

Public Document Pack

Executive Member Decisions

Friday, 12th July, 2019

AGENDA

1. **Food Law Service Plan 2019-20**
EMD - Food Service Plan 2019-20 **2 - 20**
Food Service Plan 2019-20
EIA-Checklist-Food Law Service Plan 2019-20

2. **Livesey Branch Road Section 106 works**
EMD - Livesey Branch Road Section 106 works report **21 - 30**
Appendix 1 - Livesey Branch Road Section 106 works
EIA - Livesey Branch Road Section 106 works

Date Published: 12th July 2019
Denise Park, Chief Executive

EXECUTIVE MEMBER DECISION



REPORT OF: Executive Member for Environment

LEAD OFFICERS: Director of Environment and Operations

DATE:

PORTFOLIO/S AFFECTED: Environment

WARD/S AFFECTED: All

SUBJECT: Food Law Service Plan 2019-20

1. EXECUTIVE SUMMARY

1.1 This report seeks approval for the Food Law Service Plan for the year 2019/20. It details Public Protection and Environmental Health Service's performance in 2018/19 on delivering the Council's obligations to make sure food is safe to eat and is what it claims to be, explains what work is required in 2019/20 and what resource is available to deliver the work.

1.2 The current staffing resource is sufficient to deliver the work required.

2. RECOMMENDATIONS

That the Executive Member:

2. 1 Approves the Food Law Service Plan 2019/20.

3. BACKGROUND

3.1 The Food Standards Agency's (FSA) "Framework agreement on official feed and food controls by local authorities" (Framework agreement) sets out what the FSA expects from local authorities in their delivery of official controls on feed and food law.

3.2 One of the requirements of the framework agreement is that local authorities agree a service plan for the delivery of the official feed and food controls. The Food Law Service Plan for 2019/20 is at appendix 1 to this report.

3.3 The Executive Member for the portfolio has historically agreed a food law service plan on an annual basis.

4. KEY ISSUES & RISKS

4.1 The food law service plan has been drawn up in accordance with the common format suggested

within the framework agreement. It therefore provides all of the details required by the FSA.

4.2 It makes reference to the requirements in the FSA's Food Law Code of Practice. This in particular details the frequency at which food businesses should be inspected or have some other intervention to ensure compliance with legislation designed to make sure food is safe and is what it claims to be. The frequency of inspection depends on the risk of the business causing food poisoning or selling food which is unsatisfactory in some other way. The risk is calculated using a formula in the Food Law code of practice which takes account, amongst other things, of the type of foods sold, suitability of food handling practices, state of repair and cleanliness of the premises and confidence in management in maintaining safe standards. The higher the risk the more often an inspection needs to be carried out.

4.3 The food law service plan details the numbers of the various types of inspections and interventions which the Public Protection Service needs to do in 2018/19 to fulfil its duties to the satisfaction of the FSA. The details of this work are on pages 8-10 of the Service Plan.

4.4 It is anticipated that in 2019/20 there is sufficient resource within the Public Protection Service to deliver the Council's obligations.

4.5 In 2018/19 91.7% of food businesses in Blackburn with Darwen were broadly compliant with food hygiene regulations (this is a score of 3 or above on the Food Standards Agency's Food hygiene Rating Scheme).

5. POLICY IMPLICATIONS

5.1 The work detailed in this Food Law Service Plan supports the corporate plan objectives of reducing health inequalities and improving health outcomes, safe and clean environment and, supporting our town centres and businesses.

5.2 The Environment portfolio corporate scorecard has a measure of the number of food businesses achieving a rating of 3 and above on the FSA Food Hygiene Rating Scheme. Completing the inspection element of the food law delivery plan allows this measure to be reported on.

6. FINANCIAL IMPLICATIONS

6.1 None

7. LEGAL IMPLICATIONS

7.1 The carrying out of inspections follows the Food Standards Agency's Framework Agreement on Local Authority Food Law Enforcement, and the Food Law Code of Practice. Each Competent Authority must have an up-to-date, documented Food Service Plan that covers all areas of food law that the Competent Authority has a duty to enforce and set out how the authority intends to deliver Official Controls within its area.

8. RESOURCE IMPLICATIONS

8.1 None

9. EQUALITY AND HEALTH IMPLICATIONS

Please select one of the options below. Where appropriate please include the hyperlink to the EIA.

Page 3

Option 1 Equality Impact Assessment (EIA) not required – the EIA checklist has been completed.

Option 2 In determining this matter the Executive Member needs to consider the EIA associated with this item in advance of making the decision. *(insert EIA link here)*

Option 3 In determining this matter the Executive Board Members need to consider the EIA associated with this item in advance of making the decision. *(insert EIA attachment)*

10. CONSULTATIONS

10.1 The food law service plan will be made available on the council's website for comment.

11. STATEMENT OF COMPLIANCE

The recommendations are made further to advice from the Monitoring Officer and the Section 151 Officer has confirmed that they do not incur unlawful expenditure. They are also compliant with equality legislation and an equality analysis and impact assessment has been considered. The recommendations reflect the core principles of good governance set out in the Council's Code of Corporate Governance.

12. DECLARATION OF INTEREST

All Declarations of Interest of any Executive Member consulted and note of any dispensation granted by the Chief Executive will be recorded and published if applicable.

VERSION:	1
-----------------	----------

CONTACT OFFICER:	Denise Andrews
-------------------------	-----------------------

DATE:	May 2019
--------------	----------

BACKGROUND PAPER:	None
--------------------------	------

**BLACKBURN WITH DARWEN
BOROUGH COUNCIL
PUBLIC PROTECTION SERVICE**

FOOD LAW SERVICE PLAN
2019-20

CONTENTS

1. SERVICE AIMS AND OBJECTIVES

2. BACKGROUND

3. SERVICE DELIVERY

4. RESOURCES

5. QUALITY ASSESSMENT

6. REVIEW

INTRODUCTION

This plan explains how Blackburn with Darwen Borough Council will deliver its responsibilities for food law enforcement through its Public Protection Service (PPS) for 2019/20. In addition it reviews the work carried out in the previous year to meet the Council's plans and obligations.

