Public Document Pack

Planning and Highways Committee

Thursday, 15th October, 2020 6.30 pm

Join Meeting Here

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4.5	Planning Application 10/20/0720 230 Chapeltown Road, Edgworth, Bolton, BL7 9AN	191 - 200

5. Infrastructure Funding Statement 2019/20 and Update to S106 Process

To present Members with an update on the recently published Infrastructure Funding Statement for 2019/20, for Blackburn With Darwen Borough Council, and also how the Council will begin to add a monitoring fee to any \$106 agreement associated with planning applications received from 1st October 2020.

Report	201
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6. Appeals Monitoring Report

To present Members with an update of recently decided appeals since the last monitoring report in October 2019.

Report 214 - 225

7. Diversion of Public Footpath's 25,26,27,28 and 31 (part) Blackburn

Diversions of public footpaths necessary due to housing development off Ramsgreave Drive at Roe Lee, Blackburn

Diversion of Public Footpath's 25,26,27,28 and 31(part)

Blackburn

Roe Lee Development - P & H Plan - Proposed PROW

Diversions with housing.pdf

Roe Lee Development - P & H Plan - Proposed PROW

Diversions.pdf

8. Planning White Paper "Planning For The Future" Summary Of The Issues And Blackburn With Darwen
Borough Council's Response To The Ministry Of
Housing, Communities & Local Government
Consultation - Planning For The Future - White Paper,
August 2020

To inform Members of the main changes proposed with the White Paper, and the Council's response and views on the Government' proposals to overhaul the planning system.

To agree the responses to the questions set in the Consultation paper, and that the responses should form the formal views of the Council.

		251
9.	Validation Requirements for Planning Applications – Major planning applications and Sustainable Drainage requirements	
	For Members to agree and recommend that the list of requirements for the submission of planning applications is amended as detailed in the report, in order to ensure that Blackburn With Darwen has an up-to-date formally adopted scheme with reference to recent policy changes.	
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10.	Enforcement - Land at Weasel Lane (Kiln Bank) Tockholes, Darwen	
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Report

Date Published: Wednesday, 07 October 2020 Denise Park, Chief Executive

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Agenda Item 2

PLANNING AND HIGHWAYS COMMÍTTÉE Wednesday, 15 July 2020

PRESENT – Councillors, Councillor David Smith (Chair), Akhtar, Casey, Khan, Khonat, Hardman, Slater, Jan-Virmani, Oates, Riley, Browne, Harling and Marrow.

OFFICERS - Gavin Prescott (Development Manager), Michael Green and Safina Alam

RESOLUTIONS

10 Welcome and Apologies

The Chair welcomed everyone to the virtual meeting.

There were no apologies received.

11 Minutes of the Previous Meeting

RESOLVED - That the minutes of the previous meeting held on 18th June 2020 be confirmed and signed as a correct record.

12 Declaration of Interest

RESOLVED – There were no Declarations of Interest received.

13 Planning Applications for Determination

The Committee considered reports of the Director of Growth and Development detailing the planning application.

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

13.1 Planning Application 10/20/0106

Speakers – Sophie Marshall (Agent – Via MS Teams)

Clare Starbuck (Objector – Written Submission)

Applicant – Ms G Lomax

Location and Proposed Development – Land Adjoining Moorthorpe Cottage, Park Road, Darwen, BB3 1LQ.

Outline Planning Application with all matters reserved, expect for access, for the erection of 4no. dwellings with detached garages.

Decision under Town and Country Planning Acts and Regulations -

RESOLVED – Approved subject to the conditions highlighted in the Director's Report

13.2 Planning Application 10/20/0107

Applicant - Pillars Darwen Ltd

Location and Proposed Development – Land at Hollins Grove Street, Darwen, BB3 1HG.

Hybrid planning application for Full permission for 37 dwellings including creation of a new vehicular access to the Southern end of the site and Outline permission with 'Access' (with all other matters reserved) for B1, B2, and B8 uses including alterations to the existing access to the Northern end of the site.

Decision under Town and Country Planning Acts and Regulations -

RESOLVED – Approved subject to the conditions highlighted in the Director's Report and Update Report and Section 106 of the Town and Country Planning Act 1990, relating to the payment of financial contributions which relate to the following matter(s):

A. £35,000 as a contribution towards the Darwen East Corridor and upgrading a nearby Public Right of Way/s.

Should the s106 agreement not be completed within 6 months of the date of this resolution, the Head of Service for Planning will have delegated powers to refuse the application.

13.3 Planning Application 10/20/0265

Supplemental Report of the Director Applicant – Landway Properties Ltd

Location and Proposed Development – Land off Ramsgreave Drive, Blackburn

Full planning application - Construction of 63 dwellings and associated infrastructure

Decision under Town and Country Planning Acts and Regulations -

RESOLVED – Approved subject to the conditions highlighted in the Director's Report and Update Report and Section 106 of the Town & Country Planning Act 1990, relating to the payment of a commuted sum of £450,000 towards: off-site highway improvements; contribution towards offsite affordable housing provision; and contribution towards education infrastructure in the North Blackburn locality.

Should the Section 106 agreement not be completed within 6 months of the date of the planning application being received, the Head of Service for Planning and Infrastructure will have delegated powers to refuse the application.

13.4 Planning Application 10/20/0536

Applicant – Blackburn with Darwen Borough Council

Location and Proposed Development – 11-27 Blakey Moor, Blackburn

Full Planning Application (Regulation 4) for: Full planning permission for the demolition of single storey rear extensions and a garage, change of use of existing units to 2no. restaurant / cafe units (Use Class A3) at ground and first floor, change of use and re-profiling of land to the rear to form an associated outdoor seating / courtyard area, and external alterations to provide new frontages

Decision under Town and Country Planning Acts and Regulations -

RESOLVED – Approved subject to the conditions highlighted in the Director's Report

14 <u>Diversion of Public Footpaths Parts of 207, 211 & 212 and Upgrade of Public Footpath 208 Darwen to a Bridleway</u>

A report was submitted to seek approval for a public path order under

- The Highways Act 1980, Section 26, to create dridleway along public footpath 208 and
- The Highways Act 1980, Section 119, to divert public footpath 207 and parts of public footpaths 211 & 212.

On the 6th April 2018 the Council granted planning permission for a residential development off Cranberry Lane in Darwen (Application 10/17/1313)

Public Footpaths 207, 211 & 212 Darwen cross the development site and in order that the development can be implemented as per the planning approval, it is necessary that sections of these public footpaths are diverted. Public Footpath 208 Darwen also crosses the development site but is unaffected by it.

The Council has received an application from the developer, McDermott Homes, to divert the footpaths affected and to upgrade the existing Public Footpath 208 Darwen to bridleway.

An application has also been received from an adjoining landowner for a short diversion of part of Public Footpath 211 around the immediate vicinity of their property.

Under the Council's Constitution this Committee has 'The power to create, divert, stop up, extinguish and reclassify footpaths and bridleways and the power to make orders and enter agreements in relation to the same'

The Committee therefore has to consider whether, or not, to promote the Order requested by the applicants. In order to assist members in making this decision, officers have prepared a detailed report with the necessary information to enable an informed decision to be made.

RESOLVED – To Promote the Order and authorise the Director of HR, Legal, and Governance to progress the necessary legal orders.

15 <u>Appeal Decision – Land Adjoining Moorthorpe Cottage, Park Road,</u> Darwen

Members were informed of the recent appeal decision relating to the outline planning application for the erection of 9 dwellings and detached garges on land adjoining Moorthorpe Cottage, Park Road, Darwen.

At Planning and Highways Committee on 20th June 2019 the planning permission was refused. The applicants submitted an appeal to the Planning Inspectorate on the 17th January 2020 (ref: APP/M2372/W/19/324341). The appeal was determined via written representations. The appeal was determined on the 5th June 2020, and the Inspectorate allowed the appeal. A copy of the decision letter is attached to this report. In summary, the Planning Inspector considered that the proposed development was acceptable.

At the same time, the appellants submitted an application for an award of costs in relation to the appeal, as they considered the local planning authority acted unreasonably in making the decision.

The Planning Inspectorate considered the award of costs, and on the 30th June 2020, granted full costs to the appellants.

RESOLVED – That the report be noted.

16 <u>Petition - Objecting to a Planning Application Proposing a Change of use of Land to Residential Garden Space Associated with no. 29 Greenhead Avenue, Blackburn.</u>

A report was submitted informing the Committee of the receipt of a petition objecting to a current Planning Application 10/20/0424 proposing change of use of land to residential garden space associated with no.29 Greenhead Avenue, Blackburn the grounds for which are outlined in the report submitted.

Members were advised that assessment of the planning application was ongoing and that all material issues that must be considered in the decision making process will be addressed. Should the application be recommended for approval, it will be reported to the Planning and Highways Committee for determination. Alternatively, the application may be refused under delegated officer powers.

RESOLVED – That the petition be noted and that the lead petitioner be informed of any decision taken, including the outcome of current planning application.

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 PECUNIA	ARY/OTHER (delete as appropriate)
SIGNED :	
PRINT NAME:	
(Paragraphs 8 to 17 of the	e 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 <u>all</u> 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

MATERIAL:	NOT MATERIAL:	
Policy (national, regional & local)	The identity of the applicant	
development plans in course of	Superceded development plans and	
preparation	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	The need for the development (in most	
conditions	circumstances)	
Planning history/related decisions		
Do	10	

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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 polices 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 follows 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

Agenda Item 4



BwD Council - Development Control

General Reporting

REPORT NAME: Committee Agenda.

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: 15/10/2020

Application No		
Applicant	Site Address	Ward
Application Type		

10/18/1097

Blackburn Waterside Regeneration Ltd Phase 1B Former Sappi Paper Mill Livesey With Pleasington 4th Floor, Queen Victoria House Livesey Branch Road

41-43 Victoria Street Feniscowles Blackburn Douglas

Isle of Man BB2 5HX IM1 2LF

Reserved Matters Application for Reserved Matters Application (access within the site, landscape, layout, appearance, scale) pursuant to

outline 10/15/0496 for Phase 1b comprising of 141 dwellings and associated infrastructure

RECOMMENDATION: Permits

10/20/0434

Little Harwood & Whitebirk Mr Haider Khan Land to the rear of 29 Greenhead Avenue

29 Greenhead Avenue Blackburn BB1 5PR Blackburn

BB1 5PR

Full Planning Application for Use as garden (retrospective)

RECOMMENDATION: Permits

10/20/0511

Mr & Mrs Hood Fir Trees West Pennine

Fir Trees, Greens Arms Road Greens Arms Road

Turton Turton **Bolton Bolton** BL7 0NA BL7 0NA

Full Planning Application for Proposed Detached Garage & Relocation of Gate

RECOMMENDATION: Permits

Execution Time: 3 minute(s), 24 second(s)

Application No Applicant

Site Address Ward

Application Type

10/20/0625

Mr Kenneth Warner Land Adjacent Hob Lane Farm West Pennine

3 Chapeltown road Blackburn Road **Bronley Cross** Edgeworth Bolton BL7 0PU Bolton BL7 9AD

Full Planning Application for Form new access/re-open former access onto Blackburn Road

RECOMMENDATION: Permits

10/20/0720

Mr John Pimblett 230 Chapeltown Road West Pennine

230 Chapeltown Road Edgworth Edgworth Bolton Bolton BL7 9AN BL7 9AN

Full Planning Application for Demolition of existing garages, utility room and store and erection of two storey dormer extension to provide quadruple garage, workshop,utility room and kitchen extension with additional bedroom accommodation at first floor level together with change of use of 4 m2 of land outside the curtilage of the existing garden (Green belt) to residential

RECOMMENDATION: Permits

Execution Time: 3 minute(s), 25 second(s)

REPORT OF THE DIRECTOR

Proposed development: Reserved Matters Application for Reserved Matters Application (access within the site, landscape, layout, appearance, scale) pursuant to outline 10/15/0496 for Phase 1b comprising of 141 dwellings and associated infrastructure

Plan No: 10/18/1097

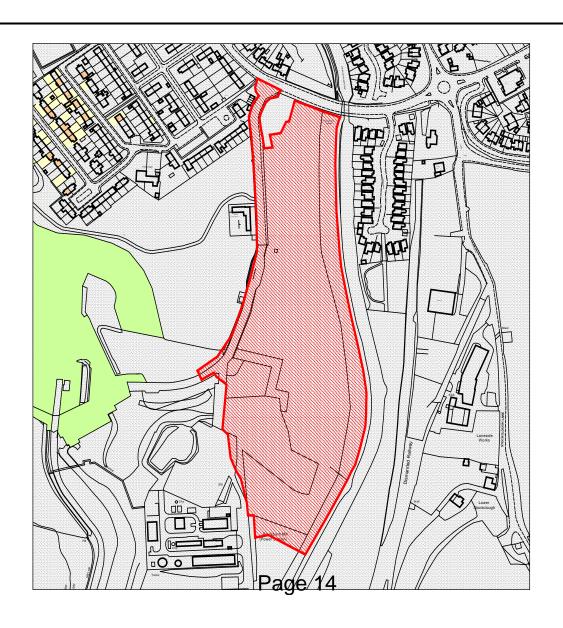
Site address:

Phase 1B Former Sappi Paper Mill Livesey Branch Road Feniscowles Blackburn BB2 5HX

Applicant: Blackburn Waterside Regeneration Ltd

Ward: Livesey With Pleasington

Councillor Derek Hardman Councillor Paul Marrow



1.0 SUMMARY OF RECOMMENDATION

1.1 **APPROVE** – Subject to recommended conditions (see paragraph 4.0).

2.0 KEY ISSUES/SUMMARY OF PLANNING BALANCE

- 2.1 This application is before Members as it relates to phase 1b of the reserved matters to an outline application that was previously considered and approved at the November 2015 meeting of the Planning & Highways Committee
- 2.2 Planning permission 10/15/0496 related to an outline approval, with all matters reserved save for means of access. The approval allowed for a mixed use development of a maximum of the following: 500 dwellings, 3,224m2 of office employment (use class B1a), 9,192m2 of light industrial employment (use class B1c), 333m2 of retail floor space (use class A1) and a 1,110m2 community building (use class D1). The proposal also relates to associated ancillary works. As some part of the development is located within the Chorley Borough Council's (CBC) boundary, an outline planning permission (planning application number 15/00475/OUTMAJ) has been also granted by Chorley Borough Council
- 2.3 The current reserved matters application will deliver a high quality housing scheme which will widen the choice of family housing in the Borough, whilst also bringing a brownfield industrial site back in to use. It supports the Borough's planning strategy for housing growth as set out in the Core Strategy. 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 planning conditions.

3.0 RATIONALE

3.1 Site and Surroundings

- 3.1.1 The proposal relates to phase 1b of the redevelopment of the area commonly referred to as the 'SAPPI site' given the last occupant of the majority of the area. The site forms part of an irregular shaped parcel of land positioned to the south west of Livesey Branch Road and south east of Moulden Brow and measuring approximately 26.8 hectares.
- 3.1.2 The SAPPI site has historically been used for industrial activity but the mill buildings have now been demolished and the area is no longer in active use. The southern portion of the site is largely undeveloped and is comprised of woodland and grassland. The River Roddlesworth runs through the site from south to north and is culverted beneath the former mill area within the central portion of the site. The north and east sections of the site are zones of previously undeveloped grassland.
- 3.1.3 The current reserved matters application is identified as Phase 1b of the SAPPI development and affects approximately 4.47 Ha of land. The area is bounded to the east by an existing internal road, though the previous

approvals at the site will see this upgraded and eventually linking the Livesey Branch Road through to Moulden Brow. The site is bounded to the west by the towpath of the Leeds-Liverpool Canal a network of streets including Coronation Avenue and Princess Gardens. The application site is currently free from development and comprised of grassland with tree coverage to the canal frontage.

