6580sqm) positioned within the centre of the site with a single storey linking element, to a four court sports hall (594sqm) located to the west of the site and adjacent to a new Energy Centre.

3.2.2 The application proposes a number of external features including a 3G MUGA adjacent to the playground in the south east corner of the site enclosed by a 5m high weldmesh fence. At the eastern edge of the playground is an area for teaching/socialising. An allotment garden for use by the pupils is also proposed on the west edge of the site.

3.2.3 The school will cater for up to 800 pupils which includes 200 sixth form places. The new facilities will also be available outside of school hours for community use as detailed in the table below:

| Facility | User | Time in Use | |
|---|--------------------------------|---------------|-----------------------|
| | | School Day | Weekends and Holidays |
| Sports Facilities | Community | 17:00 – 21:00 | 09:00 – 21:00 |
| Specialist Technology Rooms | Community | 17:00 – 21:00 | 09:00 – 21:00 |
| Library and Classrooms (enrichment – students and teachers only) | Students and teaching staff | 17:00 – 21:00 | 09:00 – 21:00 |
| School Hall and Canteen (events hire) | Community | NA | 09:00 – 21:00 |

3.2.4 Boundary treatments will see the introduction of railings and planting along the Sumner Street frontage with the existing masonry brick wall being retained along Galligreaves Street. The southern and eastern boundaries of the site will be secured by a 2.4m weld mesh fence. Surface construction will be a combination of tarmacadam, paving and reclaimed cobbles. The application is also accompanied by a landscaping plan to be introduced across the site.

3.2.5 Pedestrian access to the site is to be from Sumner Street through automatic gates. Upon entry users will proceed down a wide bound path over a raised table made up of cobbles reclaimed from the site. This is a shared surface where cars enter the staff and visitor parking bays.

3.2.6 Vehicular access is via a one-way looped system through the site with staff parking in the main area and visitor parking to the west of the site. There are 42 staff spaces and 10 visitor bays. There are 4 disabled spaces located adjacent to the visitor parking with safe, vehicle free access to the main and community entrances. Coach and minibus drop-off and waiting areas are provided with vehicle free access for students from the entrances to the school. There is provision for 80no. cycle spaces including for staff/visitors.

3.3 Development Plan

3.3.1 In accordance with s.38 (6) Planning and Compulsory Purchase Act (2004), the application is to be determined in accordance with the development plan, unless material considerations indicate otherwise.

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

3.3.3 Core Strategy

- CS11 – Facilities and Services
- CS16 – Form and Design of New Development
- CS22 – Accessibility Strategy

3.3.4 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

3.4 Other Material Planning Considerations

3.4.1 National Planning Policy Framework (The Framework).

At the heart of the NPPF is a presumption in favour of sustainable development, which should be seen as a golden thread running through both plan making and decision taking. For decision taking, this means approving development proposals that accord with the development plan without delay (paragraph 14).

3.4.2 The following headings and content of the NPPF are relevant to the consideration of the current proposals:

4. Promoting sustainable transport;

7. Requiring good design
8. Promoting healthy communities; and Item 4.1
10. Meeting the challenge of climate change, flooding and coastal change.

3.4.3 The 'Policy statement – planning for schools development' (2011) is also relevant to this application. This paper sets out a commitment to support the development and delivery of state-funded schools through the planning system. Furthermore the policy paper refers to the Government's belief that the planning system should operate in a "positive manner" when dealing with proposals for the creation, expansion and alteration of state funded schools. Finally, the policy paper sets out the following principles:

- There should be a presumption in favour of the development of state-funded schools, as expressed in the National Planning Policy Framework;
- Local authorities should give full and thorough consideration to the importance of enabling the development of state-funded schools in their planning decisions
- Local authorities should make full use of their planning powers to support state-funded schools applications
- Local authorities should only impose conditions that clearly and demonstrably meet the tests set out in the NPPF and NPPG
- Local authorities should ensure that the process for submitting and determining state-funded schools' applications is as streamlined as possible
- A refusal of any application for a state-funded school, or the imposition of conditions, will have to be clearly justified by the local planning authority
- Appeals against any refusals of planning permission for state-funded schools should be treated as a priority
- Where a local planning authority refuses planning permission for a state-funded school, the Secretary of State will consider carefully whether to recover for his own determination appeals against the refusal of planning permission.

3.5 Assessment

3.5.1 Principle of the development

The application lies within the Inner Urban Area, not otherwise allocated; as defined on the Adopted Policies Map of the Local Plan Part 2. The principle of the development is, therefore, accepted, in accordance with Local Plan Policies and The Framework's presumption in favour of sustainable development, which should proceed without delay and its requirement for planning to support economic development, identifying and responding positively to opportunities for growth and promoting the vitality of urban areas, taking into account their different roles and characters.