Blackburn with Darwen Borough Council is a unitary authority which has responsibility for regulating businesses with regards to food hygiene, safety, standards and food and feed hygiene at primary production.

The plan has been produced in accordance with the Food Standards Agency Framework Agreement on Local Authority Food Law Enforcement.

The plan seeks to provide clarity on what we do and why we do it.

The plan is reviewed and updated annually. It is presented before the Executive Elected Member for Environment for consideration and approval.

1. SERVICE AIMS AND OBJECTIVES

1.1 Aims and Objectives

Aims

To ensure a fair and safe trading environment and to improve standards of health and reduce inequalities in the Borough through the development and implementation of effective inspection programmes.

The aims and objectives have been set with reference to the Council's corporate strategic objectives, The Food Standards Agency Framework Agreement and Food Standards Agency Codes of Practice and Practice Guidance.

Objectives

The prime objectives of the service in relation to food are:

- Deliver the Food Safety Inspection Regime
- Deliver the Food Standards Inspection Regime
- Promote and administer the Recipe 4 Health Scheme

1.2 Links to Corporate Objectives and Plans

Corporate Plan 2019-23

The Corporate Plan has 4 strategic themes underpinned by eight corporate priorities – these are:

- **People – A good quality of life for all our residents**
 - P1. Supporting young people and raising aspirations
 - P2. Safeguarding and supporting the most vulnerable people
 - P3. Reducing health inequalities and improving health outcomes
- **Place – Community pride in a vibrant place to live and visit**
 - P4. Connected Communities
 - P5. Safe and clean environment
- **Economy – A strong and inclusive economy with continued growth**
 - P6. Strong, growing economy to enable social mobility
 - P7. Supporting our town centres and businesses
- **Council – Delivered by a strong and resilient council**
 - P8. Transparent and effective organisation

FOOD LAW SERVICE PLAN 2019/20

The work detailed in this Food Law Service Plan supports the corporate plan objectives of reducing health inequalities and improving health outcomes, safe and clean environment and, supporting our town centres and businesses.

The Public Protection Service in turn draws up an annual Service plan which details work priorities to contribute to the Council's overall priorities. This food service delivery plan is aligned to it. Each individual member of staff, through the annual appraisal process, is set work objectives to ensure the overall achievement of these plans.

2. BACKGROUND

2.1 Profile

Blackburn with Darwen lies on the boundary between the Lancashire countryside and the Greater Manchester conurbation.

The central urban areas of the Borough have many problems more often associated with inner cities – high population density, and many people from disadvantaged or vulnerable groups.

2.1.1 Population

The early 2011 Census statistics show a number of key changes to our population have occurred since 2001, predominantly:

- population has increased from 137,400 in 2001 to 147,500 in 2011 - 7.3% increase
- 30.8% of the borough's population are from Black and Minority Ethnic groups.

The people of Blackburn with Darwen face exceptional challenges to their health and wellbeing. These challenges are associated with a number of factors including relatively low educational attainment, low income, high unemployment, and poor and often overcrowded housing.

Life expectancy data from the early 1990s onwards has shown that in Blackburn with Darwen resident's average life expectancy has been below that of the England and Wales and North West averages. Generally life expectancy for males and females in the borough has seen a gradual increase, although this increase has not been to the same rate as in England and Wales as a whole.

2.2 Organisational arrangements

The delivery of the Food Service Plan sits with the Council's Public Protection and Environmental Health Service. This is part of the Environment and Operations Department.

FOOD LAW SERVICE PLAN 2019/20

The authority has made provisions with the following bodies in order to deliver certain specialist areas:

Public Analyst Services provided by Lancashire County Analyst

The Consultant in Communicable Disease Control is drawn from a pool of staff at Public Health England.

2.3 Scope of the Food and feed service

Food hygiene, safety and standards matters are dealt with by Environmental Health Officers (EHOs) within the business compliance team. Higher risk food standards inspections are carried out by Trading Standards Officers.

Animal feed inspections are undertaken by Oldham Council acting on our behalf.

The range of work undertaken is:

- Taking appropriate action on all food alerts
- Investigating food poisoning outbreaks
- Investigating food complaints
- Completing risk-based inspections (including revisits) for food hygiene and standards.
- Responding to service requests and complaints
- Responding appropriately to all non-outbreak infectious disease notifications
- Completing all new registrations, including risk rating within 28 days where resources allow
- Completing the sampling programme
- Providing advice to food business operators
- Maintaining the APP/FLARE database
- Maintaining the food safety website
- Improving partnership working
- Working with EHL and TSNW to provide coordinated and consistent food safety/trading standards activities throughout North West/Lancashire/Manchester
- Providing publicity campaigns and promotional activities
- Establishing and maintaining Primary Authority relationships
- Supplying accurate and timely information to stakeholders, internal management and customers
- Providing advice on planning and building control applications where there are significant developments
- Deliver Recipe 4 Health Award scheme on behalf of the Council's Public Health Service

2.4 Demands on the feed and food service

There are 1365 food premises currently registered in Blackburn with Darwen.

Profile of establishments

Primary Producers – 5
Manufacturer/Packer – 38
Food Importer/Exporter – 3
Distributor/Transporter – 14
Supermarket/Hypermarket – 27
Small Retailer – 290
Retailer/Other – 59
Restaurant/Cafe/Canteen – 168
Hotel/Guest House – 15
Pub/Club – 127
Take Away – 186
Caring Premises – 213
School/College – 73
Mobile Food Unit – 19
Restaurant/Caterer Other – 79

Approved premises

Meat Preparation Establishments – 1
Meat Product Establishments – 12
Dairy Establishments – 4
Egg Processors - 2

Demand for out of hours inspections can come from any of these premises ranging from clubs and pubs to take away premises.

There is also a large resource demand from premises which change hands, swapping from experienced owners to new investors who need guiding through food hygiene and trading standards legislation.