3.2 Proposed Development

- 3.2.1 The submission is a reserved matters application, addressing access within the site, landscape, layout, appearance, scale; pursuant to outline application 10/15/0496 for Phase 1a comprising of 141 dwellings and associated infrastructure.
- 3.2.2 The proposal seeks to deliver a mix of residential housing, of the following form:
 - > 14 no. 2 bed terraced and semi-detached houses
 - > 75 no. 3 bed terraced and semi-detached houses
 - > 42 no. 4 bed detached and semi-detached houses
 - ➤ 10 no. 5 bed detached houses
- 3.2.3 The new dwellings are consistent with those previously approved on phase 1a of the SAPPI redevelopment. They are of bespoke design and have a modern appearance. The units are constructed with a mix of red brick, render and cladded walling and grey concrete tile roofing. Consideration has been given to the orientation of the properties to ensure outward facing development to all public spaces creating active frontages. Dual aspect dwellings are utilised throughout the development to avoid blank gables and uninteresting street scenes. Enhanced landscaping through hedgerows and change in material delineates the public and private realm. All private garden spaces are created to the rear of the properties and, in the main, are designed to adjoin other rear gardens creating defensible and secure spaces.
- 3.2.4 Vehicular access to the site will be through the enhanced junction with Livesey Branch Road, as approved within application 10/18/0290

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 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

CS1 – A Targeted Growth Strategy

CS5 - Locations for New Housing

CS6 - Housing Targets

CS7 – Types of Houses

CS15 - Protection and Enhancement of Ecological Assets

CS16 – Form and Design of New Development

3.3.4 Local Plan Part 2 (LPP2)

Policy 1: The Urban Boundary

Policy 7: Sustainable and Viable Development

Policy 8: Development and People

Policy 9: Development and the Environment

Policy 12: Developer Contributions

Policy 18: Housing Mix

Policy 28: Development Opportunities

Policy 36: Climate Change

Policy 40: Integrating Green Infrastructure & Ecological Networks

3.4 Other Material Planning Considerations

3.4.1 National Planning Policy Framework (The Framework).

3.4.2 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 (paragraph11).

3.5 Assessment

- 3.5.1 In assessing this reserved matters application there are a number of important material considerations that need to be taken into account, as follows:
 - Principle;
 - Design and Layout;
 - Highways and access;
 - Amenity impact;
 - Affordable Housing; and
 - Ecology

3.5.2 Principle of Development

The principle of residential development within the site has already been considered and accepted through the assessment and subsequent approval of outline planning application 10/15/0496.

3.5.3 Design and Layout

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.



Figure 1: amended site layout

- 3.5.4 The proposed development provides a net density of approximately 32 units per hectare. The 141 units comprise of; 14 no. 2 bed units, in a mix of terrace and semi-detached house types; 75 no. 3 bed units, again in a mix of terrace and semi-detached house types; 42 no. 4 bedroom units, in semi-detached and detached format; and 10 no. 5 bedroom detached houses.
- 3.5.5 A detailed design and access statement has been provided which sets out the key design principles, which are taken forward in the application proposals. These include;
 - In line with the outline approval, access to this phase of development is taken from Livesey Branch Road. As the layout identifies, a clear hierarchy of streets have been established with the primary link giving way to a series of shared surfaces and private drives.
 - The outward facing development allows gardens to face other gardens creating high quality defensible space for future residents.
 - The careful positioning of dwellings within the site ensures the creation of vista stops. Similarly, dual aspect dwellings have been employed to key corners to ensure active frontages and street scenes.
 - Adequate space between dwellings has been achieved ensuring a high quality environment for future residents. This is also the case where the development is located close to existing residential uses.
 - Enhanced landscaping through hedgerows and change in material delineates the public and private realm. All private garden spaces are

- created to the rear of the properties and designed to adjoin other rear gardens creating defensible and secure spaces.
- In line with RES2D, a strong presence has been created to the main link road with careful consideration given to the parking solution avoiding long runs of car parking. To the western boundary, given the sites relationship with the Leeds Liverpool Canal, outward facing properties take advantage of this view.
- Although the buildings are reflective of their residential use, the spaces and design allows future conversion, adaptation and extension in order to address future needs of occupants.
- The properties have a modern appearance, with the units being constructed with a mix of red brick, coloured render and horizontal board cladding. All units will have grey concrete tile roofing.
- 3.5.6 The properties have carefully considered internal layouts to offer a variety of configurations to appeal to families of varying sizes and needs. The house types represent an appropriate variety of styles and, together with their orientation, will create varied and attractive street scenes, consistent with the requirements of policies CS16 and 11 of the LPP2. Basic details of the external materials have been submitted but the matter is already secured via conditions imposed upon the outline planning approval.



Figure 2: proposed street scenes.

- 3.5.7 Policy 18 of the Local Plan Part 2 illustrates that the Council requires a detached and semi-detached housing offer to be the principal element of the dwelling mix on any site that is capable of accommodating such housing. Given the intended mix the proposal is wholly compliant with this requirement.
- 3.5.8 The comprehensive details submitted illustrate a design and layout which show dwellings, infrastructure and landscaping which accords with the provisions of the relevant policies of the development plan.

3.5.9 Highways and Access:

Core Strategy Policy 22: Accessibility Strategy and Local Plan Policy 10: Accessibility and Transport, aim to ensure that new developments provide appropriate provision for access, car parking and servicing so as to ensure the safe, efficient and convenient movement of all highway users is not prejudiced.

- 3.5.10 The site is currently accessed via an existing priority controlled 'T' junction, located to the east of the site on the A6062 Livesey Branch Road. This provides direct access to the existing CHP Plant and the remaining undeveloped land in the lower portion of the site. Planning approval 10/18/0290 provides for a remodelling of the existing junction to reduce its size, removing large expanses of carriageway to from a more compact, safer formalised priority junction. The adjoining internal access road is secured by the deed of variation application 10/18/0740 and will be residential in nature with pedestrian crossing facilities and footways provided on both sides, linking Livesey Branch Road through to Moulden Brow
- 3.5.11 Parking provision for the development is in accordance with the Council's adopted parking standards; 2 spaces for 2/3 bed units and 3 spaces for 4+ bedroom properties. Furthermore the driveway parking spaces are compliant with the adopted space requirements of 5.5m x 2.4m. Similarly all of the garages within the development (detached and integral) are in compliance with the relevant space standard of 3m x 6m
- 3.5.12 Highways colleagues have requested a number of conditions. A construction methods condition is unnecessary as this matter is already secured at outline stage (condition 4 of 10.15/0496). The following matters can be controlled, however;
 - (i) Prior to the occupation of any of the dwellings hereby approved, details of the proposed arrangements for future management and maintenance of the proposed streets within the development shall be submitted to and approved by the Local Planning Authority. The streets shall thereafter be maintained in accordance with the approved management and maintenance details until such time as an agreement has been entered into under section 38 of the Highways Act 1980 or a private management and Maintenance Company has been established.
 - (ii) Prior to the construction of any of the streets referred to in the previous condition full engineering, drainage, street lighting and constructional details

of the streets shall be submitted to and approved in writing by the Local Planning Authority. The development shall, thereafter, be constructed in accordance with the approved details.

- (iii) Sightlines at vehicular access points to be safeguarded in perpetuity
- 3.5.13 Subject to the delivery of the spine road as controlled by the separate deed of variation application 10/18/0740 matters already controlled by condition within the outline approval for the site and the above requested conditions, the proposal can be considered to meet the requirements of Policy 10 of the Local Plan Part 2

3.5.14 Residential Amenity:

Policy 8 of the LPP2 relates to the impact of development upon people. Importantly, at section (ii) of the policy there is a requirement for all new development to secure satisfactory levels of amenity for surrounding uses and future occupiers of the development itself. Reference is made to matters including; noise, vibration, odour, light, dust, privacy/overlooking and the relationship between buildings.

3.5.15 Members will note that the technical assessment relating to noise, vibration, odour and dust are already controlled by planning conditions associated with the outline approval for the site. Notwithstanding that point the Environment Agency have set out comments regarding the site's relationship with the neighbouring CHP premises. The EA advise that of the fact that the CHP is an EA regulated industry and has consent to operate within the parameters set in the operating permit. As such, they refer the Council to the standard sections of the NPPF regarding the construction of residential dwellings adjacent to regulated sites;

"Planning policy requirements (paragraph 182 of the National Planning Policy Framework) state that new development should integrate effectively with existing businesses and not place unreasonable restrictions upon them. Where the operation of an existing permitted facility could have significant adverse effects on new development, the applicant should be required to provide suitable mitigation for these effects. Mitigation can be provided through the design of the new development to minimise exposure to the neighbouring permitted facility and / or through financial contributions to the operator of the facility to support measures that minimise impacts.

Permitting Regulations require operators to demonstrate that they have taken all reasonable precautions to mitigate impacts of their operations. This is unlikely to eliminate all emissions and there is likely to be residual impacts. In some cases, these residual impacts may cause local residents concern. There are limits to the measures that the operator can take to prevent impacts to residents. Consequently, it is important that planning decisions take full account of paragraph 182 of the NPPF. When a new development is built near to an existing permitted facility this does not automatically trigger a review of the permit".

- 3.5.16 The EA further comment that for Phase 1B, the original Noise Assessment (13/05/15) does not differentiate areas likely to be impacted and not impacted by noise and indeed assumes that a 4m high barrier, as a minimum, is needed to mitigate the CHP noise across the entire Phase 1B area. The report does not show what the impact on Phase 1B would be without a barrier, as is currently the case within the amended site layout drawing. If the developer would like to build houses within Phase 1B without mitigation of the noise from the CHP, then ordinarily a quantitative assessment would be required to justify what distance this should be away from the CHP. There was no assessment of industrial noise from the CHP for Phase 1A, therefore the distance of no adverse noise impact from the CHP is not necessarily consistent with the dwellings approved previously within Phase 1a
- 3.5.17 That said, the EA acknowledge that they did not recommend condition 24 attached to the outline approval, which requires a scheme to be submitted detailing noise protection measures for each phase of the development. The EA therefore accept it is not the EA that needs to be satisfied that there will be no noise nuisance to the proposed houses in phase 1B, rather it is a matter The EA comment entirely from the for the Local Planning Authority. perspective of the regulator of a permitted industry, advising; "The effect of the bund in mitigating the impact of sound is illustrated above in WSP's original report. As far as we are aware, no modelling has taken place to illustrate how noise would propagate across this part of the site without the bund. Likewise there has not been a new BS4142 assessment to measure potential noise nuisance across the area of 1B if the houses were to be built without the presence of sound mitigation measures" and "From an EA perspective, the effects of the CHP on the houses that would be built remains unknown as there was no assessment of impacts of the CHP on Phase 1B without the bund".
- 3.5.18Nonetheless the EA conclude that in order to make the development consistent with the previously approved Phase 1a, if the Committee is happy to condition the Reserved Matters application, such that development cannot occur within plots 164 to 236 until such time that noise mitigation be agreed, that is at Members' discretion. That position accords with the recommendation set out by the Council's Public Protection team and the conditions outlined in section 4.1 of this report.
- 3.5.19 Members must also consider whether the proposed site layout and design of the properties would meet the policy requirements in relation to light, privacy/overlooking and the relationship between dwellings. The Council's Residential Design Guide SPD indicates an appropriate separation of 21 metres between facing windows of habitable rooms of two storey dwellings, unless an alternative approach is justified to the Council's satisfaction. Where windows of habitable rooms face a blank wall or a wall with only non-habitable rooms a separation of no less than 13.5 metres shall be maintained, again unless an alternative approach is justified to the Council's satisfaction.

3.5.20 The initial scheme generated significant numbers of objections from residents within Kingsley Close, which occupies the opposite side of the canal (the objections are set out within section 9.0 of this report). The concerns related to loss of privacy as a consequence of overlooking. Those concerns being exacerbated due to the removal of the trees that currently form the western boundary of the site. Negotiation with the developer has led to the receipt of an amended scheme that removes all the canal frontage units opposing the rears of the properties within Kingsley Close. Furthermore, the trees in that area are now to be retained. The amended scheme is wholly consistent with the SPD requirements, both in relation to the separation to properties within the site and those on Kingsley Close and the previously approved Phase 1a of the development. As such, the objections relating to loss of privacy and light impacts cannot be substantiated.

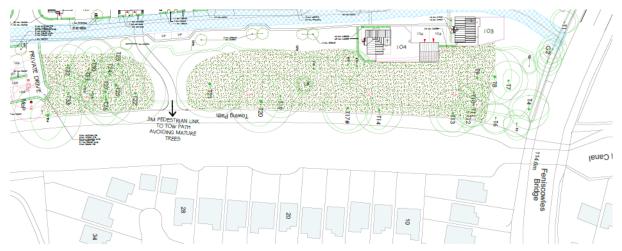


Figure 3: amended layout showing relationship of development with existing properties on Kingsley Close.

3.5.21 It is submitted to Members that subject to the matters controlled via condition on the outline approval 10/15/0496, allied to the application of a condition removing permitted development rights for extensions and alterations within the application site, the proposal will provide for appropriate amenity standards for surrounding uses and future occupants of the development, in accordance with the requirements of Policy 8 and the Council's adopted Residential Design Guide standards.

3.5.22 Affordable Housing:

Core Strategy Policy CS8 advises that all new residential development will be required to contribute towards the Borough's identified need for affordable housing; this being achieved through on-site provision, or through a financial contribution towards off-site delivery. The overall target for affordable housing is set at 20%

3.5.23 Local Plan Policy 12: Developer Contributions, which accords with the NPPF, indicates that where request for financial contributions are made the Council should be mindful of the total contribution liability incurred by developers. Members should note that a s106, which included a commuted sum payment for off-site affordable provision, was attached to the outline consent for the

site. That requirement was renegotiated through application 10/18/0740 and now sets the commuted sum figure to £115,000, given the liabilities associated with this former industrial site and the other contributions required of the developer including contribution towards off-site recreational facilities and delivery of the link road. Accordingly the Core Strategy Policy CS8 requirement has been met.

3.5.24 Ecology:

Policy 9 of the Local Plan, amongst other considerations, indicates that development likely to destroy habitats or harm species of international or national importance will not be permitted. Development likely to harm habitats or species within the Lancashire Biodiversity Action Plan, or of local significance, will not be permitted unless the harm is demonstrably outweighed by other planning considerations an mitigation is secured. Policy 9 also indicates that development will be expected to incorporate existing trees within the design and layout of the scheme. The loss of protected trees will only be granted where; the removal is in the interests of good arboricultural practice or the desirability of the proposed development outweighs the amenity and/or nature conservation value of the trees.