Design and Layout

Item 4.1

- 3.5.2 Policy 11 of the Local Plan requires development to present a good standard of design, demonstrating an understanding of the wider context and make a positive contribution to the local area. The policy sets out a list of detailed design requirements relating to character, townscape, public realm, movement, sustainability, diversity, materials, colour and viability. This underpins the main principles of sustainable development contained in the NPPF which seeks to secure high quality design.
- 3.5.3 A detailed Design and Access and Planning statement accompany the application and submitted drawings. They each set out the key design principles which are taken forward in the application proposals design response, reflecting not only the policy requirements but the comments given by officers as part of pre-application discussions. These design driver considerations include:
- Site context of the surrounding area
 - Scale and massing
 - Elevations and materials
 - Sense of arrival
 - Internal arrangement
 - Community access
 - Site access and use
 - Hard and soft landscaping
 - Security and operation
 - Servicing of the site
 - Flood risk; and
 - Sport assessment
- 3.5.4 The main teaching building has a modern flat roof design incorporating a mesh screen in front of the plant room. The building is constructed of brick with a simple glazing pattern across each floor. A detailed weave pattern and soldier coursing sections of brick has been incorporated into the finish of the building to add character and break up visual massing. This design approach ensures it sits well within the context of the area and matches the materials used on residential properties along Sumner Street.
- 3.5.5 The sports hall will have a contrasting set of materials and be clad in profiled metal above ground floor level in the Tauheedul brand colours (Purple) to provide a complimentary feature distinct from the main school building. The link extension between the main building and sports hall incorporates a mix of matching red brick and glazing to blend the buildings together at street level.
- 3.5.6 The proposal is considered to be well designed, forming a sympathetic yet contemporary addition to the surrounding area. Construction materials are key to the design, and it is considered important to

ensure that those used are sympathetic to the surrounding area so as not to compromise the overall appearance of the locality. ~~As such,~~ a condition requiring material samples to be submitted is recommended.

- 3.5.7 With regards to external space, the development has been designed to provide suitable recreational and sports facilities required for modern school developments. The Council's Education Department consulted on the application and has offered no objection in this respect.
- 3.5.8 High quality landscaping is an important feature of this proposal and the applicant has submitted a landscaping scheme covering both hard surfacing and planting areas. These matters are considered further in the ecology section of the report.
- 3.5.9 In summary of the design and layout proposed with the application, the comprehensive details submitted are considered to demonstrate, that the school buildings, infrastructure and landscaping accords with the provisions of the relevant policies of the development plan.

3.5.10 Amenity

Policy 8 sets out that development will be permitted where it can be demonstrated that it would secure a satisfactory level of amenity and safety for surrounding uses and for occupants or users of the development itself, with reference to noise, vibration, odour, light, dust, other pollution or nuisance, privacy / overlooking, and the relationship between buildings.

- 3.5.11 The Council does not have any prescribed minimum separation distances between dwellings and community buildings, such as schools. However, minimum distances of 21m between habitable room windows are identified within the Residential Design Guide SPD. A figure that can be revised upwards by 3m if there is a substantial difference between building heights or levels.
- 3.5.12 Separation to dwellings on Sumner Street is at an oblique angle with the nearest residential property at 25m away. This distance is sufficient to minimise any dominance, light loss, overshadowing or privacy impacts from the buildings proposed. There are not considered to be any other nearby receptors that would suffer any unacceptable amenity impacts from the introduction of the proposed structures.
- 3.5.13 The development will increase general noise and disturbance in the locality. This is likely be from pupils, community users, associated traffic movements including the drop off/ pick up of students or noise from external social areas within the development. These impacts are of a more sporadic nature and not a constant source of noise/ disturbance, being limited to specific periods of the day such as drop off/ pick up times, break times and evening/weekend community use. The external spaces have been located to avoid sensitive receptors

were possible to limit potential noise disturbance as advised at pre-application discussions. Item 4.1

- 3.5.14 The application has been accompanied by a noise impact assessment which has been reviewed by the Council's Public Protection Team. Following discussions on external back ground noise levels a condition restricting noise levels from the school to of 55dB(A) Leq (1hr.) at the boundary of any residential premises garden or outdoor amenity space and 55dB(A) Leq (1hr) and 60dB(A) $L_{max,F}$ (free field) at the façade of any dwelling has been recommend.
- 3.5.15 The application is accompanied by an external lighting plan and obtusive light report, detailing the proposed lighting of the site. These supporting documents have been reviewed by Public Protection Officers and conditions to control potential light intrusion are recommended. The conditions will permit external flood lighting to 21:00 and restrict light spillage levels.
- 3.5.16 Other recommended conditions to safeguard the amenity of future occupants of the site and those existing residents in the area include standard land contamination conditions, noise and vibration controls, hours of construction condition and a dust control condition.
- 3.5.17 Subject to no objection being raised from the Council's Public Protection Team in relation to noise, the scheme is considered compliant with the development plan and can be adequately controlled by the recommend conditions.