The Public Protection Service is delivered from Davyfield Depot, White Dove Building, Roman Road Industrial Estate, Blackburn, BB1 2LX.

The service is available from 9am to 5pm Monday-Friday. Telephone callers are routed through the Council contact centre which is open 9am-5pm Monday-Friday.

First point of contact for trading standards matters is provided by Citizens Advice Consumer Service.

The emergency out of hours contact number is 01254 51098.

2.5 Enforcement policy

The Council's enforcement policy embraces the policies and procedures detailed in the Regulators Code. The policy is published on the Council's website.

3 SERVICE DELIVERY

3.1 Interventions in food and feeding stuffs establishments

Inspections for all food premises are risk-based and pre-programmed. For food hygiene purposes the Food Standards Agency Food Law Code of Practice risk rating scheme is used. These scores are fed into the national Food Hygiene Rating Scheme which publishes business ratings for food hygiene on the website: <http://ratings.food.gov.uk/>

Food standards inspections are also scored using the Food Standards Agency Food Law Code of Practice risk rating scheme.

In 2018/19 on average 91.7% of businesses were found at inspection to be broadly compliant with food hygiene legislation.

The following table identifies the inspection requirements for 2019/20:

	Number of inspections required	Comment
Cat A hygiene	5	Min 6 monthly inspection
Cat B hygiene	59	Min 12 monthly inspection
Cat C hygiene	146	Min 18 monthly inspection
Cat D hygiene	202	Min 24 monthly inspection – intervention inspection
Cat E hygiene	208	Min 36 monthly inspection – dealt with by alternative enforcement questionnaire
Outside the programme	161	Child minders, some church halls supplying very low risk foods
Primary producers	5	Farms
Unrated hygiene premises	81	Premises that have sent in a food registration form but which have not yet been inspected. These premises will be inspected during this calendar year
Cat A food standards premises	18	Inspection every 12 months
Cat B food standards premises	68	Inspection every 2 years

FOOD LAW SERVICE PLAN 2019/20

Cat C food standards premises	103	Alternative enforcement/Intervention every 5 years – alternative enforcement questionnaire
Outside the programme	161	Child minders, some church halls supplying very low risk foods
Unrated standards premises	81	Premises that have sent in a food registration form but which have not yet been inspected. These premises will be reviewed during this calendar year

Many of the programmed inspections carried out require revisiting to ensure work required to bring the premises back into compliance with the standards set out in the regulations has been completed. Averaged over the last 7 years there have been 179 revisits per year. It is anticipated a similar number of revisits will be required in 2019/20. Food businesses will be brought into compliance through the use of advice, both verbally during the inspection and in writing. Where this proves to be insufficient we will use more formal methods such as improvement notices, remedial action notices and prosecutions.

Our Alternative Enforcement Strategy comprises a letter and questionnaire requiring information on the following.

- Type of food business
- What the business does with regard to food
- Number of vehicles used
- Water supplier
- Name of manager
- Number of people engaged in the business
- Opening times
- Training of the owners and staff
- Off site facilities
- Outline of the business in graphic form

When the information is received it is scanned onto the FLARE system and reviewed by the Principle Officer to determine if a change in rating is required. Where the risks have increased then the change is applied.

The current staffing levels are considered sufficient to deliver the food hygiene and standards inspection program for 2019/20.

3.2 Feed and Food complaints

We deal with complaints as detailed in the Code of Practice from the FSA and we adopt a business compliance approach to all regulatory activity.

3.3 Home authority principle and primary authority scheme

Under the Regulatory Enforcement and Sanctions Act 2008 local authorities may agree to become a primary authority for a food business – this principle is supported by the Public protection service.

The service currently has a number of informal home authority arrangements with food businesses and as primary authority for 2 businesses. In 2019/20 we will continue to work to establish primary authority partnerships with willing partners.

3.4 Advice to businesses

In 2019/20 we will continue to provide a basic level of advice either during inspections or by signposting businesses to information freely available on the internet etc. In 2018/19 advice was given to premises during a programmed inspection on 61 occasions. In addition, on a further 183 occasions advice was requested by businesses.

Where more in-depth advice is requested by a business, which may include a visit to a business premises, costs will be recovered for the time spent providing the advice. The current fee is published on the Council's website <http://www.blackburn.gov.uk/Pages/Fees-and-charges-booklet.aspx>

3.5 Feed and food sampling

The Service will continue to participate in sampling surveys organised through the Lancashire Food Officer group and TSNW where the study is relevant to Blackburn with Darwen and our staff resources allow.

Samples from manufacturing premises will remain a priority for the service. Should a specific local problem be identified, then a themed sampling survey may be undertaken. In addition, food samples may be taken during investigations of food safety problems originating in Blackburn with Darwen notified by other authorities.

Feeding stuff and feed hygiene enforcement is undertaken by Oldham Council as part of the animal health enforcement contract.

During 2018/19 we took 12 samples.

3.6 Control and investigation of outbreaks and food related infectious diseases

Infectious and communicable disease control is an important factor of food safety. The responsibility for the delivery of investigations into outbreaks is a

FOOD LAW SERVICE PLAN 2019/20

co-operative venture between the Public Health England, Local Authorities and other agencies.

Notifications are followed up by visit, phone call or questionnaire depending on the nature of the disease and numbers of people affected. As far as possible we follow the Public Health Operational Guidelines for Enteric Fever together with the "Procedure for the management of an outbreak of food poisoning and gastro intestinal illness". In 2019/20 we will prioritise our response with samples only being taken for high risk cases with high risk infections such as Typhoid, E. coli 0157 and Salmonella. We will not respond to residential home outbreaks where symptoms and onset patterns suggest the most likely cause to be a non-food borne virus.

The following shows the number of confirmed cases of food borne illness over recent years:

13/14 – 200 cases
14/15 – 219 cases
15/16 – 208 cases
16/17 - 212 cases
17/18 – 199 cases
18/19 - 193 cases

This requires resources from officers up to the equivalent of 0.15 FTE.