- 3.5.25 Whilst the site itself is not selected as a biological heritage site, it is directly adjacent to Stanworth Woods and Reservoir and Moulden Banks. Stanworth Valley Grassland is located on the opposite site of the Leeds and Liverpool Canal. Trees along the canal frontage are the subject of a woodland order and therefore have protected status.
- 3.5.26 The application has been accompanied by an updated 'Preliminary Ecological Assessment Report' which incorporated a desk study, phase 1 habitat survey and bat roost suitability assessment. An updated tree survey and management technical note has also been submitted.
- 3.5.27 The submissions have been appraised on behalf of the Council by the Greater Manchester Ecological Unit (GMEU). They advise that the woodland on the site, whist not supporting a diverse enough ground flora to qualify as a Priority habitats, is an important ecological features on the site, and alongside the Leeds and Liverpool canal forms part of a habitat corridor through the site. There is potential for the bats for example to be foraging and/or commuting along the edge of the habitat. Some areas of woodland have been identified for removal to accommodate houses in the scheme and the arboriculture report has highlighted that mature and high value trees. The loss of sections of this habitat will only be acceptable with appropriate compensatory measures, as outlined in the ecology report. GMEU suggest a condition should be used to ensure that the BHS sites, retained woodland/canal corridor are protected from and adverse impacts, as well as a further condition to ensure a compensatory planting and habitat management plan is provided through the development, in line with the recommendation in section 57 of the ecology report. Whilst noted, given these matters are controlled via the conditions imposed upon the outline approval 10/15/0496 they do not need to be replicated here.

- 3.5.28 Other than nesting birds and hedgehogs, no other evidence/likely presence of protected species was highlighted within the ecology report. Again suggested conditions relating to no vegetation removal or tree felling should be undertaken in the main bird nesting season (March August inclusive) unless it can otherwise be demonstrated that no active bird nests are present and a precautionary pre-commencement survey for species such as badgers being undertaken are matters already controlled via the outline consent.
- 3.5.29 A stand of Rhododendron was recorded on the site which is listed on Schedule 9 of the Wildlife and Countryside Act (1981) as amended, which makes it an offence to spread or cause the species to grow in the wild. The report does highlight that there is a high risk of other undetected species on Schedule 9 given the time of year of the survey work, recent earth works on the site and proximity to nearby potential sources. GMEU advise that an invasive species management plan should be produced and followed during the construction of the phase, to prevent the spread of Schedule 9 (WCA) species. This should be based on an up-to date invasive species surveys carried out at an appropriate time of year by a suitable qualified contractor. This matter can be controlled via a suitably worded planning condition.

3.5.30 Other Matters:

Members are reminded that the other technical matters associated with the site and developments of this nature are already secured by conditions attached to the outline approval to which this current reserved matters application is associated. This includes the following issues; flood risk and drainage, land contamination and education provision. Accordingly they need not be considered further as part of the current application's assessment.

3.5.31 <u>Summary</u>:

This report assesses the reserved matters application for 136 dwellings on phase 1b of the SAPPI redevelopment. In considering the proposal a wide range of material considerations have been taken in to account during the assessment of the planning application.

3.5.32 The assessment of the proposal clearly shows that the planning decision must be made in terms of assessing the merits of the case against any potential harm that may result from its implementation. This report concludes the proposal provides a high quality housing development with associated infrastructure, which meets the policy requirements of the Blackburn with Darwen Core Strategy, Local Plan Part 2, adopted Supplementary Planning Documents and the National Planning Policy Framework.

4.0 RECOMMENDATION

4.1 APPROVE subject to conditions relating to the following matters;

- > Development within 2 years
- Approved details/drawings
- ➤ Prior to the occupation of any of the dwellings hereby approved, details of the proposed arrangements for future management and maintenance of the proposed streets within the development shall be submitted to and approved by the Local Planning Authority. The streets shall thereafter be maintained in accordance with the approved management and maintenance details until such time as an agreement has been entered into under section 38 of the Highways Act 1980 or a private management and Maintenance Company has been established.
- Prior to the construction of any of the streets referred to in the previous condition full engineering, drainage, street lighting and constructional details of the streets shall be submitted to and approved in writing by the Local Planning Authority. The development shall, thereafter, be constructed in accordance with the approved details.
- > Sightlines clearance to be kept in perpetuity for all access points
- Permitted development rights to be removed (Part 1, Classes A to E)
- ➤ Development within 15m of canal wall not to be undertaken prior to a risk assessment and method statement being submitted and agreed
- Invasive species survey and eradication strategy to be agreed.
- ➤ No development of plots 164 to 236, as detailed on drawing 17 5150 J, shall occur until a noise mitigation strategy has been agreed.

5.0 PLANNING HISTORY

5.1 10/12/0048 – Prior Approval for complete demolition of former Sappi Paper Mill including all outbuildings, tanks and enclosures down to the slab level of each structure (Approved March 2012)

10/13/1011 – Environmental Impact Assessment screening request; mixed use development comprising residential and employment uses (EIA not required, November 2013)

10/15/0496 – Outline application for a maximum of the following: 500 dwellings, 3,224m2 of office employment (use class B1a), 9,192m2 of light industrial employment (use class B1c), 333m2 of retail floor space (use class A1) and a 1,110m2 community building (use class D1). (Approved November 2015)

10/18/0290 – Reserved Matters application (access within the site, landscape, layout, appearance, scale) pursuant to outline application 10/15/0496 for Phase 1a comprising of 95 dwellings and associated infrastructure

10/18/740 - Variation to Section 106 Planning Obligation for planning Application 10/15/0496

10/19/1072 - Variation of condition No. 6 pursuant to planning application 10/18/0290 'Reserved Matters application (access within the site, landscape, layout, appearance, scale) pursuant to outline application 10/15/0496 for Phase 1a comprising of 95 dwellings and associated infrastructure' to allow for design changes to house types K and A1

5.2 Additionally, a significant number of planning applications relating to the historical use of the site have been identified, but none are considered to be relevant to the determination of the current application.

6.0 CONSULTATIONS

Public Protection:

Public protection issues including, noise, air quality, land contamination and residential amenity previously addressed and controlled by conditions imposed upon the outline planning approval for the site

Environment Agency:

The proposed development borders a site that is regulated by the Environment Agency. A noise assessment by WSP (dated 13/05/2015; referenced 00040907-01-001-R1) submitted with Outline application 10/15/0496 identifies various measures to mitigate any impacts of the regulated site on the proposed development. Condition 24 of the Outline approval goes on to require full details of those measures prior to the construction of each phase of the development.

The Landscape Masterplan for Phase 1b (drawing number 175150110, dated August 2018) does not appear to provide the mitigation outlined in the approved noise assessment. Prior to the discharge of Condition 24, it will be necessary for the applicant to demonstrate that the proposed mitigation measures comply with the approved noise assessment to mitigate potential noise impacts on future occupants of the development.

The acoustic reports detailed above, contain a section titled 'Discussion With Respect To The Justification For The Proposed Earth Bund To Protect The Southernmost Residential Development Footprint From Noise Associated With Blackburn Paper Mill Energy Facility'

The report states that 'It is far from proven that the CHP has a significant noise impact; bund not justified'. The report questions the methodology of the BS4142 assessment undertaken by WSP in 2015, but does not provide an alternative BS4142 assessment. This would be required to justify alternative noise mitigation measures.

BS4142 is the appropriate British Standard for rating levels for sources of sound of an industrial nature for purposes of assessing sound at proposed new dwellings used for residential purposes (Section 1.2). Within the acoustic reports, there is insufficient information for us to comment on alternative noise

mitigation measures to the proposed acoustic barrier. The applicant would need to provide an alternative BS4142 assessment to justify the need for a change to the proposed noise mitigation measures.

The EA in response to the applicant's request to allow development to proceed on Phase 1B, providing no unit closer than those previously approved within Phase 1A (ie plots 164 to 236 inclusive) is constructed unless further mitigation strategy is agreed, have indicated this is a matter at the discretion of Members when forming their decision.

Canal and River Trust:

The development is in close proximity to the canal, in accordance with NPPF paragraphs 170 and 178 which relate to ground stability and ground conditions, it is important to ensure that the proposal does not undermine the structural integrity of the canal wall. A condition requiring the submission of a risk assessment and method statement for works within 15m of the canal wall is required. Further conditions relating to; removal of permitted development rights (Part 1, Class A) and tree protection measures are also requested.

GMEU Ecology:

Other than nesting birds and hedgehogs, no other evidence/likely presence of protected species was highlighted within the ecology report. The following recommendations are therefore made:

No vegetation removal or tree felling should be undertaken in the main bird nesting season (March - August inclusive) unless it can otherwise be demonstrated that no active bird nests are present.

A precautionary pre-commencement survey for species such as badgers should be undertaken to confirm absence from the site, and development must commence within 3 months of this survey being undertaken. The boundary features between the gardens, especially those along the canal should be designed to allow wildlife movement between them (leaving gaps for hedgehogs for example).

A stand of Rhododendron was recorded on the site which is listed on Schedule 9 of the Wildlife and Countryside Act (1981) as amended, which makes it an offence to spread or cause the species to grow in the wild. The report does highlight that there is a high risk of other undetected species on Schedule 9 given the time of year of the survey work, recent earth works on the site and proximity to nearby potential sources. The following recommendations are therefore made:

An invasive species management plan should be produced and followed during the construction of the phase, to prevent the spread of Schedule 9 (WCA) species. This should be based on an up-to date invasive species surveys carried out at an appropriate time of year by a suitable qualified contractor.

Whilst the site itself is not selected as a BHS, it is directly adjacent to Stanworth Woods and Reservoir and Moulden Banks. Stanworth Valley Grassland is located on the opposite site of the Leeds and Liverpool Canal. Whilst no direct impacts on the sites should occur, they will need to be adequately protected (via a CEMP) from the proposals.

United Utilities:

It should be noted that we have previously commented on the Outline Application (Planning Ref: 10/15/0496) to which the above application relates.

A water main crosses the site. As we need unrestricted access for operating and maintaining it, we will not permit development over or in close proximity to the main. We require an access strip as detailed in our 'Standard Conditions for Works Adjacent to Pipelines'. Further, a public sewer crosses this site and we may not permit building over it. We will require an access strip width of six metres, three metres either side of the centre line of the sewer which is in accordance with the minimum distances specified in the current issue of "Sewers for Adoption", for maintenance or replacement.

Standard conditions relating to surface water drainage and maintenance and management of surface water drainage systems are detailed, though these are already attached to the outline approval and therefore there is no need to replicate them within this reserved matters application.

Lead Local Flood Authority:

No objections

Education Department:

No objection.

Environmental Services:

No issues providing sufficient space on each plot for 2-3 bins, and sufficient access for the bin vehicles.

Highways:

The proposed parking provision accords with the Council's adopted standards of 2 spaces for 3 bedroom units and 3 spaces for 4 bedroom units. Similarly drives generally accord with the 5.5m length requirement.

Initial concerns with the scheme not adhering to 'Manual for Streets' have been addressed via the addition of build-outs in to the longest highway section to the south of the development. A request for the provision of a dedicated footpath on the southern boundary has not been met, though pedestrian links to the canal to path have been widened in line with requests.

Suggested condition relating to construction methods statement is not required as the matter is already secured via condition 4 of the outline approval for the site.

Further suggested conditions relating to details of arrangements for future maintenance and management of the proposed streets, until such time that an agreement has been entered into under section 38 of the High ways Act 1980, or a private maintenance company is established; full details of the engineering, drainage, street lighting and construction details of the streets to be submitted and agreed.

PROW:

There are no PROW within the Phase 1B site boundary

Livesey Parish Council:

No comment

Public Consultation:

Public consultation has taken place, with 217 neighbouring properties individually consulted via letter, site notices displayed and press notices issued. In response the Council have received 8 letters of objection. The submissions can be reviewed in section 9.0 of this report

- 7.0 CONTACT OFFICER: Martin Kenny, Principal Planner
- 8.0 DATE PREPARED: 2nd October 2020

9.0 SUMMARY OF REPRESENTATIONS

Petition from the residents of Kingsley Close Rec 05.12.18

Reference: Former Sappi Paper Mill, 10/18/1097,

Phase 1B – Reserve Matters Application (access within the site, landscape, layout, appearance, scale) pursuant to outline 10/15/0496 for Phase 1b comprising of 150 dwellings and associated infrastructure.

We, the undersigned, hereby object to the above reserve matters planning application.

Taking into account the generous overall size of this residential redevelopment site, we consider the following points are entirely relevant town planning grounds of objection, with regard to the scheme as currently presented. There is no justification for the removal of mature trees along the canalside simply in the interests of creating water fronted properties purely for maximum commercial gain, when the following matters are considered:

- The canalside trees are all protected under a Tree Preservation Order. Their removal is neither necessary nor justified.
- Proposing three storey dwellings featuring first floor (living room) balconies that directly overlook and invade the privacy of Kingsley Close existing properties demonstrates a complete lack of regard for existing occupiers on Kingsley Close
- Noise pollution issues may arise a result of these balcony fronted properties.
- In any event, proposed properties could readily be accommodated behind the canal side tree line so as not to detrimentally impact on the amenity and privacy of the existing dwellings on Kingsley Close.
- At the very minimum, if some canal fronted dwellings are proposed, these should be 2 storey in design, and not feature canal facing balconies opposite Kingsley Close.
- If there is a requirement for three storey developments, these should be accommodated further down the 'canalside' development where the properties will not be intrusive to existing residential developments.

I would urge you as Planning Authority to take full note of these strong concerns and to engage with the developer at this stage and to explore how the scheme might be revised in a manner that addresses these concerns fully.

4th December 2018

Signed

Name	Signature	Address	Comments	Date
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WELLOY H		12 CHROSLEY CATE		04/10/15.
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SALX	200	28 kinset, Cu	16	101/19/21/10

Objection from Terry Hannon, 10 Kingsley Close, Blackburn. Rec. 17.11.2018

26/11/2018

Letter of objection against proposed plans.

Dear Sirs.

Former Sappi Paper Mill - residential redevelopment.

Planning Ref 10/18/1097 Phase 1B Reserve matters application pursuant to outline 10/15/0496 Phase 1B

I have recently received a letter from Martin Kenny of Blackburn with Darwen Council notifying me of the reserve matter application for the above development.

I am particularly interested in the phase 1B part of the site, as this is the land directly opposite (far side of canal) from where I live at number 10 Kingsley Close.

I previously attended a launch presentation for this scheme at Feniscowles sports and social club and when the outline planning application was presented. I did not initially raise any objections due mainly to the fact that it was noted in the arboricultural report that most of the mature trees along the tow path facing my property were to be retained having been TPO categorised as either retention category A or B+ (J12 Stockclough North). I would assume that this will remain to be the case and the trees are still categorised thus otherwise I would expect there to be a darned good reason for those trees now being taken out of the equation?

I also now note the reserve matter detail is basically to build a row of 3 storey dwellings very tight to the towpath – which will feature rear (canal facing) balconies that will look directly across into my property (both upper and lower floors) and result in a total loss of privacy.

The loss of the trees is a very real concern. There is no overriding justification in my view to remove category A and B+ trees just to enable these particular dwellings to be constructed so close to the canal. I would therefore strongly argue that those mature trees should remain.

The overriding factor for me is that the developers have initially presented a development that appeared to have minimal disruption to the residents of Kingsley Close, (hence the lack of initial opposition) and the documents now being submitted for approval have been changed completely to suit the developers greeds/needs. These changes are extremely detrimental to the residents of Kingsley Close.

I'm not totally against residential development although the amount of new developments going on in Feniscowles seems excessive and the resultant traffic congestion, school places etc remains a personal concern. I am quite willing to accept a development proposal similar to those proposed originally. What I am not happy with is the new proposed plan, to basically clear all of the trees and build 3 storey dwellings with first floor balconies that will look directly across and into the bedroom of my house and my neighbours.