3.5.18 Highways

Local Plan Part 2, Policy 10 sets out that development will be permitted provided it has been demonstrated that road safety and the safe, efficient and convenient movement of all highway users is not prejudiced; that appropriate provision is made for vehicular access, off street servicing and parking, in accordance with the Council's adopted standards and that the needs of disabled people should be fully provided for, including those reliant on community transport services. The policy also requires submission of a supporting Transport Assessment (TA) for proposed development that has the potential to significantly affect existing transport systems.

- 3.5.19 A Transport Assessment (TA) and drawings accompanied the submitted application and have been reviewed by Highways and Transport colleagues. The assessment evaluates the existing transport and highways context of the site, access, parking and servicing conditions and trip generation. This allows an assessment to be made as to whether the highways network has the capacity to accommodate the potential increases in traffic as a result of the proposed development.

3.5.20 The applicant's TA offers evidence to support the assertions made in relation to the trip generation and traffic impact of the proposed development and that whilst there will be some time specific impacts upon the surrounding highway network it would not be to the detriment of road safety or the safe, efficient and convenient movement of all highway users.

3.5.21 The applicant's report concludes that the site is located with an area well served by public transport and student catchment will likely see 95% of students living within a 5 km radius based upon a travel survey undertaken by the school at their existing premises.

3.5.22 Capita Highways appraised the submitted TA and whilst no objection has been raised a request for additional information was requested to be incorporated into a Travel Plan. As such, a condition requiring the submission of a Travel Plan within the first 6 months after full occupation of the site, utilising the baseline travel survey conducted 3 months after full occupation has been recommend.

3.5.23 The Council's Highways Officer has reviewed the accompanying documents and drawings and offers no objection in principle subject to further information/clarification on operational site management and reinstatement of the footway adjacent existing openings. Outstanding matters relating to the highways and pedestrian operation of the site will be addressed through an update report.

3.5.20 Drainage and flood risk

Policy 9 sets out that development will be required to demonstrate that it will not be at an unacceptable risk of flooding and impact on environmental assets or interests, including habitats, species and trees.

3.5.21 Following review of a supporting Flood Risk Assessment, no objection has been offered by the United Utilities, The Environment Agency or the Council's Drainage team; subject to application of conditions to manage surface water drainage, in order to reduce the risk of flooding and pollution to the watercourse.

3.5.22 Ecology

Policy 9 of the LPP2 supports development where there is no unacceptable impact upon environmental assets, including habitats and protected species.

3.5.23 An Ecology Appraisal has been submitted and fully appraised by Capita Ecology. The findings of the report identify the site contains habitats typical of brownfield sites in urban areas such as, neutral grassland, scattered scrub and trees, earth bunds and vegetation. Given, the existing features on site there is potential for this

development to create a net loss of biodiversity and could negatively impact local populations of invertebrates, breeding birds and foraging bats.

3.5.24 The findings of the report identified that impact to protected species, such as bats or nesting birds, is low recommending that site clearance be undertaken outside of the bird nesting season and precautionary measures for the protection of protected/ priority species during construction.

3.5.25 Subject to the use of planning conditions relating to working practices, invasive species control, bat and bird boxes and a final landscaping plan to be agreed, the overall impact of the proposed development is considered to accord with Policy 9 of Local Plan Part 2.

3.5.26 Summary

This report assesses the full planning application for the proposed High School, Further Education College and associated work. In considering the proposal, a wide range of material considerations have been taken into account and the development is considered to have sufficient merit to achieve compliance with the Development Plan.

4 RECOMMENDATION

4.1 **Approve subject to additional highways information and conditions which relate to the following matters:**

- Commence within 3 years.
- Materials to be submitted and implemented
- Travel Plan to be submitted within 6 months of occupation
- Siting and appearance of boundary treatment to be agreed
- Invasive species (*Cotoneaster horizontalis*) removal method statement to be agreed.
- Biodiversity Enhancement Strategy for the school site to be agreed and incorporated into the landscape plan
- Development to be undertaken in accordance with the recommendations set out in section 6.2 of the TEP Ecology Report for nesting birds
- Scheme to be agreed for installation and location of Bat and Bird boxes
- Landscaping management and maintenance plan to be agreed and implemented
- Noise Control condition
- Boiler emissions limit of 40mgNOx/kWh
- Foul and surface water to be drained on separate systems
- Water drainage scheme to be implemented and maintained in accordance with the Drainage Strategy prepared by Mott MacDonald dated 1/9/2017.

- Site investigation for culverted watercourse
- Land contamination
- Flood lighting hours of use restriction
- Light pollution control
- Restriction on times of community use
- Limitation of construction site works to:
 - 08:00 to 18:00 Mondays to Fridays
 - 09:00 to 13:00 Saturdays
 - Not at all on Sundays and Bank Holidays
- Dust management plan to be submitted and implemented
- Approved details and drawings

Item 4.1

5 PLANNING HISTORY

5.1 No relevant planning history exists.

6 CONSULTATIONS

6.1 Arboricultural Officer
No objection subject to landscaping plan in accordance with Ecology Officer comments.

6.1.2 Education Department
No objection

6.1.3 Environment and Leisure
No objection

6.1.4 Local Authority Drainage
No objection, subject to application of drainage condition to ensure implementation of an appropriate scheme of surface water drainage and condition relating to potential culverted water course.