3.7 Feed/food safety incidents

The public protection service will respond promptly to all food alerts issued by the FSA and notify the Agency of any serious localised issue or wider food safety incident identified, in accordance with the code of practice.

We currently receive all food alerts to individual officers via email and through the FSA Inbox.

Any food alerts needing notification out of normal office hours can be done by contacting the Council's emergency contact number - 01254 51098.

Estimate of resource needed 0.05 FTE.

3.8 Liaison with other organisations

The Service is a member of Environmental Health Lancashire and Trading Standards North West (TSNW). Each has several subgroups where specialist areas of work are considered. It is estimated that the staff resource to attend meetings of these groups amounts to 8 days per year.

FOOD LAW SERVICE PLAN 2019/20

3.9 Feed and food safety and standards promotional work and other non-official controls interventions

The Public Protection Service is committed to promoting initiatives which impact on the health, safety and wellbeing of residents and visitors to the borough. In 2019/20 the service will contribute to the following projects:

- Recipe 4 Health
- Maintenance of the Food Hygiene Rating Scheme

Information and guidance on food matters is included on the services website pages.

4. RESOURCES

4.1 Financial allocation

The annual budget for food safety and health and safety includes:

	£
Staffing	196,300
Travel and subsistence	7,400
Equipment (including IT)	3,000
Total	206,700

4.2 Staffing allocation

The staff engaged in delivering the food/feed service are as follows:

	FTE
Public protection service lead	0.01
Business compliance and licensing manager	0.25
Principal officer	0.8
Senior environmental health officer	0.6
Environmental health officer	2.0
Trading Standards officer	0.05
Administrative support is provided through a Business Support hub	

All technical members of staff hold a certificate of registration with the Environmental Health Registration Board (EHRB) or the Diploma in Environmental Health or Diploma in Trading Standards.

4.3 Staff development plan

Training needs are identified for each individual member of staff through the annual appraisal process. In line with changes to the Food Law Code of Practice and Practice Guidance in 2017 an assessment of staff competency is undertaken during this appraisal. As a minimum 20 hours CPD training will be provided with an additional hours for those staff undertaking official controls at approved dairy establishments.

5. QUALITY ASSESSMENT

The public protection service subscribes to an externally controlled quality system called RIAMS

6. REVIEW

6.1 Review against service plan

The food law enforcement delivery plan forms part of the Public protection services annual service plan. Progress against the objectives set within it is reviewed on a six monthly basis through the departmental management accountability framework process. Any deviations from meeting objectives are reported to the Director of Environment and Leisure.

6.2 Review of 2018/19 including variances from service plan

Task	What was achieved
Carry out food hygiene and food standards inspections (as required by Codes of Practice and the Framework Agreement) and take all necessary follow-up action to bring businesses into compliance.	<p>All the category A, B, C and D food hygiene risk inspections were carried out. Those premises found to be out of compliance were addressed through both formal and informal enforcement action and brought back into legal compliance</p> <p>The team carried out 486 visits to food premises designated as A, B and C risk in the FSA food standards risk rating scheme</p> <p>The % of food businesses within the borough that were classified as broadly compliant with the legislation</p> <p>2014 – 2015% broadly compliant 89.9%</p> <p>2015 – 2016 % broadly compliant 93.8%</p> <p>2016 -17 % broadly compliant 92.2%</p> <p>2017 – 18 % broadly compliant 91.96%</p> <p>2018 – 2019 % broadly compliant 91.7%</p> <p>This drop of 0.2% represents 2 premises dropping out of the broadly compliant band.</p>

FOOD LAW SERVICE PLAN 2019/20

Task	What was achieved
Monitor all infectious disease notifications (and investigate those falling within the criteria set out in the infectious disease policy)	193 cases of foodborne infectious disease were reported. Those requiring further action, such as salmonellosis, were fully investigated. No cases were formally associated with food businesses within the Borough.
Respond to all food alerts and take all necessary follow-up action	The food alerts published by the FSA were monitored electronically. Those requiring action were prioritised and implemented
Respond to service requests and enquiries	361 service requests were responded to within the appropriate timescale
Make arrangements to license, register and give approval to all those premises that require such actions	80 new business registrations were received. 3 businesses approved to produce meat products.
Raise food safety awareness and standards in the business sector.	In all our contacts with businesses our officers provide professional advice and information to raise standards within that business sector Two allergen training sessions were well received and more will be provided in 2019/20.
Raise food safety awareness of customers and the general public.	Where resources allow we promote locally FSA public information campaigns
Develop the food safety website further, publishing details about our performance and why we do things but only when resources are available	This year the food website was subject to maintenance only resourcing. The site however continues to offer important compliance information and signposts enquiries to the externally supported web pages of the FSA
Carry out a food sampling programme subject to resources available	The food sampling programme was completed with 12 samples taken looking at allergenic compliance and composition.
Explore opportunities for external funding	Funding for the Recipe 4 Health award scheme was provided by BwD Public Health for 2018/19. The service level agreement was fulfilled by officers.
We will maintain close contact channels with Citizens Advice Consumer Service.	Channels were maintained with work regularly being passed from Citizens Advice Consumer Service to Public Protection Service for both food standards and food hygiene issues.

6.3 Areas for Improvement

Changes to administration staff arrangements

Administrative support embedded with the team has been removed and placed in a centralised administration hub. This has led to changes in personnel and skills available to input new food business registrations. This resulted in delays to first inspection, impacting on the 28 day target.

A new process has been adopted which is designed to resolve this issue in 2019/20.

EQUALITY IMPACT ASSESSMENT CHECKLIST

This checklist is to be used when you are uncertain if your activity requires an EIA or not.

An Equality Impact Assessment (EIA) is a tool for identifying the potential impact of the organisation's policies, services and functions on its residents and staff. EIAs should be actively looking for negative or adverse impacts of policies, services and functions on any of the nine protected characteristics.