I would expect all of the following points for any subsequent proposal be taken into consideration:

- · Trees are protected
- · They provide ecological and environmental value
- They provide visual screening
- New houses are 3 storey looking straight into our homes/gardens
- Easily resolved by lifting and shifting further along canal beyond Kingsley!

On the grounds stated above I hereby strongly object to the proposals submitted for this development.

Regards

Mr Terry Hannon,

<u>Objection from Matthew Hayes, 12 Kingsley Close, Blackburn. Rec</u> 27.11.18



Site Plan FINAL

I have resided at 12 Kingsley Close since the dwellings were first constructed in 2003. I acknowledge that the former use of the land on which the Kingsley Close dwellings are built was former brownfield land (paper mill), and as such not dissimilar to the Sappi site in that regard. I recognise the need for more housing, and as such I am not against the *overall principle* of the current development, although I am concerned as to the capacity of the local road infrastructure, schools provisions, etc to accommodate the net increase, in combination with other sizeable, local residential developments such as Gib Lane.

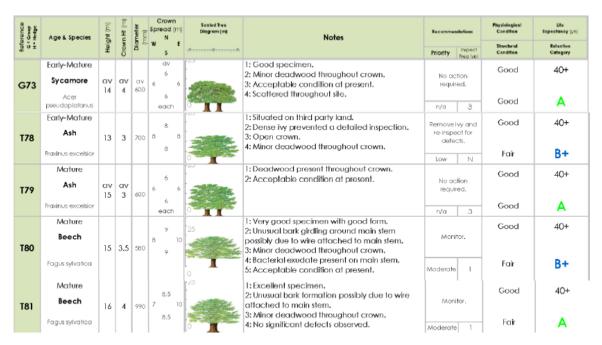
However I <u>hereby raise strong objections</u> on the following specific grounds and would ask the developer and Local Planning Authority to consider these matters and provide a written response as to how these concerns can be resolved.

At the outline planning stage (10/15/0496), I chose to raise no objection, as I was not against the overriding principle of this brownfield site redevelopment. In choosing not to express any objections at outline stage, I had specific regard to the plans exhibited at that time, and with particular focus on how the proposed scheme might affect my immediate local residential amenity and outlook. Cognisant of the fact that the early mature/mature trees aligning the Leeds Liverpool Canal opposite the Kingsley Close development fall under a Tree Preservation Order (TPO J12 Stockclough) I checked the outline masterplan. The extract below is taken from the Outline Planning application (10/15/0496) document "Site Plan FINAL" (drawing ref 4014_027/0002 OPA Rev A (dated 30/4/2015)) [note plan extract rotated]. This plan clearly shows the mature trees along the canal front opposite from Kingsley Close – labelled in the Key as 'existing trees' (diagonal green hatch shaded). As 'illustrative tree planting' is also shown (darker green) the inference to the general observer is that the existing trees shown would be retained, complemented with the further new planting. Indeed the illustrative development blocks are shown to be set well back from the canalside, again inferring retention of the canalside existing woodland.

Further assurance was taken upon reviewing the 10/15/0496 arboricultural report of January 2015, which duly recognised the mature/early mature canalside trees as being retention category A or B+ (i.e. the 2 highest categories). The executive summary of the arboricultural report states that "Where possible category A and B trees should be retained and works within their Root Protection Area should be undertaken in a sympathetic manner. General advice is included within this report as to how this may be achieved."

The arboricultural report later acknowledges that "it is understood that there is a Tree Preservation Order (TPO) affecting trees within the site" but curiously does not illustrate the extent of the TPO on any of the enclosed plans. The word 'understood' implies to an extent that the arboricultural consultant was not entirely clear which trees fall within the TPO and which do not. The report goes on to note that "A TPO can be overridden by planning consent, where tree removal is necessary to enable the Proposed Development to proceed."

The following table is extracted from the arboricultural report. These 5 trees are central to my current objection, as the current reserve matter planning application is **removing all 5**!



Extracts from Urban Green Jan 2015 Arboricultural Report - 10/15/0496

On the following page I have purposefully aligned 2 plans to illustrate the significance of the change, from the outline planning stage to the reserve matters stage. The upper illustration is taken from the arboricultural report (outline stage) and the lower image is taken from the current reserve matters masterplan.

As illustrated, the 5 mature/early mature trees are now proposed to be removed entirely.

This is not in accordance with the TPO principles, or the findings of the arboricultural report. **Their removal** is not necessary, nor justified. The developer is clearly seeking to maximise commercial returns by developing as many dwellings with open canalside outlook as possible. I would argue that these particular trees should remain, for their amenity and ecological value.



From my observations, it is rare for dwellings to be constructed on directly opposite sides of the canal in this manner. As dwellings that have been in place for 15 years, the residential amenity impact on Kingsley Close dwellings must now be taken into account, as a material planning consideration. If the new dwellings are constructed as proposed, the loss of residential amenity and loss of privacy to Kingsley Close canalside occupiers will be significant.

The canalside dwellings proposed under 10/18/1097 are 3 storey, with first floor, living room, full width balconies (S7G style). They will look directly into Kingsley Close bedrooms and overlook gardens, a complete invasion of privacy.

Their appearance (a block of 6 and block of 4 dwellings, all 3 storey) will be most oppressive when viewed from existing Kingsley Close canal facing dwellings. **This is unacceptable**.



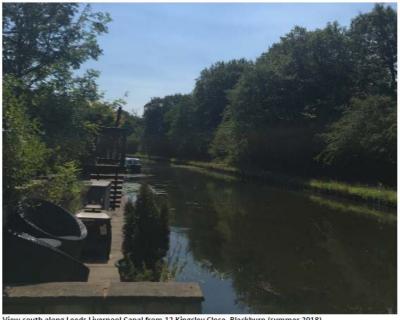
REAR / RIVERSIDE ELEVATION

First Floor Layout

Proposed 3 storey S7G dwellings with balconies

I would urge planning officers therefore to have full regard to the maturity of these trees, which are TPO protected and reflect on the question as to whether the need for these 10 specific dwellings (in the context of the the wider residential development of several hundred dwellings) is significantly important to justify removal of category A and B+ trees. Other trees along the canal edge have been retained, but there is no justification in my view to remove most of the mature trees directly opposite from (and therefore significantly adversely affecting) Kingsley Close residential amenity.

The scheme as currently proposed shows a complete lack of regard to Kingsley Close canalside occupiers and should/will be resisted. Anecdotally, all Kingsley Close canalside dwellings had their **permitted development rights removed** – ironically to protect the character of the canal corridor!

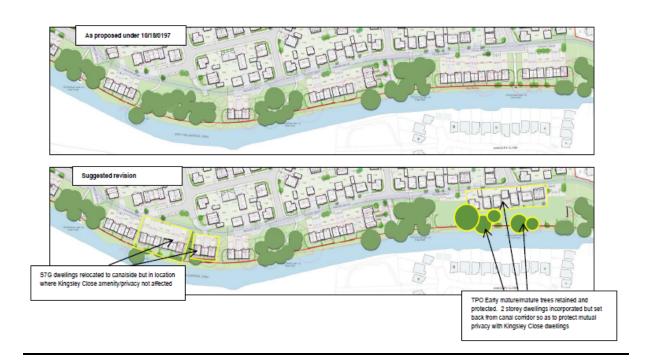


View south along Leeds Liverpool Canal from 12 Kingsley Close, Blackburn (summer 2018). All the early mature/mature TPO-protected trees visible on far bank are proposed to be removed.

Resolution

This issue is readily resolvable in my opinion. Either the mature/early-mature (category A/B+) trees should be **retained and protected as per TPO status**, with the new dwellings either set further back or reduced in number, or the style of dwelling be revised to 2 storey design without intrusive canal facing balconies.

Indeed whilst is would be undesirable in the sense of losing canalside trees, if the developer and Planning Authority felt the need to insist on the same number of new dwellings, one option potentially would be to consider something along the following. This will alleviate my concerns as the loss of amenity/privacy would be greatly diminished, the canalside trees on the opposite bank to Kingsley Close would be retained, and the developer would still be able to market S7G dwellings in canalside locations, arguably more desirable and marketable in their siting – a win-win situation.



Objection from Stuart Morton, 26 Kingsley Close, Rec 03.12.18

Reference: Former Sappi Paper Mill, 10/18/1097,

I am writing in connection with the above planning application. I have examined the plans and I know the site well. I wish to **object** to the houses to be submitted for planning which back onto Kingsley Close. We have been resident here for 5 years now, and the current residential amenity is enjoyed by all.

Myself and family totally understand that the need for housing in the UK is necessary and we cannot stop this development. Along with the development at Gib Lane, and this planned development, we are not against this happening, but would strongly disagree with the proposed sitting of the properties aligning the canalside directly opposite Kingsley close.

A number of points should be considered;

It is prudent to note that **the Unitary Development Plan** notes that 'Potentially contaminated land is a significant issue in Former Sappi Paper Mill, Livesey Branch Road, Feniscowles, Blackburn in locations that have been occupied by historic industrial activities. Landfill gas is also a problem in particular areas.'. It is notable that the Geotechnical Report does not include for any gas monitoring measures and as such the work that has been carried out already poses a risk.

This breach of conditions already shows that the applicant is not a considerate developer.

Tree Survey

Under the original 'Stanworth waters' plan, it is VERY clear that the trees, protected with a TPO order are in place. Under the plans 10/18/0197 many of these TPO trees are proposed to be 'removed' and I cannot express my outrage, that the TPO's put in place can be removed at a developer's whim. These trees are beautiful specimens, and if you would spend more than 10 minutes studying the canopy, you will be able to see the wonderful environmental habitats that these trees support. To fell these in the voice of a development would have impact on not only residential life but wildlife too.

Table B.1 Delivery of tree-related information into the planning system

Stage of process	Minimum detail	Additional information	
Pre-application	Tree survey	Tree retention/removal plan (draft)	
Planning application	Tree survey (in the absence of pre-application discussions)	Existing and proposed finished levels	
	Tree retention/removal plan (finalized)	Tree protection plan	
	Retained trees and RPAs shown on proposed layout	Arboricultural method statement – heads of terms	
	Strategic hard and soft landscape design, including species and location of new tree planting	Details for all special engineering within the RPA and other relevant construction details	
	Arboricultural impact assessment		
Reserved matters/ planning conditions	Alignment of utility apparatus (including drainage), where outside the RPA or	Arboricultural site monitoring schedule	
	where installed using a trenchless method	Tree and landscape management plan	
	Dimensioned tree protection plan	Post-construction remedial works	
	Arboricultural method statement – detailed	Landscape maintenance schedule	
	Schedule of works to retained trees, e.g. access facilitation pruning		
	Detailed hard and soft landscape design		

Ground Survey

The Ground investigation provided has the bare minimum information supplied, with no gas mitigation measures or contamination assessment undertaken. Taking into consideration a considerable amount of soil has already been moved from the site (in a breach of pre- commencement condition) this could potentially be hazardous to hundreds of people; site workers, the local community and landfill workers.

In addition to the above, I believe the Ground investigation should have also been submitted within a separate removal of conditions application.

Bats

The enforcement officer was also made aware of bats to the site and surrounding land; I would hope that if this application is granted, a condition relating to a bat survey is included and undertaken before any building work commences on site.

The surrounding context and habitat offer good foraging potential, with hedgerow and scattered trees in close proximity, and a number of ponds and mature broadleaved woodland within a 1km radius of the site. Several species of bat are listed as UK priority species (UKBAP, 2007).

Birds

As taken from MAGIC website (managed by Natural England), the following birds are known in the area; Tree Sparrow, Lapwing, Grey Partridge, Curlew, Grassland Assemblage Farmland Birds, Arable Assemble Farmland Birds. Therefore, I would have thought a bird survey would have been conditioned to the original application.

All wild birds in the UK are protected under Section 1 of the Wildlife and countryside Act 1981 (as amended) which makes it an offence to intentionally kill, injure or take any wild bird or to take or damage the nest (whilst being built or in use); or its eggs.

I also believe ecological damage could have been made during the site clearance. I would like to also note, the noise pollution which has been happening during the past few months, is intrusive to all.

Hedgehogs

As discussed previously with David Dunlop(Conservation officr for central and western Lancashire), our property and the neighbouring property houses hibernating hedgehogs. Hedgehogs are in decline and providing a coherent network for them can aid population recovery. Hedgehogs are listed as a UK priority species due to their continued population decline. I am currently awaiting a report into Newts, in the local area, from which I am still waiting at the time of writing this letter, again from David Dunlop.

The Natural Environment and Rural Communities Act (NERC Act) 2006 contains a statutory duty: "Every public authority must, in exercising its functions, have regard, so far as is consistent with the proper exercise of those functions, to the purpose of conserving biodiversity"

National Planning Policy Framework 2012 11. Conserving and enhancing the natural environment 109 - The planning system should contribute to and enhance the natural and local environment by minimising impacts on biodiversity and providing net gains in biodiversity where possible, contributing to the Government's commitment to halt the overall decline in biodiversity, including by establishing coherent ecological networks that are more resilient to current and future pressures

Bern Convention on the Conservation of European Wildlife and Natural Habitats Hedgehogs are listed in Appendix III of the Bern Convention (to which the UK is a signatory). This agreement recognised that "wild flora and fauna constitute a natural heritage of aesthetic, scientific, cultural, recreational, economic and intrinsic value that needs to be preserved and handed on to future generations."

It is certain that a substantial amount of ecology was harmed during the tree and soil removal, which the applicant undertook during the breach of planning conditions.

Rights of light act

The development will cause severe loss of light to our garden area and potentially our bedroom and kitchen. I would request this is demonstrated by the applicant with a shadow plan (shadow fall analysis diagram) being plotted to show the location of shadows at different times of the day and year to show the impact upon our property and neighbouring properties; in

line with the Building Research Establishment (BRE) Handbook: 'Site Layout Planning for Daylight and Sunlight 2011: A Guide to Good Practice, Report 209' (2011) (Ref. 15-1) referred to as the BRE Guidelines.

In line with the above guidelines, there is no indication on the drawings of the 45- and 60-degree line.

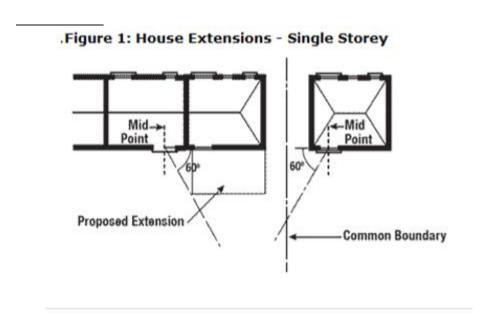
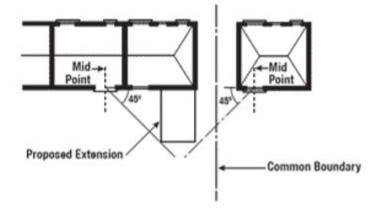


Figure 1: House Extensions - Two Storey



This is a good assessment tool which can be used in conjunction with other relevant factors in order to gauge the acceptability of proposals in terms of over shadowing/loss of light/impact upon neighbouring properties. The rooms which will be affected in our house is a bedroom and kitchen space.