6.1.5 United Utilities
No objection, subject to application of drainage condition to ensure implementation of an appropriate scheme of surface drainage.

6.1.6 Environment Agency
No objection.

6.1.7 Public Protection
Amenity
No objection. Recommended conditions:
Control of light intrusion into residential properties

Contaminated Land

The applicant has submitted a study, though it is recommended that a condition for a remediation strategy for land contamination be applied should the scheme be supported.

6.1.8 Highways

No objection in principle subject to clarification on matters relating to:

- Parking
- Servicing
- Offsite Highway Works

6.1.9 Travel Planning Officer

Detailed comments were provided, welcoming the travel planning proposals and suggesting small amendments. A condition on requiring a Travel Plan to be submitted within six months from the first occupation of the development has been requested.

6.1.10 Lancashire Constabulary

No comments received.

6.1.11 Network Rail

No objection to subject to conditions on development adjacent the railway boundary and informative conditions.

6.1.12 Ecology

No objection, subject to appropriate mitigation measures, compliance with submitted Ecological Assessment and submission of Biodiversity Enhancement Strategy

6.1.13 Public Consultation

93 surrounding properties were consulted by letter, consisting of commercial and residential and a 2 site notices were displayed. Ward Councillors were also consulted.

6.1.14 A petition 96 signatories received. The material planning considerations referred to in the petition are summarised as follows:

- There is already an existing secondary school, within a short distance of the site that causes traffic congestion.
- In addition, there are a number of other commercial/industrial businesses operating in the area that generate high volumes of traffic and obstruct access for vehicles and pedestrians.
- The proposal is located within close proximity to bail hostels which already create anti-social behaviour. There is also a retirement complex and assisted living units close to the site.
- There would be an increase in litter giving rise to a negative impact on the environment.

7 CONTACT OFFICER: Alec Hickey, Senior Planner

8 DATE PREPARED: 08th December 2017.

9.0 SUMMARY OF REPRESENTATIONS

Petition – 96 signatures

Date. 1 October 2017

Planning Application No. 10/17/1142

The Current Tauheedul boys school is situated close to the motorway network at shadsworth, this allows traffic to disperse quickly and efficiently onto major A roads and the motorway network. They state that their pupils attend from all over East Lancashire The current proposed site is in the middle of an industrial estate and populated residential area. The roads around this area are only narrow and we feel there is already enough traffic using them. The proposed area has a new railway yard, 2 scaffolding businesses the fire station, BT's yard, several warehouse and good's units not to mention car sales, car repairs and car wash sites. Most of these businesses have HGV's travelling up and down Sumner st daily. The new rail yard is not yet open and as of yet we do not know what traffic will be using the depot. The increased traffic congestion and parking from another large school is going to disrupt the whole infrastructure of the area as well as possibly causing an increase in antisocial behaviour, litter and will have a negative effect on the environment that we live in.

We are therefore lodging an objection on the above mentioned grounds.

St Wilfrids has approx 1500 pupils and is currently building an extension. Duckworth st is blocked almost daily by parents and school transport parking up, not to mention the nearby offices and business traffic. At certain times of the day the surrounding roads are completely impassable with the local buses and traffic unable to move. During the day there are several cars parked on pavements and corners forcing pedestrians into the road. There is also a problem with speeding vehicles in the area. You only have to walk down Canterbury st, Byrom st and Duckworth st to see many vehicles already parked on pavements obstructing motorists views and causing pedestrians to walk in the road.

The proposed site is located near to several bail hostels and the red light district which causes increased anti-social behaviour to our area. We also have a retirement complex in the area (spinneyside) as well as 3 blocks of assisted living units on our estate.

Item 4.1

| Print Name | Ad |
|--------------------|----|
| MARY LAYERS | 5 |
| M. HUNT | 5 |
| E. J. HIGGINS | 5 |
| L. A. GUEST | 29 |
| A. ALLAN | 6 |
| Edward S. STEK | |
| ANN HENRIEVE | 1 |
| M. DUCKWORTH | 1 |
| J. MAUDSLEY | 1 |
| B. MAUDSLEY | 1 |
| m. # wedding | 27 |
| MR. MRS. CALLAGHAN | |
| ~ | |
| J. HOLDEN | 26 |
| MRS. MRS. WHALLEY | 20 |
| " | |
| A. ROBINSON | 3 |
| J. J. V. S. J. | 3 |
| G. BENSUAW | 20 |
| J. BOOTH | 19 |
| R. BOOTH | 19 |
| M. WALSH | 19 |