The checklist below contains a number of questions/prompts to assist officers and service managers to assess whether or not the activity proposed requires an EIA. Supporting literature and useful questions are supplied within the [EIA Guidance](#) to assist managers and team leaders to complete all EIAs.

Service area & dept.	Public Protection and Environmental Health Environment and Leisure	Date the activity will be implemented	01/04/2019
---------------------------------	-----------------------------------------------------------------------	----------------------------------------------	------------

Brief description of activity	Delivery of the Food Law Service Plan 2019/20– a plan to deliver the Council's obligations to ensure safe food is provided by businesses operating within the Borough as detailed in the food Standards Agency's Food Law Code of Practice. https://www.food.gov.uk/enforcement/codes-of-practice/food-law-code-of-practice
--------------------------------------	------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------

Answers favouring doing an EIA	Checklist question	Answers favouring not doing an EIA
<input type="checkbox"/> Yes	Does this activity involve any of the following: - Commissioning / decommissioning a service - Budget changes - Change to existing Council policy/strategy	<input checked="" type="checkbox"/> No
<input type="checkbox"/> Yes	Does the activity impact negatively on any of the protected characteristics as stated within the Equality Act (2010)?	<input checked="" type="checkbox"/> No
<input type="checkbox"/> No <input type="checkbox"/> Not sure	Is there a sufficient information / intelligence with regards to service uptake and customer profiles to understand the activity's implications?	<input checked="" type="checkbox"/> Yes
<input type="checkbox"/> Yes <input type="checkbox"/> Not sure	Does this activity: Contribute towards unlawful discrimination, harassment and victimisation and other conduct prohibited by the Act <i>(i.e. the activity creates or increases disadvantages suffered by people due to their protected characteristic)</i>	<input checked="" type="checkbox"/> No
<input type="checkbox"/> Yes <input type="checkbox"/> Not sure	Reduce equality of opportunity between those who share a protected characteristic and those who do not <i>(i.e. the activity fail to meet the needs of people from protected groups where these are different from the needs of other people)</i>	<input checked="" type="checkbox"/> No
<input type="checkbox"/> Yes <input type="checkbox"/> Not sure	Foster poor relations between people who share a protected characteristic and those who do not <i>(i.e. the function prevents people from protected groups to participate in public life or in other activities where their participation is disproportionately low)</i>	<input checked="" type="checkbox"/> No
FOR =0	TOTAL	AGAINST =6

Will you now be completing an EIA?

Yes

No

The EIA toolkit can be found [here](#)

Assessment Lead Signature	D.J. Andrews
Checked by departmental E&D Lead	<input checked="" type="checkbox"/> Yes <input type="checkbox"/> No Gwen Kinloch
Date	09/07/2019



BLACKBURN
with
DARWEN
BOROUGH COUNCIL

EXECUTIVE MEMBER DECISION



REPORT OF: Executive Member for Growth and Development

LEAD OFFICERS: Director of Growth and Development

DATE: 10th June 2019

PORTFOLIO/S AFFECTED: Growth and Development

WARD/S AFFECTED: Livesey with Pleasington

SUBJECT: Livesey Branch Road Section 106 works

1. EXECUTIVE SUMMARY

The Council has delivered a highways improvement scheme at Livesey Branch Road / Moorland Drive as part of the Kingswood Homes development. The Council published a Section 90A notice in relation to the introduction of a raised speed table and associated traffic calming measures. The Council and the Executive Member for Growth and Development now wishes to respond formally to comments received.

2. RECOMMENDATIONS

That the Executive Member for Growth and Development:

- 1) Notes the comments received from residents
- 2) Has considered modifications and amendments to the scheme in light of comments received
- 3) Agrees to the scheme's introduction and ongoing monitoring of the situation by Council Officers

3. BACKGROUND

The Council has recently delivered a number of measures in relation to improvements to the highway at Livesey Branch Road including:

- New junction arrangements at Livesey Branch Road / Moorland Drive
- A raised junction table with resin bonded surface dressing
- Footway widening and carriageway narrowing at Moorland Drive
- A new pedestrian refuge adjacent to Old Gates Drive
- Repositioning of a BT manhole chamber and cabinets

The Livesey Branch Road traffic calming measures have been funded by Section 106 contribution from the Kingswood Homes development.

4. KEY ISSUES & RISKS

The Executive Member for Growth and Development is asked to consider the following issues which have been raised in response to the notice issued on site under the regulations contained within the 1980 Highways Act and via the public notices section of the Lancashire Telegraph on 20th December 2018:

The Local Highway Authority is authorised by Section 90A of the Highways Act 1980 to put in speed humps and other traffic calming measures on the local highway network. Such matters are not made by Traffic Regulation Order but instead following a period of consultation.

The introduction of traffic calming measures was consulted upon as part of the wider Housing development off Livesey Branch Road, when planning application 10/16/1132 for the new housing estate was submitted and obtained in 2016 as part of the statutory planning process.

Furthermore, the Council, under its obligations under the 1980 Highways Act issued a further notice on site and via the public notices section of the Lancashire Telegraph on 20th December 2018.

Response to the Legal Notice:

Three responses were received by the Council's Legal Services section before the 11th January 2019 deadline, from adjacent properties on Livesey Branch Road (numbers 445, 447 and 449). The issues raised have been attached to this paper in appendix 1 and are responded to as follows:

Planning period:

The Livesey Branch Road traffic calming measures have been delivered as part of the "Phase A – Gib Lane Masterplan" project, planning application 10/16/1132.

The planning application was granted full planning permission on 5th January 2017 as follows: "Land off Livesey Branch Road Blackburn BB2 5BX, Erection of 167 No. residential dwellings, new village green/public open space, provision for a future community building, new access junction to Livesey Branch Road, associated highway infrastructure and drainage attenuation measures forming Phase A of the wider Gib Lane Masterplan site."

Livesey Branch Road residents were formally consulted on the amendments to the planning application by letter on the 28th November 2016. The Council's planning IT system generates a copy of all physical letters which were sent out by Royal Mail second class. The Council does not send such correspondence via registered or recorded post.