The development will cause the following to our main outdoor space;

- reduce outdoor activities, such as sitting out and children play
- reduce plant growth
- not dry out the ground, increasing moss and slime
- not melt frost, ice and snow
- reduces outside clothes drying The National Planning Policy Framework
 (NPPF) (Ref. 15-3) stipulates: "...planning policies and decisions
 should always seek to secure a good standard of amenity for existing
 and future occupants of land and buildings".

This development will have an adverse effect on the residential amenity of neighbors, by reasoning of overlooking and overshadowing.

We will have a loss of existing views from our property and this will adversely affect our residential amenity.

Development Proposal

Feniscowles is a rural village where infill developments should be considered very carefully; infilling could ruin the character of the village. Protection of the visual and historic qualities is supported by **section 12 of the National Planning Policy Framework,** achieving well-designed places, stating that;

'permission should be refused for development of poor design that fails to take opportunities available for improving the character and quality of an area.'

Feniscowles Residential Design Guide, refers to; 'safeguarding the character and identity of towns, villages and neighbourhoods'

Feniscowles Residential Design Guide, refers to; (within the distinct character and quality of each town and village)

'proposals for change, however, particularly new development, need to be sensitively controlled to protect and enhance the valuable parts of the built environment and retain their identity and distinctiveness.'

The proposal is not in keeping with the local street scene, there are no houses which sit behind existing properties. One of the key objectives as set out in **Residential Design Code** is to 'ensure that developments are successfully integrated with adjoining areas being both sensitive and responsive to setting, landscape character and ecology.'

The proposed siting of the development is particularly ill-considered; there are key views on the current canal side which will be drastically diminished, taking into account the topography of the land.

This development, if granted, sets a bad precedent for a pattern of development throughout the village; and could in future destroy the village character. Again, referring back to section 12 of the **National Planning Policy Framework**, achieving well-designed place.

The following policies of **Residential Amenity** are not met with this design;

- a) Does not have an adverse impact on amenity or character of an area, and does not cause undue disturbance to nearby residents or conflict with adjoining properties;
- b) Safeguards the enjoyment of light and privacy for existing residential properties;
- c) Ensures high quality of design and amenity for existing and future residents

The proposed development is over-bearing within its location; a very large 3 storey house has been squeezed into a small plot of land (in comparison to its context) which is out of keeping with the local area. The 3 stories houses proposed, with balcony's looking directly over to Kingsley close residents is totally unnecessary.

The physical characteristics of the site have not been considered; in particular the topography.

The proposals show no understanding of the landscape setting of the site. The scale of the development, in comparison to the existing neighbouring houses, is not demonstrated and as such does not show how the development will directly impact the shading, enclosure and quality of the external environment.

In order for the planning officer to have an informed view of the development a section through our property in relation to the height of the proposed neighbouring property would properly demonstrate the effect this will have on our daylight. Our garden is stepped, which means the ground floor level is already approx. 1.5m below their GF level, therefore this proposed development, which is already very large, seems from our property to be a 3-storey building. As stated previously, the landscape setting of the site has not been considered or demonstrated, which has produced ill-informed design.

The following statements, as taken from the **Residential Design Guide**, also provide further guidance and consideration;

standards in new housing refers to 'protecting the living conditions of existing residents' 'A wide range and consistent approach is required which integrates considerations such as deign, safety, greenspace and local facilities and relates them to the specific characteristics of each site.'

ENV3: Character and design refers to 'the design, density and scale of new development should make a positive contribution to the established character and identity of its locality. All development will be expected to recognize established design principles with regard to such factors as scale, massing, height, materials, density, legibility, views and vitas. The relationship between buildings and the spaces around them must be handled in a sensitive manner'.

Household Alterations and Extensions: Local Development Frame work supplementary Planning Document refers to the windows and balconies of new developments should be positioned so that they do no directly overlook into the windows of neighbouring homes or gardens. As a general rule on, acceptable levels of privacy are achieved by keeping a distance of 21m between main facing elevations containing habitable rooms with 13m between such elevations and a gable elevation. These distances should be generally increased by 5m for each additional storey of development, or where ground level is significantly higher than that of the neighbouring property.

Household Alterations and Extensions: Local Development Frame work supplementary Planning Document refers to extensions should not overshadow neighbouring habitable rooms or private gardens to an

unreasonable degree.

Further to the above, we would request that the drawings are revised to show indication of measurements from our boundary fence as well as our property itself.

A number of other relevant items haven't been included within the application in order to help the planning officer make an informed decision;

- A block plan showing the footprint of all existing buildings on the site,
 with written dimension and distances to site boundaries.
- Existing and proposed Site Levels and site sections
- Drainage Assessment surface and foul water
- Land Contamination Assessment
- Ecology Survey
- Landscaping Details external lighting which could affect our property.
- Statement of Arboricultural Implications of Development
- Sunlight/Daylight/Microclimate Assessment

The applicant has made no attempt to contact neighbours directly or to hold a public consultation at this reserve matters stage to take on board any comments.

If this application is to be decided by councillors, please take this as notice that I would like to speak at the meeting of the committee at which this application is expected to be decided. Please let us know as soon as possible the date of the meeting.

Finally, please note that our submission is in respect of the proposed development.

Objection from Daniel & Michelle Bolton, 28 Kingsley Close, Rec 03.12.18

F.A.O Martin Kenny Sent by email: 3rd December 2018 Planning reference 10/18/1097

Phase 1B – Reserve Matters Application (access within the site, landscape, layout, appearance, scale) pursuant to outline 10/15/0496 for Phase 1b comprising of 150 dwellings and associated infrastructure. Representation from 28 Kingsley Close, Blackburn [Objection]

I am writing to express my concerns regarding Phase 1b of the Sappi development. Whilst I am not against developments of this nature, and understand the need to build more homes, I do feel that the layout of the site does not take into account a number of factors.

I would ask the developer and Local Planning Authority to consider these matters and provide a written response as to how these concerns can be resolved.

At outline planning stage (10/15/0496), it was stated in the brochure that 'Canalside' would consist of 'Open landscape bordering trees alongside the canal, proposed for low density housing'. The brochure also stated that 'careful programming involving cutting back understory growth, removing less successful tree groups, and planting species native to a more mixed landscape of tree groups and clearing is proposed'. At no point was there any suggestion of removing the trees protected under TPO opposite Kingsley Close. As a result of this, there was little resistance at that time from the residents of Kingsley Close.

Under the newly proposed plans, submitted by jrp, it shows the removal of trees G82, T81, T80, T79, G73, – taken from 10/15/0496 arboriculture report - opposite to Kingsley Close and three story dwellings being constructed with a first story living area and balcony. This significantly reduces the privacy of the residents of Kingsley Close.

Whilst backing onto a canal doesn't provide total privacy, people are passing through and not a permanent fixture. Given the design of these new homes, with an elevated balcony, it is a major intrusion into the residents of Kingsley Close's privacy and not what was originally included in the plans.

The National Planning Policy Framework (NPPF) (Ref 15-3) stipulates 'planning policies and decisions should always seek to secure a good standard of amenity for existing and future occupants of land and buildings'. This development will have an adverse effect on the residential amenity of neighbours, by reasoning of overlooking and overshadowing.

The following policies of residential amenity are not met with this design;

- a) Does not have an adverse impact on amenity or character of an area, and does not cause undue disturbance to nearby residents or conflict with adjoining properties;
- b) Safeguards the enjoyment of light and privacy for existing residential properties;

In relation to disturbance levels, as the balcony is on the first floor of SG7 homes, designed to enjoy a canal fronted view, it is likely that residents will be on these balconies late into the night, providing additional noise to Kingsley residents.

I also have an issue with regard to shading my property as it has a West facing garden. I currently enjoy an open space between trees T81 and G82 as seen on the 10/15/0496 arboriculture report, on the proposed plans the SG7 developments would eliminate the late afternoon sunlight given their height and proximity to my garden. This would reduce outdoor activities such as children play and reduce outside clothes drying.

On Page 22 of the Design and Access Statement from the current 10/18/1097 application it states that 'This setting allows the opportunity for housing layout to create interest and value. In terms of urban design principles, the housing layouts in this area will to provide overlooking of the routes and links to the canal, define open spaces along the canal edge that respect the retained tree belt, manage traffic movements and parking, and establish a positive relationship with houses and open spaces on the opposite side of the canal'.

I fail to see what positive relationship could be formed building a three story house with a second floor balcony overlooking our back gardens. I also fail to see how removing established healthy trees that are under preservation order respect the retained tree belt. This is purely for 'interest and value' to maximise the return on profit by building waterfront properties.

As you are aware, the windows and balconies of new developments should be positioned so that they do not directly overlook into the windows of neighbouring homes or gardens. As a general rule, acceptable levels of privacy are achieved by keeping a minimum distance of 21 metres between main facing elevations containing habitable rooms. These distances should be generally increased by 5 metres for each additional storey of development. As a result of the extension carried out at 28 Kingsley Close, the garage on the plans has been converted into a

habitable room and should be used to calculate the distance between properties. I feel that plot 133 & 134 is in breach of this and should be positioned elsewhere on the development. There is the opportunity to move the dwelling next to plot 170 & 171.

Overall I feel that the trees and foliage opposite Kingsley Close should remain and the proposed developments of plot 103 to 110 and plot 133 and plot 134, either be built behind the existing tree line opposite Kingsley Close, to save the existing trees or moved elsewhere on the site.

This would eliminate the major issues that the residents of Kingsley Close are facing and not reduce the number of homes needing to be built on the site.

If the 10 properties are required to have canal frontage, to enable maximum returns for the developer, it would make more sense to move the 10 properties further down canalside next to plots 169 & 170, 171 & 182 and/or 184 & 200, this would most likely add a further premium to the properties as they are not overlooked. It would also keep the development in line with the rest of the area, where canal fronted properties don't typically overlook each other.

I do however feel that the removal of 22 trees on this site to simply maximise returns for developers is excessive and should be reconsidered.

As highlighted at the beginning of my objection letter I am not averse to developments such as this, I am however against it impacting on my property for the reasons highlighted throughout this document.

I would also like to make reference to the entry access points to the canal along the 'canalside' development. Providing access points through trees would make a natural area for youths to hang around at night as it provides a shaded area. This could lead to anti-social behaviour and noise pollution as currently experienced under the canal bridge on Livesey Branch road.

If these 10 properties were to be moved further down the canal side, with canal access entry points starting at plot 170 it would provide much more open, safe and secure entry points to the canal and add to the security and wellbeing of the development. For those wishing to access the canal from plot 170 towards Livesey Branch Road, could still use the current canal entry point at the Livesey Branch road canal bridge.

I would like to extend the opportunity for you to come to 28 Kingsley Close and take a look at the proposed development from a residents perspective to see how it will impact on my home and quality of life as you don't always get a sense of it from the site view.

Yours Sincerely

Objection from Mrs Wendy Fish, 22 Kingsley Close, Blackburn, Rec 04.12.18

For the attention of Ms. Denise Park/ Martin Kenny

Dear Ms. Park/Mr. Kenny

RE: Reserved Matters Application 10/18/1097: Phase 1B Former Sappi Paper Mill, Livesey Branch Road, Feniscowles, Blackburn, BB2 5HX

I wish to make you aware of a number of <u>OBJECTIONS</u> that I have with regards to elements of the proposed development at the above address, application number referenced above. As an immediate neighbour to the site of the proposed development, I am of the view that the proposed development will have a detrimental impact on my standard of living as well as the standard of living of others. My specific objections are as follows;

1. Detrimental impact upon residential amenities i.e. loss of privacy and overlooking

The local area around the development site is characterised by a mixture of two storey detached, semi-detached and terraced dwellings of varying ages and appearances. It is proposed that ten dwellings within the proposed development will be sited to the east of the application site and will be sited directly opposite the existing dwellings located on the west side of Kingsley Close. These dwellings (dwelling type refs: S7G / S7G End) appear to be sited approximately 30m to the west of those located on the east side of Kingsley Close and are of three stories in height. The rear east

facing elevations have balconies at first floor level facing east towards the private rear gardens to the dwelling to the west side of Kingsley Close.

Blackburn with Darwen Local Plan Part 2 (2015): Policy 8 – Development and People

Development will be permitted where it can be demonstrated that:

ii) 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;

<u>Blackburn with Darwen Local Plan Part 2 (2015): Policy 8 – Development and People,</u> Paragraph 2.16

Some development can also have a very direct impact on people close to it. It is important that planning manages this impact and ensures that no one suffers from unsatisfactory conditions as a result of new development.

Blackburn with Darwen Local Plan Part 2 (2015): Policy 11 – Design

New development must enhance and reinforce the established character of the locality; or where the character of a place has been compromised by previous change, the development must assist in re-establishing a strong character, taking references from positive character elements in the wider area and applying them in a modern context.

The following aspects of character must be taken into account and reinforced in new developments:

- i) Existing topography, buildings and landscape features and their integration into the development;
- ii) Layout and building orientation to make best use of existing connections, landmarks and views;
- iii) Building shapes, plot and block sizes, styles, colours and materials that contribute to the character of streets and use these to complement local character;
- iv) Height and building line of the established area;
- v) Relationship of buildings to the street; and
- vi) Frontage treatments such as boundary walls.

<u>Blackburn with Darwen Residential Design Guide: Supplementary Planning Document (2012) – Policy RES 2B: Building Heights</u>

1. The building heights of new residential developments must relate to the form and proportion of the surrounding buildings and reflect the relative importance of the street.

<u>Blackburn with Darwen Residential Design Guide: Supplementary Planning Document (2012) – Policy RES E20: Balconies, Terraces and Raised Platforms</u>

Balconies, terraces and raised platforms will only be permitted where they do not create an unacceptable level of overlooking on surrounding properties.

I believe that the dwellings located directly opposite the west side of Kingsley Close are in direct contravention of the above planning polices by virtue of their scale, massing and siting. These particular dwellings do not respect the established building heights of the local area on account of them being three storeys in height, a feature which is out of keeping with the local area. The three

storey design of the dwellings creates an unacceptable degree of dominance which would undermine the inherent character and appearance of the local area. These proposed dwellings would create an unacceptable degree of overlooking and loss of privacy to the rear gardens and rooms to the dwellings on the west side of Kingsley Close. No other existing dwellings appear to be overlooked by the proposed development. Policy RES 2B appears to not have been included within Chapter 02 of the submitted Design and Access Statement, dated November 2018.

The proposed dwellings also incorporate balconies at first floor level and will directly face the dwellings on the west side of Kingsley Close. The balconies will appear dominant on account of their size and location as well as incongruous within the local area and therefore fails to demonstrate an understanding of the local context. The proposed balconies unacceptably impact on the amenity of the existing dwellings to Kingsley Close through overlooking, loss of privacy and noise potential.

2. Adverse impact on local trees and wildlife

The proposed site plan shows the removal of approximately 22 trees along the route of the Leeds Liverpool Canal and tow path and directly opposite the rear of the houses located at Kingsley Close to the east. All of the trees proposed for removal fall within retention category A and B as described within the Arboricultural Report dated January 2015 (submitted as part of Outline Planning Application 10/15/0496) and have a minimum life expectancy of 40 years.

<u>Blackburn with Darwen Local Plan Part 2 (2015): Policy 9 – Development and the Environment,</u> Items 6, 7, 8 and 11

Habitats and Species, and Ecological Networks

Development likely to damage or destroy habitats or harm species of international or national importance will not be permitted.