| | | |
|--------------|---------------------|----------|
| M. CHARANLEY | 24 SPINNEYSIDE | Item 4.1 |
| B. TAYLOR | 31 SPINNEYSIDE | |
| L. DEVINE | 8 SPINNEYSIDE | |
| J. WEBBER | 7 SPINNEYSIDE | |
| B. SUTCLIFFE | 33 SPINNEYSIDE | |
| R. SHORROCK | 14 SPINNEYSIDE | |
| P. SHORROCK | 14 SPINNEYSIDE | |
| I. HARRISON | 25 SPINNEYSIDE | |
| K. CADE | 21 SPINNEYSIDE | |
| S. HENNIGAN | 16 SPINNEYSIDE | |
| N. SHORROCK | 9 BYRON TERRACE | |
| R. BROOKENS | 23 SPINNEYSIDE | |
| R. McLEAN | 12 SPINNEYSIDE | |
| J. RILEY | 9 SPINNEYSIDE | |
| J. FISHER | 3 SPINNEYSIDE | |
| S. EATON | 217 DICKINSON CLOSE | |
| M. WALLBANK | 222 DICKINSON CLOSE | |
| T. CONNOR | 137 FAWCETT CLOSE | |
| J. BARNES | 137 FAWCETT CLOSE | |
| Michael | 228 DICKINSON CLOSE | |
| CATHRINE | 228 DICKINSON CLOSE | |
| S. WALLBANK | 134 FAWCETT CL | |

| | |
|-----------------|-------------------------------|
| MATTHEW NEWTON | 275 TAYLOR CLOSE B, BUTEM 4.1 |
| AGNETHA Paynton | 274 TAYLOR CLOSE B, BAN |
| Pamela Newton | 275 Taylor close |
| nathan chapman | 275 Taylor close |
| Cheryl Newton | 277 Taylor close |
| JUNE NEWTON | 233 Taylor close |
| Michael Newton | 277 Taylor close |
| Jamie chapman | 245 Taylor close |
| A. Wolf Dant | 81 Roebuck Close |
| Emma White | 102 Heatley close |
| KATY SHARP | 261 Taylor close |
| Jason | 102 Heatley close |
| Kristy | 132 FAWCETT CLOSE |
| EMMA WHITE | 133 FAWCETT CLOSE |
| A. S. White | 155 FAWCETT CLOSE |
| K. C. WILKINSKA | 155 FAWCETT CLOSE |
| MONIKA K. | 138 FAWCETT CLOSE |
| LUCAS K. | 138 FAWCETT CLOSE |

| Print Name | Address |
|---------------|--------------------|
| W A SIMPSON | 135 FAWCETT CLOSE |
| R A PICKERING | 136 FAWCETT CLOSE |
| B. Mcleary | 135 fawcett close |
| C. Mulleney | 135 fawcett close |
| H. Kenyon | fawcett close |
| V Mulleney | 135 fawcett close |
| J. mulleney | 135 fawcett close |
| S Knight | 43 Shakespeare way |
| K Knight | 43 Shakespeare way |

| Print Name | Address |
|------------|----------------------------|
| Courtney | 119 Heatley close |
| Amy Dean | 47 Lawrence st |
| Dean | 141 Fawcett close Item 4.1 |
| Tina | 56 Roebuck close |
| Paul | 56 Roebuck close. |
| Kath | 95 Roebuck close |
| R. Currie | 95 Roebuck close |
| L. Puse | 177 Dickenson close |
| P. Roney | 131 Heatley close |
| B. HOLDEN | 141 Fawcett close |

| PRINT NAME | ADDRESS |
|-----------------------|----------------------|
| R. NICKLIN | 12. HAVELOCK CLOSE |
| A. NICKLIN | 10 — " — |
| J. DANIELEWSKA | 86 — " — |
| D. DANIEL | 64 — " — |
| A. BERN. | 2 2 — " — |
| K. Mann | 10 — " — |
| T. Cannolly | 12 — " — |
| | 17 — " — |
| B. CHAMBERS | 15 — " — |
| J. Dean | 11 — " — |
| BARRY WAREDES | 8 — " — |
| KRISTOF SUPRUN | 7 — " — |
| | 5 B. H. — " — |
| Andrew Mitchell | 3 — " — |
| Michelle Marsden | 3 — " — |
| Jules Hanson | 1 — " — |
| Sandra Hume | 1 — " — |
| Kirsty Maynard | 1 — " — |
| ROBERT MANMAN | 10 " " " " |
| | 9 NOT AVAILABLE |
| Pace Mervin | 16 |

Item 4.1

REPORT OF THE DIRECTOR Plan No: 10/17/1380 and 1391

Proposed development: 10/17/1380 – Variation of Condition No.4 pursuant to planning application 10/16/0077 to replace Drawing No BS 12-106/11 with Drawing BS 12-106/11 Rev A to provide an improved arrangement of the playing pitches

10/17/1391 – Deed of Variation of Section 106 Agreement associated with planning application 10/16/0077 to amend the Blackburn Community Sports Club Junior Pitch Replacement and Orientation Works by Replacing Plan 3 in the Agreement from Drawing No. BS 12-106/11 to Drawing No BS 12-106/11 Rev A and amending the associated Schedule of Works and costings.