Plans for the residential dwellings, new village green/open space, new access junction to Livesey Branch Road and associated highways infrastructure were also available for inspection throughout the planning process at Blackburn and Darwen Town Halls and via the Council's website at www.blackburn.gov.uk/planning

The 15th December 2016 Planning Committee approved the planning application subject to conditions.

Rationale behind the design:

The Council is committed to mitigating the impacts of new housing developments and is responding to wider concerns over traffic levels, congestion and speeds. The design and implementation of the works forms the Council's agreed and approved response through the Planning System.

This form of junction table slows vehicles down on all approaches and the increased plateau length allows longer vehicles to have both axles supported on the hump, meaning a better ride quality which is particularly important on bus routes such as Livesey Branch Road.

The reduced kerb height employed allows wheelchairs and prams to cross at multiple positions, in a prominent position where drivers' perception and awareness is increased.

The junction table, together with central islands on approach are intended to provide a gateway feature and slow traffic down on approach to the new development access. To influence drivers' speed further, the carriageway at this location is narrowed as far as possible whilst still allowing all manoeuvres to be undertaken.

Livesey Branch Road and Speeding:

The Moorland Drive works have been introduced as part of a series of traffic calming measures on Livesey Branch Road, including:

- Green Lane / Livesey Branch Road: mini roundabout introduced as part of the Building Schools for the Future programme
- Moorland Drive / Livesey Branch Road: junction table and associated narrowing of the carriageway, to slow vehicles down
- Safety Camera highway re-marking: which has accompanied recent resurfacing works on Livesey Branch Road.

Noise levels:

The Council has done all it can to limit noise from the new highways arrangements by the use of appropriate materials, deflections and tolerances suggested by the Department for Transport within their Manual for Streets 1 and 2 and Design Manual for Roads and Bridges.

The construction methods cannot, of course, prevent noise from loose panels hitting and dropping off the table, or all noise from vehicles on a busy trunk road.

Pedestrian Access:

Views regarding alternative pedestrian crossings in the local area have been noted. The package of works has been designed to slow traffic down (by narrowing the carriageway, delivering an additional refuge and level junction table) in addition to aiding pedestrians crossing the highway, both from the perspective of existing residents and those from future housing developments in the Gib Lane area in accessing key local facilities, schools and public transport.

The island has been positioned in order to deliver pedestrian crossing and road safety improvements for not only the Kingswood estate, who have funded the scheme through the planning system, but also the residents (young and old) of Livesey Branch Road. Residents from the southern side of Livesey Branch Road and Kingswood will now get a further opportunity to cross to local shopping facilities at Pinewood without crossing Pinewood.

Inconsiderate road users:

The Council does not have any statutory powers relating to “anti-social” behaviour of motorists and is therefore unable to take action against individuals that are verbally abusing residents when making manoeuvres on and off driveways. The Council will continue to monitor road safety at this location on an ongoing basis and will continue dialogue with the Roads Policing Unit of Lancashire Constabulary.

Vehicle accessibility to drives:

The Council has already extended the dropped kerb in front of 445 Livesey Branch Road to accommodate larger vehicles and to improve manoeuvrability to and from the resident’s driveway.

The Council has also reduced the size of the Pedestrian Refuge Island outside 445 and 447 Livesey Branch Road to accommodate greater manoeuvrability of vehicles to and from driveways.

5. POLICY IMPLICATIONS

The scheme accords with the Council’s Local Transport Plan 3 2011 – 2021 strategy in relation to the overarching goals to:

- Support the economy
- Tackle climate change
- Increase safety and security
- Promote equality of opportunity
- Promote quality of life, health and the natural environment

6. FINANCIAL IMPLICATIONS

A significant developer contribution via Section 106 has been received from Kingswood Homes in relation to the development, with a £451,000 commuted sum payment requested as set out in schedule 2 to the agreement. Part of this sum was agreed to be released following completion of the 115th dwelling to cover:

“4 – Highways Works – Balance of construction of new vehicular access onto Livesey Branch Road, including raised table, new pedestrian refuge and footway widening on Livesey Branch Road and associated TROs, accommodation works and traffic management, including the Livesey Branch Road junction construction - £39,190”.

The scheme was approved for progression within the Local Transport Plan 2018/29 programme, signed off at the meeting of the 8th March 2018 Executive Board.

7. LEGAL IMPLICATIONS

The local highway authority is authorised by s90A of the Highways Act 1980 to put in speed humps and other traffic calming measures on the local highway network. Such matters are not made by Traffic Regulation Order but by way of notice. However, this should follow a period of prior consultation in accordance with Highways Act requirements. Accordingly, despite the broad informal consultation of the wider Housing development off Livesey Branch Road, when planning application 10/16/1132 for the new housing estate was submitted, the required prior consultation under the Highways Act 1980 was not technically compliant.

Any comments or criticisms following the publishing of the traffic calming notice have been considered by the Council, as have modifications proposed by the feedback from local residents within this report.

8. RESOURCE IMPLICATIONS

None

9. EQUALITY AND HEALTH IMPLICATIONS

Please select one of the options below. Where appropriate please include the hyperlink to the EIA.

Option 1 Equality Impact Assessment (EIA) not required – the EIA checklist has been completed.

Option 2 In determining this matter the Executive Member needs to consider the EIA associated with this item in advance of making the decision. *(insert EIA link here)*

Option 3 In determining this matter the Executive Board Members need to consider the EIA associated with this item in advance of making the decision. *(insert EIA attachment)*

10. CONSULTATIONS

Information regarding consultations is contained within Section 4 of this report.

11. STATEMENT OF COMPLIANCE

The recommendations are made further to advice from the Monitoring Officer and the Section 151 Officer has confirmed that they do not incur unlawful expenditure. They are also compliant with equality legislation and an equality analysis and impact assessment has been considered. The recommendations reflect the core principles of good governance set out in the Council's Code of

Corporate Governance.

12. DECLARATION OF INTEREST

All Declarations of Interest of any Executive Member consulted and note of any dispensation granted by the Chief Executive will be recorded and published if applicable.