Development likely to damage or destroy habitats or species of principal importance, Biological Heritage Sites, or habitats or species listed in the Lancashire Biodiversity Action Plan will not be permitted unless the harm caused is significantly and demonstrably outweighed by other planning considerations and an appropriate mitigation strategy can be secured.

Development likely to damage or destroy habitats or species of local importance will not be permitted unless the harm caused is outweighed by other planning considerations and an appropriate mitigation strategy can be secured.

<u>Trees</u>

Development will be expected to incorporate existing trees into the design and layout of the scheme. Where it appears likely a proposed development will result in the loss of or harm to trees of significant amenity, nature conservation or intrinsic value (including veteran trees and woodland), the Council will consider making a Tree Preservation Order to ensure that due consideration is given to the importance of the trees in the planning process.

<u>Blackburn with Darwen Local Plan Part 2 (2015): Policy 8 – Development and the Environment, paragraph 2.18</u>

Our environment is a limited resource. Once an environmental asset has been damaged or destroyed, it is normally impossible to restore it to its original condition.

<u>Blackburn with Darwen Residential Design Guide: Supplementary Planning Document (2012) – Policy RES 3 Public Realm</u>

Trees:

Trees represent public benefit by way of visual amenity and contributing to the character of an area. The Council seeks to retain trees wherever possible and ensure that they are in a condition which allows them to flourish and contribute to the quality of the development.

Principles: Trees

Trees contribute to the landscape and the amenity of an area. They provide screening, form an important wildlife habitat and may also be of historical value.

<u>Arboricultural Report, dated January 2015 (submitted as part of Outline Planning Application 10/15/0496), page 11.</u>

Decisions about which trees are to be retained should be influenced by their retention categories as suggested below.

Where possible category A and B trees should be retained and any works within their RPA's should be undertaken in a sympathetic manner.

The trees proposed to be felled contribute to the character and appearance of the local area as well as the setting and character of the Leeds Liverpool Canal and tow path. Trees provide public benefits through visual amenity and the positive contribution to the enhancement of the local area and by the proposed removal of the tree, this would have a detrimental impact on the local area through the loss of these positive values. The submitted aboricultural report suggests that the trees are of a high retention value and to remove these trees would be contrary to the above local planning policy and guidance. The removal of the trees would also contribute to the unacceptable loss of visual amenity to the dwellings on the west side of Kingsley Close, located opposite, through the loss of screening which would result in loss of privacy and overlooking, therefore conflicting with the above local planning policies.

The loss of the trees would also have an adverse impact on the local wildlife, particularly along the corridor of the Leeds Liverpool Canal, through the loss of important habitat for bats and birds through the destruction of potential nesting and roosting sites.

3. Highway safety and Traffic

A significant number of houses are to be constructed as part of the overall development masterplan for the site, as well as commercial premises. The proposed plans as well as the proposal for other phases of the masterplan site show the main access and egress points from the site are located on (A674) Preston Old Road, west of Tintagel Close and on Livesey Brach Road, west of Kingsley Close.

Given the amount of housing proposed as part of this application and the masterplan overall, it is my opinion that the proposed housing will put increased strain on the local road network, namely, Livesey Branch Road and Preston Old Road and significantly increase the amount of traffic at peak times,

which both of these roads already suffer from and are already highly loaded with traffic at peak times of the day.

In turn, the increased amount of traffic within the area will compromise local highway safety as well as the safety of pedestrians, this is worsened by the lack of suitable road crossings to both these roads. It should also be noted that a number of schools are located within the area, namely Feniscowles Primary School and St Paul's Roman Catholic Primary School. The increased traffic will cause further issues in the vicinity of these schools as well as increase the risk posed to those who travel to the school by foot, of which many can be seen in the mornings and afternoons.

This area is also significantly affected by heavy traffic in the event of problems on the nearby M65 motorway and any issues that occur around junction 3 of this motorway. In the event of this happening, the traffic in the local area builds up significantly and the increased traffic caused by the proposed development will only worsen such situations as and when they occur.

To conclude, I believe that the proposal would contravene this guidance as it is to the detriment of the quality, character and amenity value of the area, as outlined in the points above.

I would also like to request that, should you eventually decide to grant planning approval, the council considers using its powers to enforce (through suitably worded planning conditions) controlled delivery times and hours of operation on the application site during the site clearance and construction phases of the development as well as further enforcement to reduce the effect of noise, dust, fumes and vibration on neighbouring properties throughout the duration of the works. I would also ask that a further condition be imposed requiring the provision of wheel washing facilities at all entrances to the site to prevent site debris being transferred onto the local highways during the full duration of the proposed development.

I would be grateful if the council would take my objections into consideration when determining this application and that suitable amendments are carried out to the proposals in order to address the issues that have been identified.

Yours sincerely

Objection from Debbie Riley, Rec 05.12.18

Planning reference 10/18/1097: Phase 1B – Reserve Matters Application (access within the site, landscape, layout, appearance, scale) pursuant to outline 10/15/0496 for Phase 1b comprising of 150 dwellings and associated infrastructure.

Letter of Objection - 04 December 2018

Dear Mrs Park,

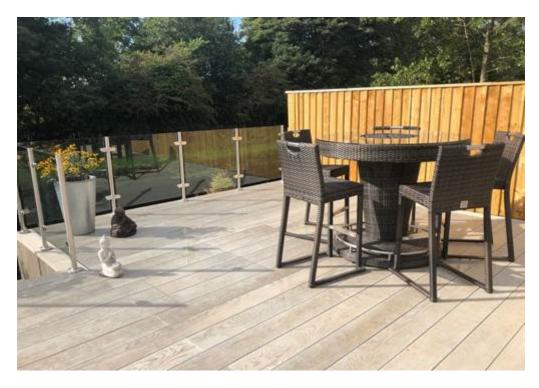
My family and I have resided at 14 Kingsley Close since the dwellings were first constructed in 2003. When we purchased the house we paid a premium for the property for the canal view and for the fact we were not overlooked at the rear of the house. One of the main reasons I have not moved from Kingsley Close is because of the surrounding environment and countryside which my family & I enjoy living in. I have also recently spent a considerable amount of money on an extension and remodelling of my home so I can enjoy my surrounding environment more. I would not have done this if I had had any idea about the proposed development directly facing my home & I now also face losing value on my home after going to considerable efforts to improve it and its value.

Regarding this planning application, although I understand the need for more housing in the area, and as such I am not against the overall principle of the current development, I am concerned as to the capacity of the local road infrastructure, schools provisions, etc to accommodate the net increase in local population when you consider there are currently 3 other new building developments in the local area. I feel compelled to raise strong objections on the following specific grounds and would ask the developer and Local Planning Authority to consider these matters and provide a written response as to how these concerns can be resolved.

The canal side dwellings proposed under 10/18/1097 are 3 storey, with first floor, living room, full width balconies (S7G style). They will look directly into Kingsley Close rear living room, rear bedrooms and overlook gardens; this a complete invasion of privacy. From my observations, it is rare for dwellings to be constructed on directly opposite sides of the canal in this manner. As the houses on Kingsley Close have been in place for 15 years the residential amenity impact on the occupiers must surely be taken into account as a material planning consideration. If the new dwellings are constructed as proposed, the loss of residential amenity and loss of privacy to Kingsley Close canal side occupiers will be significant.

Looking at the plans there will be a dwelling directly opposite my house that will be looking directly into my home. As stated above I recently completed an extension and remodelling of my home. My architect had suggested a first floor balcony on the roof of the back extension but was told this would not get planning permission as this would be an invasion of privacy for my neighbours. This was less than 9 months ago and now there are proposals to remove protected trees to build houses with first floor balconies that would constitute a much more significant invasion of privacy affecting more residents of Kingsley Close including myself. Surely the same principles apply and the permission for the removal of trees and style of build for these dwellings cannot be approved?

Please see below pictures of the rear of my home and the current view I have from my dining room and garden as well as a view of the rear of my house from the opposite canal side. I think you would agree that if this was your home you would not be happy about the removal of the trees and the construction of 3 storey dwellings with first floor balconies being constructed directly across from you and therefore invading privacy to an unacceptable degree. At the very least the trees, which are protected, should be left in place and the balconies should not be approved.







Objection from Mrs W Fish, 22 Kingsley Close, Blackburn, Rec 05.12.18

Dear Ms. Park/Mr. Kenny

RE: Reserved Matters Application 10/18/1097: Phase 1B Former Sappi Paper Mill, Livesey Branch Road, Feniscowles, Blackburn, BB2 5HX

I wish to make you aware of a number of <u>OBJECTIONS</u> that I have with regards to elements of the proposed development at the above address, application number referenced above. As an immediate neighbour to the site of the proposed development, I am of the view that the proposed development will have a detrimental impact on my standard of living as well as the standard of living of others. My specific objections are as follows;

4. Detrimental impact upon residential amenities i.e. loss of privacy and overlooking

The local area around the development site is characterised by a mixture of two storey detached, semi-detached and terraced dwellings of varying ages and appearances. It is proposed that ten dwellings within the proposed development will be sited to the east of the application site and will be sited directly opposite the existing dwellings located on the west side of Kingsley Close. These dwellings (dwelling type refs: S7G / S7G End) appear to be sited approximately 30m to the west of those located on the east side of Kingsley Close and are of three stories in height. The rear east facing elevations have balconies at first floor level facing east towards the private rear gardens to the dwelling to the west side of Kingsley Close.

Blackburn with Darwen Local Plan Part 2 (2015): Policy 8 – Development and People

Development will be permitted where it can be demonstrated that:

ii) 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;

<u>Blackburn with Darwen Local Plan Part 2 (2015): Policy 8 – Development and People,</u> <u>Paragraph 2.16</u>

Some development can also have a very direct impact on people close to it. It is important that planning manages this impact and ensures that no one suffers from unsatisfactory conditions as a result of new development.

Blackburn with Darwen Local Plan Part 2 (2015): Policy 11 - Design

New development must enhance and reinforce the established character of the locality; or where the character of a place has been compromised by previous change, the development must assist in re-establishing a strong character, taking references from positive character elements in the wider area and applying them in a modern context.

The following aspects of character must be taken into account and reinforced in new developments:

- i) Existing topography, buildings and landscape features and their integration into the development;
- ii) Layout and building orientation to make best use of existing connections, landmarks and views;
- iii) Building shapes, plot and block sizes, styles, colours and materials that contribute to the character of streets and use these to complement local character;
- iv) Height and building line of the established area;
- v) Relationship of buildings to the street; and
- vi) Frontage treatments such as boundary walls.

<u>Blackburn with Darwen Residential Design Guide: Supplementary Planning Document (2012) – Policy RES 2B: Building Heights</u>

1. The building heights of new residential developments must relate to the form and proportion of the surrounding buildings and reflect the relative importance of the street.

<u>Blackburn with Darwen Residential Design Guide: Supplementary Planning Document (2012) – Policy RES E20: Balconies, Terraces and Raised Platforms</u>

Balconies, terraces and raised platforms will only be permitted where they do not create an unacceptable level of overlooking on surrounding properties.

I believe that the dwellings located directly opposite the west side of Kingsley Close are in direct contravention of the above planning polices by virtue of their scale, massing and siting. These particular dwellings do not respect the established building heights of the local area on account of them being three storeys in height, a feature which is out of keeping with the local area. The three

storey design of the dwellings creates an unacceptable degree of dominance which would undermine the inherent character and appearance of the local area. These proposed dwellings would create an unacceptable degree of overlooking and loss of privacy to the rear gardens and rooms to the dwellings on the west side of Kingsley Close. No other existing dwellings appear to be overlooked by the proposed development. Policy RES 2B appears to not have been included within Chapter 02 of the submitted Design and Access Statement, dated November 2018.

The proposed dwellings also incorporate balconies at first floor level and will directly face the dwellings on the west side of Kingsley Close. The balconies will appear dominant on account of their size and location as well as incongruous within the local area and therefore fails to demonstrate an understanding of the local context. The proposed balconies unacceptably impact on the amenity of the existing dwellings to Kingsley Close through overlooking, loss of privacy and noise potential.

5. Adverse impact on local trees and wildlife

The proposed site plan shows the removal of approximately 22 trees along the route of the Leeds Liverpool Canal and tow path and directly opposite the rear of the houses located at Kingsley Close to the east. All of the trees proposed for removal fall within retention category A and B as described within the Arboricultural Report dated January 2015 (submitted as part of Outline Planning Application 10/15/0496) and have a minimum life expectancy of 40 years.

<u>Blackburn with Darwen Local Plan Part 2 (2015): Policy 9 – Development and the Environment, Items 6, 7, 8 and 11</u>

Habitats and Species, and Ecological Networks

Development likely to damage or destroy habitats or harm species of international or national importance will not be permitted.

Development likely to damage or destroy habitats or species of principal importance, Biological Heritage Sites, or habitats or species listed in the Lancashire Biodiversity Action Plan will not be permitted unless the harm caused is significantly and demonstrably outweighed by other planning considerations and an appropriate mitigation strategy can be secured.

Development likely to damage or destroy habitats or species of local importance will not be permitted unless the harm caused is outweighed by other planning considerations and an appropriate mitigation strategy can be secured.

Trees

Development will be expected to incorporate existing trees into the design and layout of the scheme. Where it appears likely a proposed development will result in the loss of or harm to trees of significant amenity, nature conservation or intrinsic value (including veteran trees and woodland), the Council will consider making a Tree Preservation Order to ensure that due consideration is given to the importance of the trees in the planning process.

<u>Blackburn with Darwen Local Plan Part 2 (2015): Policy 8 – Development and the Environment, paragraph 2.18</u>

Our environment is a limited resource. Once an environmental asset has been damaged or destroyed, it is normally impossible to restore it to its original condition.

<u>Blackburn with Darwen Residential Design Guide: Supplementary Planning Document (2012) – Policy RES 3 Public Realm</u>

Trees:

Trees represent public benefit by way of visual amenity and contributing to the character of an area. The Council seeks to retain trees wherever possible and ensure that they are in a condition which allows them to flourish and contribute to the quality of the development.

Principles: Trees

Trees contribute to the landscape and the amenity of an area. They provide screening, form an important wildlife habitat and may also be of historical value.

<u>Arboricultural Report, dated January 2015 (submitted as part of Outline Planning Application 10/15/0496), page 11.</u>

Decisions about which trees are to be retained should be influenced by their retention categories as suggested below.

Where possible category A and B trees should be retained and any works within their RPA's should be undertaken in a sympathetic manner.

The trees proposed to be felled contribute to the character and appearance of the local area as well as the setting and character of the Leeds Liverpool Canal and tow path. Trees provide public benefits through visual amenity and the positive contribution to the enhancement of the local area and by the proposed removal of the tree, this would have a detrimental impact on the local area through the loss of these positive values. The submitted aboricultural report suggests that the trees are of a high retention value and to remove these trees would be contrary to the above local planning policy and guidance. The removal of the trees would also contribute to the unacceptable loss of visual amenity to the dwellings on the west side of Kingsley Close, located opposite, through the loss of screening which would result in loss of privacy and overlooking, therefore conflicting with the above local planning policies.

The loss of the trees would also have an adverse impact on the local wildlife, particularly along the corridor of the Leeds Liverpool Canal, through the loss of important habitat for bats and birds through the destruction of potential nesting and roosting sites.

6. Highway safety and Traffic

A significant number of houses are to be constructed as part of the overall development masterplan for the site, as well as commercial premises. The proposed plans as well as the proposal for other phases of the masterplan site show the main access and egress points from the site are located on (A674) Preston Old Road, west of Tintagel Close and on Livesey Brach Road, west of Kingsley Close.