Site address: Old Blackburnians Memorial Ground, Lammack Road, Blackburn, BB1 8LA

Applicant: Mr Tattersall

Ward: Beardwood with Lammack/Roe Lee

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|--------------------------|--|
| Councillor Michael Lee | |
| Councillor Julie Daley | |
| Councillor Imtiaz Ali | |
| Councillor Phil Riley | |
| Councillor Sylvia Liddle | |
| Councillor Ron Whittle | |



1.0 SUMMARY OF RECOMMENDATION

- 1.1 It is recommended that Members agree to the variation of the Section 106 Agreement, and approve the revised layout associated with the variation of condition application.

2.0 KEY ISSUES/SUMMARY OF PLANNING BALANCE

- 2.1 Since Outline planning permission was granted for the residential development at the March 2016 Planning & Highways Committee, and the associated Section 106 Agreement was signed and sealed on the 1st August 2017, there have been subsequent discussions between the interested parties i.e. QEGS, the Old Blackburnians (OBA), the Old Blackburnians Football Club and the Blackburn Community Sports Club (BCSC) relating to the provision of improved replacement pitches associated with the aforementioned Section 106 Agreement. The changes required to implement these new arrangements are relatively minor, but require the formal process of varying the Section 106 Agreement, and the approved drawing pursuant to planning application 10/16/0077. There are no implications on the proposed development site for the residential development, which will be subject to a separate Reserved Matters application. In essence, the proposal would be to provide the BCSC with more land, so as to enable some additional flexibility in their future operations.

3.0 RATIONALE

3.1 Site and Surroundings

- 3.1.1 The site is located to the east of Lammack Road and the south of Willow Trees Drive, behind the Hare and Hounds pub and the Lammack Methodist Church. It is a relatively flat parcel of land, being around 2.35 hectares, and is currently used as 2no. football pitches for the Old Blackburnians Association.

- 3.1.2 The site has a Public Right of Way to the south and a regular bus service along Lammack Road. To the south of the application site are the QEGS sports pitches; and to the east sits Lammack Juniors football pitches and Pleckgate High School beyond. There is an existing club house and car park on site, along with a number of individual trees, groups of trees and a hedgerow.

3.2 Proposed Development

- 3.2.1 The proposed development pursuant to planning application 10/16/0077, granted outline planning permission at the March 2016 Planning & Highways

Committee, for residential development of up to 75 residential dwellings, including details of the means of access and demolition of existing house.

- 3.2.2 The approval granted under 10/16/0077, was subject to the applicants entering into a Section 106 Agreement (signed on the 1st August 2017), to covenant a financial contribution towards three elements; (i) replacement and reorientation of pitches (£107,186), (ii) refurbishment of changing rooms (£110,000), and affordable housing.

Application 10/17/1391 relates to the proposed Deed of Variation relating to criterion (i) of the legal agreement, primarily the BCSC Junior pitch replacement, and reorientation works to:

“Replace Plan 3 in the Agreement from Drawing No. BS 12-106/11 to Drawing No BS 12-106/11 Rev A”.

Application 10/17/1380 relates to the variation of Condition No.4 pursuant to planning application 10/16/0077. Condition No.4 states:

“No development shall commence on site until a scheme to ensure the continuity of the existing sports use of the playing fields shown edged red on Drawing No BS 12-106/Sketch 02 and BS 12-106/11, is submitted to and approved in writing by the Local Planning Authority, after consultation with Sport England. The scheme shall ensure that a replacement facility is at least as accessible and at least equivalent in terms of size, usefulness, attractiveness and quality to the existing playing fields and shall include a timetable for implementation. The approved scheme shall be implemented and complied with in full throughout the carrying out of the development. REASON: To ensure the satisfactory quantity, quality and accessibility of compensatory provision which secures a continuity of use and to accord with Policy 9 of the Local Plan Part 2 and paragraph 74(ii) of the NPPF.”

The proposed variation seeks to replace Drawing No BS 12-106/11 with Drawing BS 12-106/11 Rev A, to provide an improved arrangement of the playing pitches, and amend Condition No.4 accordingly.

3.2 Development Plan

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

3.2.2 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
- Item 4.2

3.2.3

3.2.4 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 18 – Housing Mix
- Policy 40 – Integrating Green Infrastructure and Ecological Networks with New Development
- Policy 41 - Landscape

3.3 Assessment

3.3.1 The proposed new plan referred to in paragraph 3.2.2, has been agreed between the respective parties and is intended to provide an improved arrangement of the playing pitches. Sport England, as a statutory consultee, has been formally consulted on the proposed changes, and raises no objections. They have consulted with the Football Foundation, who act on behalf of the Football Association, and consider that the additional detail set out below is welcomed.

3.3.2 The additional detail that the proposed revised arrangements will offer has created the following benefits:

- The retention of the existing playing pitches at their current sizes (as per the original drawing pursuant to application 10/16/0077). This is also a mandatory requirement of Sport England.
- The creation of a straight boundary between the re-orientated pitches and the development site, providing a more uniform arrangement.
- An increase in the land available to the BCSC, improving the circulation areas around the pitches.
- The incorporation of a storage facility for sporting goods used by BCSC.
- The identification of a proposed access to the pitches, to be used during the construction period of the adjoining development.
- The re-orientation of the pitches minimises the impact of the existing drainage inspection chambers.
- The incorporation of behind-goal netting.