VERSION: 0.1

CONTACT OFFICER: Mike Cliffe, Strategic Transport Manager

DATE: 29th May 2019

**BACKGROUND
PAPER:** None

Response 1:

Dear Ms Roxborough

I am emailing in reference to the attached notice detailing proposed changes and the introduction of traffic calming measures to Livesey Branch Road.

My first observation is that this states that it is in accordance with the provisions of Section 90A of the Highways Act 1980; the Highways (Road Humps) Regulation 1990 and all other enabling powers to establish these measures. Could I ask if these Acts, Regulations etc contain a provision for this work to be undertaken and completed before any such notices have been posted? I only ask this as work commenced on these traffic calming measures on 28th November 2018 and the date of the notice for the proposal posted on a nearby lamp post is dated 20th December 2018 a day or so after this work had been completed. Since no notice had been posted prior to the commencement of this work and the affected residents had neither been notified, nor given any opportunity to register any opposition to these measures then my assumption is that this work has not been carried out in accordance with the aforementioned Highways Act (1980) nor the Highways Regulation (1990). Therefore, this work should not have been carried out as it had not been approved and as a consequence I ask that the application be refused and the traffic calming measures be removed since there appears to be a serious breach in policy which needs addressing as a matter of urgency.

I am also calling into question the professional ethics of those who have been involved and allowing the work to commence overriding the correct and proper procedure. I was under the impression the Council staff had moral responsibilities to ensure that principles, regulations and procedures are followed and required standards adhered to on behalf of Council Tax payers. These it appears, have not been followed. I cannot help thinking that this retrospective notice has only been posted following the complaints that myself and my neighbours have made to our ward Councillors who have been dealing with the matter on our behalf and who incidentally were unaware of this work going ahead. Effectively by allowing the work to be undertaken before the posting of the notice means that my neighbours and myself have no voice in these matters nor a way of making known our opposition beforehand or having the opportunity to object in a rationale and reasoned way. All this notice appears to be is a box-ticking exercise and can I just also say that this is not the first time that notice for retrospective planning permission has been posted concerning the Green Hills Site. However, having the ability to express our opinions and objections in such matters before any work of this type is started is a fundamental right and what has been allowed to happen is a total contravention of these rights.

As to my objections to the work involved in traffic calming measures whether proposed or in this case retrospectively then my opinions would be/are the same. Firstly, they create a lot of additional traffic noises on an already busy road. These calming measures means that there is now the constant sound of vehicles slowing up and accelerating compounded by vehicles blaring out loud music. There is also the noise of lorries and vans bumping and clattering as they hit the raised section and as they draw away and this is happening in the early hours of the morning. Then there is the potential danger of vehicles shedding their loads on the road as a consequence. Has anyone thought about lorry drivers who are going about their work who are impeded in this way? Obviously not. Then there is the crossing point that has been position right outside my home. This means neither myself, any visitors nor deliveries can stop and park outside my home all for a crossing that will not be and on my observation is not used; a crossing which is of great inconvenience to me. The positioning of the crossing means that if I am driving home from the direction of Ewood then I have difficulty in turning into my drive from this direction as there is insufficient space causing an obstruction to me. On one of my attempts, I turned to manoeuvre into the drive and had not the space to turn and would have hit the wing on my gatepost had I not stopped. In the mean time a car had been tearing down the road behind me. Thankfully he stopped and allowed me to reverse back out into the road and then straighten the car up draw forward into my drive. But not all drivers are a

considerate or as accommodating as this and why should I put up with this inconvenience or be potentially subjected to fits of road-rage from the unsympathetic drivers that travel on this road, just to get to my own home? The narrowing of the road in the vicinity of Moorlands Drive is also a danger and I have seen cars coming from the direction of Feniscowles have to make a last-minute swerve out into the middle of the road to avoid hitting the protruding kerb and for what reason is that there? In my view this is another accident waiting to happen.

It seems to me that regulations, policies, procedures have all been totally disregarded as Blackburn with Darwen Council knew what the reaction would be from the residents in proximity to the measures and so by putting them in place beforehand means that it would be more difficult to have them removed. Objections beforehand should have been investigated delaying any such measures being imposed on us. This is an appalling underhanded tactic and the "proposal" needs to be rejected in the name of integrity.

I trust that my comments will be met with the appropriate courtesy; read, considered, presented to the Planning Committee and I would be interested in receiving your comments in this matter. For reference I am copying in my ward councillors who as previously stated are fully aware of the situation.

Response 2:

Dear Sian Roxborough

We write in relation to the notice recently attached to a lamp post outside our property at 445 Livesey Branch Rd pertaining to the raised speed table that has been constructed at the bottom of Moorland Drive.

Whilst the notice is a proposal, the construction work had begun prior to the notice date of the 20th December 2018 and is now complete well before your notice period of 11th January 2019

We wish to fully object to the placement of this speed table. It has served to introduce excessive levels of road noise both from goods vehicles but also from "boy racers" with loud exhausts. The loud exhausts were always an annoyance, however now as the drivers slow for the speed table and accelerate away the noise is far louder and for a longer duration. We have never had problems with excessive road noise from goods vehicles prior to the placement of the speed table.

As Livesey Branch Rd is a major trunk route it is used at all hours of the day and night. We submit that the speed table is unsuitable for the road given the excessive noise it causes that residents must endure. We are repeatedly woken at 4-5am by goods vehicles crashing over the speed table. This is affecting our sleep, including our 9 yr old daughter who also sleeps at the front of the house.

Furthermore when using this section of Livesey Branch Rd as a pedestrian we would feel far safer not having the road level with the footpath. Especially in snow and ice the kerb forms a vital safety barrier to cars sliding from the road and into pedestrians on the footpath. Now the council have removed this barrier and it makes that section of the road feel far more dangerous than any other to us.