Given the amount of housing proposed as part of this application and the masterplan overall, it is my opinion that the proposed housing will put increased strain on the local road network, namely, Livesey

Branch Road and Preston Old Road and significantly increase the amount of traffic at peak times, which both of these roads already suffer from and are already highly loaded with traffic at peak times of the day.

In turn, the increased amount of traffic within the area will compromise local highway safety as well as the safety of pedestrians, this is worsened by the lack of suitable road crossings to both these roads. It should also be noted that a number of schools are located within the area, namely Feniscowles Primary School and St Paul's Roman Catholic Primary School. The increased traffic will cause further issues in the vicinity of these schools as well as increase the risk posed to those who travel to the school by foot, of which many can be seen in the mornings and afternoons.

This area is also significantly affected by heavy traffic in the event of problems on the nearby M65 motorway and any issues that occur around junction 3 of this motorway. In the event of this happening, the traffic in the local area builds up significantly and the increased traffic caused by the proposed development will only worsen such situations as and when they occur.

To conclude, I believe that the proposal would contravene this guidance as it is to the detriment of the quality, character and amenity value of the area, as outlined in the points above.

I would also like to request that, should you eventually decide to grant planning approval, the council considers using its powers to enforce (through suitably worded planning conditions) controlled delivery times and hours of operation on the application site during the site clearance and construction phases of the development as well as further enforcement to reduce the effect of noise, dust, fumes and vibration on neighbouring properties throughout the duration of the works. I would also ask that a further condition be imposed requiring the provision of wheel washing facilities at all entrances to the site to prevent site debris being transferred onto the local highways during the full duration of the proposed development.

I would be grateful if the council would take my objections into consideration when determining this application and that suitable amendments are carried out to the proposals in order to address the issues that have been identified.

Yours sincerely

Mrs. W. Fish

Objection from Darren Tuplin, 34 Kingsley Close, Blackburn, Rec 17.02.20

I wish to raise concern over the recent planning amendment as referred to above and the re-siting of properties along the canal side in the amended application.

Site revision plan doc/00029608.pdf shows a proposal for 8, 3 x floored dwellings along the canal side on the opposite side of the canal, the south end of Kingsley Close, where the original plan, doc/00016388.pdf had only 4. The change of proposal looks to have come about because of an introduction of a landscaped area along the canal towards Feniscowles Bridge where the 8 houses were initially located.

With introducing four more houses brings an additional 8 bedrooms on the 3rd level of the properties overlooking the rear of the properties of Kingsley Close. Is it known at what height from the ground these houses will stand? Indeed the current ground level is lower than that of the neighbouring canal towpath. With the design of these dwellings the lounge/sitting area is situated on the 2nd level giving a prime view over the canal and into the rear of the properties to the south end of Kingsley Close.

The positioning of these properties sit very close to the towpath. Surely they didn't have to be positioned as such and this might not cause such concern perhaps if they were further away from the cancel side allowing for the trees to remain in order to provide some degree of screening to add in some form of privacy. I take it that the planning department have assurances that the tree belt that lines the towpath alongside the Leeds Liverpool canal does not belong to British Waterways?

This concern I raise and bring to your attention forms part of my wider concern. Whilst I appreciate this letter focuses primarily on the Phase 1B of the Former land of the Sappi Paper Mill, I need to highlight further concern local to the south end of Kingsley Close. I understand a developer has interest in developing the public open space on Kingsley Close. Whilst obviously this is not connected with the Sappi development, both are of concern to me given that both are current development proposals and both would be overlooking the properties to the south end of Kingsley close. Only recently has Dorbcrest homes commenced tree and shrub removal on the public open space. With

surveyors measuring the public open space last year I can only guess the developers are currently engaged in consultation with the Blackburn planning department.

Thank you for the opportunity to inform you of my concerns and as it stands, my objections to both developments as both are an infringement of privacy and of concern for public open spaces. As you may appreciate the enjoyment of the current landscape to the prospect, where two developments encroach on people's lives, is a daunting one.

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Darren Tuplin

Objection from Lynn Ramsay, 32 Coronation Avenue, Rec 03.09.20

Hi Planning

I have already emailed Martin Kenny regarding the above - the letter I received did not include to whom we were suppose to email our queries/concerns and objections to, and I have had no response.

I extract from my initial email:

I live on 32 Coronation Avenue, Feniscowles, and today (27 August 2020), I received a letter re: "Reserved matters Application" in connection with the above Site for Phase 1b, comprising of 150 dwellings and associated infrastructure.

I would very much like to comment on the various phases of development around the Sappi Paper Mill, however I really need to see the detailed Masterplan first (I am new to Feniscowles and therefore did not view the Masterplan before - I was in fact told by the Estate Agent that no development would take place behind my home (seems that is not the case). Please would you let me know how I may be able to view a detailed Masterplan? I am in no way against the development, but just need to ensure we protect existing habitats and privacy.

I have done a bit of research in the interim and am concerned about the trees. There are Magpies, Jackdaws, Wooded Pigeons and Woodpeckers living in the big trees. There is also an abundance of Great Tits, Blue Tits, Coal Tits, Sparrows, Robin's and Nuthatches, and I would not want to have their habitat disturbed in any way. What guarantee is there that this will not happen (even if you do not cut the trees down, the Woodpeckers like their privacy)? Currently, without seeing the details, I would need to raise my objection to building in the area.

Kind regards Lynn Ramsay

Agenda Item 4.2

REPORT OF THE DIRECTOR Plan No: 10/20/0434

Proposed development: Full Planning Application for Use as garden

(retrospective).

Site address:

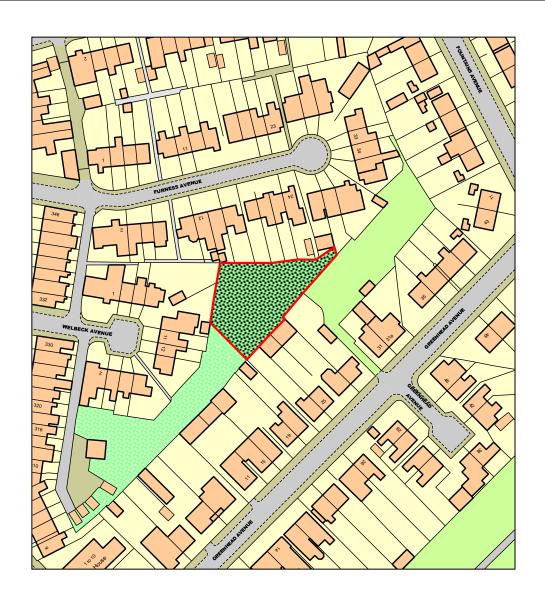
Land to the rear of 29 Greenhead Avenue

Blackburn BB1 5PR

Applicant: Mr Haider Khan

Ward: Little Harwood & Whitebirk

Councillor: Pat McFall Councillor: Abdul Patel Councillor: Mustafa Ali Desai



1.0 SUMMARY OF RECOMMENDATION

1.1 APPROVE – Subject to conditions, as set out in paragraph 4.1.

2.0 KEY ISSUES / BACKGROUND & SUMMARY OF PLANNING BALANCE

- 2.1.1 The application is reported to the Committee due to the volume of objections received from local residents, in accordance with the Council's adopted Scheme of Delegation.
- 2.1.2 The application is submitted following receipt of complaints from local residents alleging unauthorised works and occupation of the land. Complaints include a 48 signature petition which was reported to July's Committee. Initial complaints where received in March 2019, at which time Planning Enforcement and Public Protection officers visited the site to establish the extent of activity. This was revealed as clearance of trees and Japanese Knotweed, as well as erection of a fence. The works were carried out by the applicant.
- 2.1.3 Subsequent to the site visit, a Planning Contravention Notice (PCN) was issued on the applicant, requesting information pertaining to land ownership interests and intended future use. Answers provided revealed the land to be outside of the applicant's ownership and otherwise unregistered. The intended future use was stated as residential garden associated with no. 29 Greenhead Avenue; a property accepted as being within the ownership of the applicant. The Council's planning enforcement team continued to monitor the site.
- 2.1.4 Complaints expressed serious concern about the extent of a Japanese Knotweed infestation and attempts by the applicant to remove it. In response, the Council's Public Protection team issued a Community Protection Warning (CPW) notice on 12th July 2019, in accordance with the Anti-Social Behaviour Crime and Policing Act 2014, on account of legal responsibilities for the disposal and management of Japanese Knotweed. The CPW required the applicant to submit a written program for control of the Knotweed, within 28 days, for approval by the Council's Public Protection team. No such program was received. The applicant then appeared to leave the site and very little further activity occurred, resulting in suspension of CPW proceedings.
- 2.1.5 In May 2020, further complaints where received alleging further site clearance and general activity. Complaints also alleged noise disturbance and intimidation towards local residents. Following advice to the applicant that the use of the land as residential garden would require planning permission, this planning application was submitted on 12th May 2020. The application is described as retrospective, on account of the works undertaken to date, including clearance, erection of a boundary fence with lockable gates and removal of the boundary fence to the rear of no. 29 Greenhead Avenue, which allows unfettered access onto the land from this property. Occasional activity associated with a typical domestic use has also been observed, including the

- siting of a small chicken pen and keeping of chickens. It is, however, arguable as to whether a material change of use of the land has, to date, occurred, given the level of use / activity. Any such uncertainty in this regard should not, however, influence the outcome of the application.
- 2.1.6 As well as the aforementioned works / activity, local residents have expressed serious concern that the land is not within the ownership of the applicant. This is accepted by all parties and is confirmed by current Land Registry records, which confirm the land to be unregistered, though it does not necessarily follow that the land is not owned by an alternative individual or individuals. The applicant, however, claims to have 'occupied' the land for 15 years, a claim informally contested by local residents. Notwithstanding disputed land ownership / occupancy, the planning application is submitted in accordance with the statutory requirements of the Town and Country Planning (Development Management Procedure) (England) Order 2015. reference to land ownership, this requires the applicant to sign Certificate D of the application form and publish the intention to develop the land, for the purposes described in the application, in the local press for a minimum of 14 days: thereby affording the opportunity for an owner to make representation. No such representation has been received and the application is accepted as procedurally correct, enabling it to progress to determination.
- 2.1.7 It is understood that the applicant is seeking to gain adverse possession of the land, through the relevant legal recourse with the Land Registry. Members are advised that this is a private matter beyond the influence of the planning process and the Council in general. At the time of writing this report, no formal application has been submitted to the Land Registry, and the onus is on the applicant to show that the legal requirements to satisfy an application for adverse possession are met. In view of the local community interest in relation to the site, the Council will be writing to the Land Registry asking to be informed and be consulted upon any subsequent adverse possession claim application. If such application is considered by the Land Registry then initially, a land registry surveyor attends the site in order to assess whether there is an evidential basis for adverse possession to be seriously considered by the land registry. If it is considered that there is evidence, this will then lead to a formal consultation process. At this stage, the Council would have to submit its own statutory declarations based on its own direct knowledge of the site from its own officers, which would be considered along with the applicant's statutory declaration. In addition, local residents will be invited to submit their comments. Members are advised that the Council cannot advise the local residents with regards their submission and comments, they will have to seek their own independent legal advice.
- 2.1.8 The application is limited to the area defined by the red edged site plan; that being the area proposed as additional garden space associated with no. 29 Greenhead Avenue. The applicant also occupies adjacent, unregistered land to the south west, to the rear of nos. 3-27 inc. Greenhead Avenue and nos. 2-12 inc. Wellbeck Avenue. Although not included in the application, this land has also been cleared of trees and Japanese Knotweed.

- 2.1.9 In response to receipt of a very significant volume of complaints from local residents about the applicants conduct, including alleged anti-social behaviour and intimidation, the Council's Community Safety team, in conjunction with Police colleagues, have taken a targeted and pro-active approach to managing the situation in order to deescalate tensions, under the title of 'Operation Paradise'. This involved community wide dialogue with residents of Greenhead Avenue, Wellbeck Avenue and Furness Avenue. No criminal activity was established and the operation has now concluded. Agencies will, however, continue to monitor the situation.
- 2.1.10 The key issues in the assessment of the application are the impact of the development on neighbouring amenity and upon landscape character. In arriving at the recommendation, all material matters have been considered, in the context of relevant Development Plan policies and The Framework, as set out in the Assessment section of this report. It is considered, on balance, that the development is consistent with those policies. It is also satisfactory from a technical point of view with the issue of Japanese Knotweed management / eradication having been addressed through the application process and appropriately further controlled through a planning condition.
- 2.1.11 Member's are respectfully advised that the following non-material matters should not influence the outcome of the application:
 - Land ownership / adverse possession
 - Alleged anti-social behaviour and intimidation
 - Alleged activity on land adjacent to the application site, to the immediate south west
 - Alleged illegal activities at no. 29 Greenhead Avenue.

3.0 RATIONALE

3.1 Site and Surroundings

- 3.1.1 The application site relates to a parcel of enclosed land to the rear of properties along Greenhead Avenue, Wellbeck Avenue and Furness Avenue, Blackburn, as defined by the submitted red edged site plan.
- 3.1.2 The land is appropriately described as vacant. It was, up until the involvement of the applicant, most recently covered by vegetation, including low level trees and Japanese Knotweed. This is supported by Google aerial imagery (see extract below). Historic aerial photograph's support anecdotal representations that the land formerly hosted domestic garages.
- 3.1.3 The wider area is characterised by its urban pattern, featuring a mix a terraced and semi-detached dwellings.



Google aerial image view of the application site to the rear of Greenhead Avenue



Google street view image of access from Greenhead Avenue to application site.

3.2 Proposed Development

3.2.1 A change of use of land to residential garden associated with no. 29 Greenhead Avenue is proposed. No building operations are proposed. A fence has been erected around the perimeter of the site, as well as a chicken run within the site. As both form a means of enclosure under 2m in height, they need not be included in the development description as the works are permitted development.



Photo 1: application site also show chicken run.

3.3 Development Plan

- 3.3.1 Section 38(6) of the Planning and Compulsory Purchase Act 2004 requires that applications be determined in accordance with the development plan unless material considerations indicate otherwise.
- 3.3.2 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:

3.3.3 Core Strategy

- CS13 Environmental Strategy
- CS16 Form and Design of New Development
- CS18 The Borough's Landscapes

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
- Policy 25 Residential Curtilages

3.4 Other Material Planning Considerations

3.4.1 National Planning Policy Framework (The Framework)

- Section 2: Achieving sustainable development
- Section 12: Achieving well-designed place

3.5 Assessment

- 3.5.1 In assessing this full application the following important material considerations are taken into account:
 - Principle of the development
 - Amenity impacts
 - Landscape character impacts
 - Environmental impacts
 - Design / character and appearance impacts

3.5.2 Principle

As an undesignated site located within the Inner Urban Area of Blackburn, the development is consistent with Policies CS1 and 1 of the Development Plan which state that the urban area is the preferred location for new development. In land use terms, therefore, the principle of a change of use to residential garden is supported.

Amenity

3.5.3 Assessment of visual amenity impact of the development is a key consideration, particularly in the context of local resident objections. The Council has a bespoke policy for residential curtilage development, in order to protect the character of an area from the unacceptable introduction of domestic features and maintained land to an otherwise unaltered area. Policy 25 sets out the following requirements:

An extension to a residential curtilage will only be permitted where it will not, in isolation or in combination with other committed or completed development, lead to any detriment to visual amenity or to the character of the surrounding landscape. In appropriate cases the Council will remove permitted development rights in order to protect the character and amenity of the landscape.