3.3.3 The schedule of works set out in Appendix A of the legal agreement relating to the Lammack Junior Pitch replacement and re-orientation works will need to

be revised together with the costings set originally as £9,207. These revisions will be drafted by the Council's Senior Team Leader, Green Spaces in the Environment & Leisure Department in consultation with the applicant. The agreed revisions will be included in the Deed of Variation.

- 3.3.4 The current land occupied by BCSC is under a lease to the Council. The land title deeds are proposed to be altered to include a 3 metre strip, which will be gifted to the Council from the owners of the memorial ground. A separate process to receive this piece of land is being coordinated by the Council's Head of Property and Projects. This will also include a further section of land to be transferred between Council title deeds to allow the pitch orientation, and provide arrangements for a new 25 year lease relating to the amended site.
- 3.3.5 Any alterations to the entrance route to the pitches will be completed by OBA/BCSC, in addition to the proposed new storage area. High ball netting is being provided to the rear of one end of pitch 1, to protect balls entering the existing gardens and leaving the site. This new netting will be provided by OBA/BCSC, and is shown on Drawing No.BS 12-106/11 Rev A associated with application 10/171380.

RECOMMENDATION

- 4.1 **10/17/1380: Approve** – replace Drawing No BS 12-106/11 with Drawing BS 12-106/11 Rev A, and amend Condition No.4 pursuant to planning application 10/16/0077 accordingly.

10/17/1391: Approve subject:

- (i) That delegated authority is given to the Director of Growth & Development to approve the proposed Deed of Variation (emphasised in bold) associated with an agreement under S106 of the Town & Country Planning Act 1990, relating to the payment of a financial contribution towards:
- a) Replacement pitches – the 3no. playing pitches at the site are to be lost through the development and require replacement provision, under Policy 9 of the Local Plan Part 2. 2no. pitches are to be provided at Old College Playing Fields, with the developer providing a contribution of £97,979, **and the Lammack Juniors pitch replacement and reorientation works, with the developer providing a contribution to be agreed between the Council and the applicant - Replace Plan 3 in the Agreement from Drawing No. BS 12-106/11 to Drawing No BS 12-106/11 Rev A**
- b) Refurbishment of changing rooms- the existing changing rooms at the site to be lost through development will require the refurbishment of the existing Council owned changing rooms (10no.) adjacent to the Old College Playing Fields, with the developer providing a contribution of £110,000
- c) Affordable Housing - A formula detailing “‘x’ no. of dwellings x (42.5% of average affordable house value) x 20% =£y contribution) towards the provision of affordable housing off-site in the locality. The average affordable

house value is set at £150,000. The number of dwellings is currently proposed as up to 75. Item 4.2

Should the S106 agreement not be completed within 6 months of the date of this resolution, the Director of Growth & Development will have delegated powers to refuse the application.

4.0 PLANNING HISTORY

- 5.1 10/16/0077 – Outline planning permission for residential development of up to 75 residential dwellings, including details of the means of access and demolition of existing club house – subject to S106 Agreement dated 1st August 2017.

5.0 CONSULTATIONS

- 6.1 Sport England – No objections.
- 6.2 2no site notices for each application were posted on the 17th November 2017 – one on Willow Trees Drive, and one on Lammack Road adjacent to the proposed access to the application site. No comments have been received.

7.0 CONTACT OFFICER: Gavin Prescott, Development Manager

8.0 DATE PREPARED: 5th December 2017

DEPARTMENT OF GROWTH AND DEVELOPMENT

Item 5

ORIGINATING SECTION: Planning.

REPORT TO: Planning & Highways Committee 21st December 2017.

TITLE: Petition regarding Full Planning Application (Retrospective) for Retention of alley gates at Underpass on Laburnum Road - rear to 248 Whalley New Road and ahead of 166 Laburnum Road Blackburn

(Application Ref: 10/17/1271)

Applicant: Blackburn with Darwen Borough Council

Ward: Bastwell

| | |
|------------------------------------|--|
| Councillor Parwaiz Akhtar | |
| Councillor Iftakhar Hussain | |
| Councillor Shaukat Hussain | |

1.0 PURPOSE OF REPORT

1.1 To inform Members of the receipt of two petitions relating to the above planning application – one in support of the scheme, and one opposing it.

2.0 BACKGROUND AND DETAILS

2.1 A planning application for the above development was received on 5th October 2015.

2.2 Planning permission for the installation of alley gates to the railway underpass between Whalley New Road and Laburnum Road was originally granted by the Planning and Highways Committee on 29th May 2015. Permission was granted for a period of two years in order that the effect of the development upon the amenities of the neighbouring area could be assessed during this period, and that any future application can be decided on this assessment.