We would like to point out that we have already raised a complaint with Blackburn with Darwen council as to the placement of the speed table and traffic island outside our property and we also refer to that complaint. Given that Blackburn with Darwen council could not be bothered to re paint the speed camera markings after the road was last resurfaced many months ago, it seems clear to us

that this whole affair is far less about road safety and far more about drawing potential buyers to the Green Hills development and inconvenience to existing residents be damned !

Also please could you advise whether or not Kingswood Homes require planning permission for the illuminated signage that has appeared on the foot path? If so where was the planning notice issued please?

Response 3:

I write my email of concerns and complaints about the problematic speed table that has been situated outside my property of 449 Livesey Branch Road.

It has been brought to my attention by one of my neighbours that there has been a notice fixed to a lamp post just higher up the road at 441 Livesey Branch Road to inform us that the speed table was to be put in place and that if we had any concerns or objections then we should contact yourself.

Firstly I nor my neighbours were informed of any new road layouts until they were already taking place!

There is now as I would consider a hazardous road traffic island outside my neighbours home of 447 and 445. This is affecting myself and visitors as we are unable to park outside safely.

I am very upset and disappointed by the ridiculous speed table that has been introduced to the bottom left of my drive outside my adjoining neighbour at 451 currently owned by the Kingswood Development.

I find the whole road layout to be a hazard to both myself, other road users and pedestrians.

Blackburn with Darwen Borough Council have widened the footpath outside 451 and again on the opposite side of Mooreland Drive at 453. This has made the road narrower and causes me issues when trying to manoeuvre onto my own driveway.

I have never really had any issues with reversing into my driveway over the 38 years of living here nor have I been faced with abuse off other road users for doing so as I am now faced with since the new road layout.

I now have to put my hazard lights on, pull in front of 451 and make my reverse when safe to do so. Other road users now have to completely go on the opposite side of the road to overtake me before I can reverse, this is due to the narrowing of the road.

The public footpath is now a hazard for pedestrians as it runs level with the raised speed table.

I have been informed that the speed table is in place for traffic calming measures! My answer to this is rubbish! The whole new road layout has caused and still is causing me nothing but problems.

Instead of having a steady flow of traffic as we did before this speed table was introduced, we are now faced with those drivers that are over cautious driving over at approximately 15mph whilst cranking their heads to look at the new Kingswood development, the hot heads that rev their engines and speed over the table and then we have those travelling at the current 30mph limit when the traffic allows.

Now onto the noise disturbance.

The road has become VERY noisy due to the new speed table at all times of the day and night and I am quite often woken up in the middle of night with lorries and other heavy goods vehicles bouncing over the speed table.

Both my external and internal doors vibrate now due to the traffic travelling over the speed table, I am now very nervous thinking that someone is trying to gain access into my property.

Lastly Blackburn with Darwen are saying that these measures are all in place for the safety of all road users. May I bring it to your attention that since re surfacing the road some time ago I would have thought that the road markings would have been a priority to be re painted for the speed camera near Holly tree to be effective.

I do hope that my concerns and complaints are taken seriously and that the speed table and road traffic island be removed as these are not helping in the calming of traffic but hindering myself and my neighbours in many ways.

EQUALITY IMPACT ASSESSMENT CHECKLIST

This checklist is to be used when you are uncertain if your activity requires an EIA or not.

An Equality Impact Assessment (EIA) is a tool for identifying the potential impact of the organisation's policies, services and functions on its residents and staff. EIAs should be actively looking for negative or adverse impacts of policies, services and functions on any of the nine protected characteristics.

The checklist below contains a number of questions/prompts to assist officers and service managers to assess whether or not the activity proposed requires an EIA. Supporting literature and useful questions are supplied within the [EIA Guidance](#) to assist managers and team leaders to complete all EIAs.

Service area & dept.	Strategic Transport – Growth & Development	Date the activity will be implemented	01/07/2019
---------------------------------	--------------------------------------------	----------------------------------------------	------------

Brief description of activity	The Council has delivered a highways improvement scheme at Livesey Branch Road / Moorland Drive as part of the Kingswood Homes development. The Council published a Section 90A notice in relation to the introduction of a raised speed table and associated traffic calming measures. The Council and the Executive Member for Regeneration now wishes to respond formally to comments received.
--------------------------------------	----------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------

Answers favouring doing an EIA	Checklist question	Answers favouring not doing an EIA
<input type="checkbox"/> Yes	Does this activity involve any of the following: - Commissioning / decommissioning a service - Budget changes - Change to existing Council policy/strategy	<input checked="" type="checkbox"/> No
<input type="checkbox"/> Yes	Does the activity impact negatively on any of the protected characteristics as stated within the Equality Act (2010)?	<input checked="" type="checkbox"/> No
<input type="checkbox"/> No <input type="checkbox"/> Not sure	Is there a sufficient information / intelligence with regards to service uptake and customer profiles to understand the activity's implications?	<input checked="" type="checkbox"/> Yes
<input type="checkbox"/> Yes <input type="checkbox"/> Not sure	Does this activity: Contribute towards unlawful discrimination, harassment and victimisation and other conduct prohibited by the Act <i>(i.e. the activity creates or increases disadvantages suffered by people due to their protected characteristic)</i>	<input checked="" type="checkbox"/> No
<input type="checkbox"/> Yes <input type="checkbox"/> Not sure	Reduce equality of opportunity between those who share a protected characteristic and those who do not <i>(i.e. the activity fail to meet the needs of people from protected groups where these are different from the needs of other people)</i>	<input checked="" type="checkbox"/> No
<input type="checkbox"/> Yes <input type="checkbox"/> Not sure	Foster poor relations between people who share a protected characteristic and those who do not <i>(i.e. the function prevents people from protected groups to participate in public life or in other activities where their participation is disproportionately low)</i>	<input checked="" type="checkbox"/> No
FOR = 0	TOTAL	AGAINST = 6

Will you now be completing an EIA?

Yes

No

The EIA toolkit can be found [here](#)

Assessment Lead Signature	Mike Cliffe, Strategic Transport Manager
E&D Lead Signature	Gwen Kinloch
Date	17 th June 2019