2.3 The planning permission was granted on the basis that the installation and operation of the alley gates at Laburnum Road railway bridge would be subject to the implementation of the document 'Management Plan for Laburnum Road Gating' marked amended version received on 15th April 2015. This document required the alley gates to be open during the day time to allow for access from the residential area on and adjacent to Laburnum Road to the businesses along Whalley New Road and the school on Cedar Street.

2.4 This current application is retrospective in that the gates have been retained beyond their expiry date, and that they are now kept locked on a permanent

basis. Supporting evidence from the Community Safety Team is currently being assessed. Item 5

2.5 The petition received in support of this application to retain the gates on a permanent basis, contains 97 signatures. The reasons given for supporting the retention of the gates can be summarised as follows:

➤ 2.6 Reasons:

- Drug use, selling and distribution.
- Consumption of alcohol at the site.
- Dumping of food and drink waste and fly tipping.
- Harassment of residents through loitering outside houses, bad language, loud music and threatening behaviour.
- Vandalism, graffiti and burglary.
- High speed driving.

2.7 The petition received objecting to the proposal to retain the gates contains 53 signatures. The reasons given for objecting to the proposals can be summarised as follows:

➤ 2.8 Reasons:

- Access needed to schools, shops and mosques.

2.9 A recommendation has yet to be made on the application. The planning application will be presented to the 18th January 2018 Committee for determination.

3.0 **RECOMMENDATION**

3.1 It is recommended that the Committee note both petitions.

4.0 **BACKGROUND PAPERS**

4.1 Planning application 10/17/1271 contains details of the application and the petitions.

5.0 **CONTACT OFFICER** –

5.1 John Wilson – extension 5142.

6.0 **DATE PREPARED** –

6.1 29th November 2017

ORIGINATING DIVISION: HIGHWAYS AND TRANSPORTATION
CAPITA

REPORT TO: BLACKBURN WITH DARWEN BOROUGH COUNCIL
PLANNING AND HIGHWAYS COMMITTEE

DATE: 21st December 2017

TITLE: STOPPING UP OF THE PATH BETWEEN WEST PARK
ROAD AND DUKES BROW

WARD: Corporation Park **COUNCILLORS:** John Wright
Arshid Mahmood
Tasleem Fazal

1.0 PURPOSE OF THE REPORT

The purpose of the report is to inform Members of the receipt of a request from Queen Elizabeth's Grammar School for the Council to progress an Order for the Stopping Up of a path which runs between West Park Road and Dukes Brow, Blackburn and to ask Members to authorise the Director of HR Legal & Corporate Services to apply to the Magistrates' Court for the necessary Order as per the attached plan.

2.0 BACKGROUND AND DETAILS

Capita Highways received a formal request for a stopping up on 19th October 2017 from Queen Elizabeth's Grammar School who have agreed to meet the costs as described in the Council's Fees and Charges list.

The path shown hatched black on the plan runs through Queen Elizabeth's Grammar School grounds and basically bisects the school site. During a recent inspection by Ofsted the path was highlighted as a high risk to pupil safeguarding and a general risk to security. In order that the school's rating was not downgraded, the inspectors require, as a minimum, that security fencing is installed either side of this adopted path. This would greatly increase the already disruptive effect that the path has to the smooth running of the school site and also the head teacher fears that the increased lack of permeability across the site could in the event of a serious fire on site increase the risk to pupils.

As there is an equally commodious path between the two roads approximately 150 metres away it is reasonable to take the view that it has no role as a public highway and is therefore eligible to be Stopped Up under the terms of Section 116 of the Highways Act 1980.

3.0 PROCEDURE

The power to make a Stopping Up Order under the Highways Act is vested in the Magistrates' Court, and only the Highway Authority for the road to be stopped up may make the application. Section 116 allows the Magistrates' to make this order if they are satisfied that the Highway is no longer "necessary" or it "can be diverted so as to make it nearer or more commodious to the public", In this instance the applicable reason for the proposed closure is on the grounds of lack of necessity. The Court will require evidence that the road is unnecessary and that notices and consultations with all affected and interested parties, in

accordance with the requirements of the Act, have been made, and that there are no outstanding objections to the making of the Order.

Item 6.1

4.0 IMPLICATIONS

| | |
|---------------------------|---|
| Customer | None |
| Financial | The costs of implementing the change will be met by Queen Elizabeth's Grammar school. Any future cost on the Council as the Highway Authority for maintaining this path following its closure will cease. |
| Anti-poverty | None |
| Crime and Disorder | None |

5.0 RECOMMENDATION

It is recommended that Committee authorise the Director of HR Legal & Corporate Services to progress with the closure of the path between West Park Road and Dukes Brow, Blackburn and if the Department believes there is a good chance that the application will be successful, to apply to the Magistrates' Court for the necessary Order.

6.0 BACKGROUND PAPERS: None

7.0 CONTACT OFFICERS: Gina Lambert

8.0 DATE PREPARED: 20th November 2017