- 3.5.4 The site is enclosed by adjacent residential gardens, save for its south western boundary, and is largely hidden from public vantage points. Views in from adjacent residential properties are mainly limited to those from upper floor bedroom windows. For these reasons it is considered that no significant detriment to visual amenity or landscape character arises as a consequence of the development.
- 3.5.5 Should permission be granted, it is considered prudent to remove permitted development rights relating to development within the curtilage of a dwelling house, in order to control future development of the site. This would be secured through application of an appropriately worded condition.



Photo 2: application site



Photo 3: application site

- 3.5.6 Safeguarding amenity should also be considered in the context of Policy 8, which requires a satisfactory level of amenity and safety is secured for surrounding uses and for occupants or users of the development itself; with reference to noise or other nuisance, privacy / overlooking and the relationship between buildings.
- 3.5.7 The application site has a back-to-back relationship with neighbouring gardens that is somewhat typical within an urban context; notwithstanding the scale of the site in contrast to the existing garden at no. 29 Greenhead Avenue and other gardens which back onto it. A circa 2m high close boarded fence surrounding the application site forms a physical delineation adjacent to boundary treatments that define the domestic limits of neighbouring gardens.

- Overlooking arising from the site is considered to be minimal and typical of neighbouring gardens within the local context and the urban area in general.
- 3.5.8 Local residents have objected to noise nuisance arising from the site and have expressed concern at the prospect of the extended garden being used for large gatherings. As aforementioned, the sites relationship with neighbouring gardens is typical of the urban environment and occasional nuisance in this context may arise. Nuisance should not, however, be excessive nor persistent. Members are advised that use of the extended garden must be for the benefit of occupants of no. 29 Greenhead Avenue and not the applicant and his associates, if he is not residing at the property. A condition is recommended to reinforce this position. In the event of permission being granted, residents should be assured that evidence of a subsequent unauthorised use of the land would be subject to enforcement action.
- 3.5.9 Local residents have also expressed concern about the ability to access and maintain the rear of their properties. Of the properties that back on to the application site, from the evidence of multiple case officer site inspections, no established pedestrian or vehicular access is impacted. Domestic garages within those properties are all accessed from the highway on which they are located. Maintenance of boundary fences is typically undertaken from the inside a property, given the common back to back garden relationships found within the urban environment. Notwithstanding this, the boundary fence erected by the applicant is positioned circa 1m away from the rear boundaries of properties on Furness Avenue and Wellbeck Avenue, thereby allowing sufficient space to carry out basic maintenance from the outside, should the need arise. In this context, it should also be recognised that over the years the site has become overgrown with vegetation, including semi mature trees that prevent practical access to the rear of these properties. circumstances arising from this application do not, therefore, directly alter the pre-existing ability to access rear boundaries of adjacent properties.

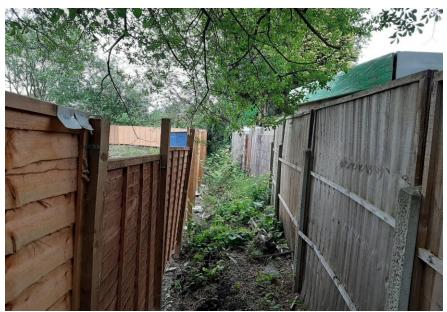


Photo 4: demonstrating position of new boundary fence with existing boundary fencing

3.5.10 Access to the garage at no. 23 Greenhead Avenue, whilst unaffected by the application site, is affected, by virtue of the applicant having erected temporary fencing across the point of access into adjacent land to the south west. However, as this land sits outside the application site, it is beyond the scope of this assessment. The matter is, therefore, a private dispute between the affected householder and the applicant.

3.5.11 Environment

Policy 9 requires that development will not have an unacceptable impact on environmental assets or interests, including but limited to climate change (including flood risk), green infrastructure, habitats, species, water quality and resources, trees and the efficient use of land.

- 3.5.12 Prior to the submission of the application, the site was cleared of trees and vegetation, as enabling works for the proposed domestic garden. Members are advised that the trees were low value, self-seeded specimens that were not afforded protection by Preservation Order. Accordingly, no objections are offered towards their removal.
- 3.5.13 Vegetation clearance includes cutting back of Japanese Knotweed. As an acknowledged problematic invasive species, this is a significant cause for concern to local residents. Public Protection colleagues have been proactively involved in seeking a solution to the problem, from the aforementioned service of the CPW notice and throughout assessment of this application. This has culminated in the applicant appointing a specialist contractor who has produced a Japanese Knotweed Management Plan to target and eradicate the infestation. The plan sets out a 4 year strategy which is intended to be introduced with immediate effect, should the application be The strategy includes targeting the Knotweed within the application site, vacant land adjacent to the south west and encroachment onto neighbouring private gardens. Upon completion of the 4 year treatment plan, a further 6 year monitoring exercise is included with a view to addressing residual infestation. Public Protection colleagues consider the plan to be robust and support its implementation. Adherence to the plan would be secured by condition. Extracts from the submitted Management Plan now follow, which demonstrate the extent of Japanese Knotweed on the application.

Section 1.5 - Documentary Photographs



Japanese Knotweed covers an extensive area to both the land that the client owns and to adjacent properties. The client has, with the best of intentions, tried to remediate the problem themselves but have decided that it is best for both the environment and to neighbouring property owners that a professional and accredited company deal with the infestation.

Extract from the "Inspectas Report – Knotweed Management Plan – 25th June 2020.

3.5.14 The notion that support of the application would afford the Council a greater degree of control over the land should be considered, with specific reference to land use as residential garden associated with no. 29 Greenhead Avenue and Japanese Knotweed eradication. If planning permission where refused, such control would be limited, meaning that local residents may be left with an untreated Japanese Knotweed infestation adjacent to their properties. Nuisance arising from occasional gatherings would also be difficult to control, unless an unauthorised material change of use of the land could be established.

Section 1.4 - Location of Japanese Knotweed.



Map Key:

vollow represents the approximate site boundary.

Red represents the infestations of Japanese Knotweed identified on the site survey.

Blue represents the infestations of Japanese Knotweed identified neighbouring land.

Purple represents the rhizome exclusion zone.

Extract from the "Inspectas Report – Knotweed Management Plan – 25th June 2020.

Residents have raised concerns that the Japanese Knotweed is being disturbed by the applicant. Photographs taken by the case officer on the 22nd September, clearly show no disturbance has occurred. Photographs are shown below.





Photographs taken 22nd September 2020



Photographs taken 22nd September 2020

3.5.15 Local residents have also raised concern about drainage, alleging infill of a watercourse. Drainage colleagues have visited the site and noted the existence of a gully located, primarily, within rear gardens of properties on Greenhead Avenue, adjacent to the application site and adjoining land to the south west. Moreover, the watercourse is referenced on historic maps. Buildings within rear gardens of these properties appear to have been historically erected over the watercourse. There is no evidence that works undertaken by the applicant has resulted in any adverse impact on surface water drainage. BwD Drainage (as Lead Flood Authority) raise no objection to the development, providing no structural works are undertaken within proximity to the watercourse, without the ability for the Council to assess the impact of such works. As aforementioned, it is recommended that permitted

development rights relating to development within the curtilage of a dwelling house should be removed.

3.5.16 Highways

Policy 10 requires that road safety and the safe and efficient and convenient movement of all highway users is not prejudiced. This includes development that should not directly affect any public rights of way, unless the right of way is maintained or the proposal provides for its replacement by an equally attractive, safe and convenient route.

3.5.17 Local resident objections include reference to so-called public footpaths into the site from Greenhead Avenue, Furness Avenue and Wellbeck Avenue. Only the identified footpaths from Greenhead Avenue and Furness Avenue have a direct relationship to the site. These paths appear to lead into the site, according to Ordnance Survey records. The path off Furness Avenue leads onto land outside of the application site, to the south west. The Council's Public Rights of Way (PROW) officer has confirmed that the area contains no legal PROW's. Although an application process exists for residents to attempt to claim a right of way, by means of evidencing that a legal right already exists (normally a previous legal order or act) or that the public at large (not the local land owners) have had long standing uninterrupted public access, no such application has been received. In response to such concern raised by local residents, the PROW officer has advised that, based on the available evidence, a PROW claim would not be applicable or successful in this instance.



Extract from constraints map showing no PROW across the application site.

3.5.18 Some local residents claim to have legal right of access into the site, as a legacy of the sites historic use as a garage colony. However, no evidence to support such claims has been submitted to the Council. Notwithstanding this, the issue of land ownership and alleged right of access into the site are outside of the scope of this assessment. They are, instead, matters that would need to be pursued privately between to the applicant / land occupier and affected local residents.



Photo 5: Access from Greenhead Avenue- No.29 is property on the left.

3.5.19 Design

Policy 11 requires a good standard of design and will be expected to enhance and reinforce the established character of the locality and demonstrate an understanding of the wider context towards making a positive contribution to the local area.

- 3.5.20 As a garden extension enclosed by adjacent residential development and bounded by a c.2m high close boarded timber fence typical to the locality, the proposal appropriately demonstrates an understanding of the wider area.
- 3.5.21 The applicant has provided photographic evidence of domestic waste items removed from the site during clearance works. It is alleged that the site, on occasion, was a targeted waste ground. Whilst no evidence exists of any persistent issues of fly tipping, it may be argued that a positive contribution to the local area arises from the clearance of the site and future intentions to maintain the land as domestic garden space.



application site.

Photo supplied by applicant of waste removed from the

3.5.22 **Summary**

This assessment takes into account a range of material matters associated with the full planning application for a change of use of vacant land to domestic garden, to the rear of 29 Greenhead Avenue, Blackburn. On balance, the application is considered to demonstrate compliance with the Development Plan and The Framework, subject to imposition of conditions in order to make the development acceptable in planning terms.

4.0 RECOMMENDATION

- 4.1 Delegated authority is given to the Director for Growth and Development to approve planning permission, subject to conditions which relate to the following matters:
 - Standard time limit
 - Development approved in accordance with submitted details
 - Use of land limited to occupants of no. 29 Greenhead Avenue
 - Implementation of Japanese Knotweed Management Plan

• Removal of permitted development rights relating to development within the curtilage of a dwelling house.

5.0 PLANNING HISTORY

5.1 No relevant planning history exists for the site.

6.0 CONSULTATIONS

6.1 Public Protection

No objection subject to implementation of approved Japanese Knotweed Management Plan.

6.2 <u>Drainage</u>

No objection subject to control of future development of the site (achieved via removal of permitted development rights).

6.3 PROW

Confirmation that no PROW's are located adjacent or across the site and that any PROW claim would be unlikely to be successful.

6.4 Public consultation

Public consultation has taken place by means of 56 letters posted to neighbouring addresses on 3rd June 2020 and display of site notices. Additional letters were sent as a reconsultation on 11th September 2020, following receipt of an amended site plan. A petition report was reported to the 15th July 2020 Committee, noting the receipt of a petition containing 48 signatures objecting to the proposed development. The objections related to t the following:

- Reject any plans to close the access
- Stop work on the unregistered land
- Stop anti-social behaviour
- Evict the current occupiers of the land
- Consult with residents on how to make use of the land
- Enforce the removal / management of Japanese Knotweed

In addition, a letter was received by the Local MP dated 9th June 2020, acting on behalf of the local constituents who live on Greenhead Avenue, Welbeck Avenue and Furness Avenue, regarding the planning application. A response letter was sent to the MP on the 22nd June 2020, which is included in the summary of representations below.

In response to the public consultation, a total of 35 objections have been received, although some of these are repeat objections. A summary of these objections are shown below in the summary of representations section.

- 7.0 CONTACT OFFICER: Nick Blackledge Senior Planner, Development Management.
- 8.0 DATE PREPARED: 2nd October 2020

9.0 SUMMARY OF REPRESENTATIONS

<u>Objection – Sadia Mushtaq, 25 Greenhead Avenue Blackburn. Received</u> 18.05.2020

Hi,

Mr Khan has put up fences behind our garage which we need access to from back. My husband went to him when he was putting the fences up but he started arguing with him and was aggressive to the point that he was about to punch him !! I cannot believe this is actually happening, he as only bought the house(no 29 Greenhead Avenue) just about 6-9 months ago and he has decided to take all the land behind and close off all access.

How is this even allowed?? You can clearly see they have just put up these fences and haven't "owned" this land as they would say from before.

I need access to my garage at the back and they have blocked the Pathway next to 29 Greenhead avenue that lead to the back of the land too.

We want to put a garage door for car access at the back and would like the council to give them notice to remove the fences which they have put all the way on the back of the garage boundary wall.

It has come to my attention that they are making a planning application which I fully object and want to make a formal objection to this. I await Your response.

Objection – Seema U, Unknown Address Received 18.05.2020

Hi Nick.

I am writing to you with a formal objection with regards to the Planning Application reference number 10/20/0434 which is currently awaiting further information prior to going live on the portal.

I am a resident of Furness Avenue where this application for an extended garden area will have an impact on me and my neighbours.

The owner of property 29 Greenhead Avenue has recently began fencing off this area of unregistered land which he would like to claim. To request this large area as an extended garden is not a feasible option due to the large area this covers and the number of residents across three streets this will affect.

As a number of trees and the knot-weed has been removed to a certain extent this has brought up a privacy issue where anyone in this land can overlook my property due to my property being raised at an incline to the land the fences do not cover visibility into my property along with my neighbours.

Also, the large area of land being requested is not a reasonable request for someone to extend their garden. The current size of the garden at 25 Greenhead Avenue looks to be more than enough for a property of that size. The land that is being requested also used to house a number of sheds which were built with asbestos materials and could also be in the soil.

The owner of the property does not reside at the property and looks he would like to occupy this land for other reasons which have not been disclosed.

The large concerns from a number of residents are the huge implications this could have on our lives in the area moving forwards and the detrimental impact this will have on the house prices in the area which will likely drop due to the activities planned in this piece of land.

As I am aware this land is unregistered and cannot be legally owned by a party unless they have looked after this land for a period of 10-12 years. Legal proceedings have begun by the occupant however the land has only been worked on since last year which would not be enough to take registered ownership of the land. The owner of this property has no concerns for any of the residents as this will not impact him with him not being a resident however, we as residents are going to see this land being used for all sorts of gatherings in the future were permission to be granted. Land grabbing like this should not be allowed to happen and I trust the council will make the correct decision on this application.

Objection – Unknown Address Received 18.05.2020

Hi Gavin and Nick,

I am a resident of Greenhead Ave and have been given your contact by a neighbour. I write to you both to complain about activity behind my property. I also have questions related to this issue. I will begin in chronological order beginning from as far back as I know.

Pre 2000 - area was a walkway to get from Welbeck Ave - Greenhead Ave 2000 - 2019 - Many residents used the boundary of our homes as entry to our garages & still used as walkway.

2019 - Mr Khan of 29 Greenhead purchases a house on the street, realises there is abandoned land and decides to fence the whole area off and claim it, however the council put a notice on him as there is knotweed and he clears off.

2020 - He has made more fences and lied to everybody that the land is his - land registry have confirmed it isn't. Any resident who approaches him and asks for access to their garage is threatened and one person even physically attacked. We have no choice but to stay off the land or he will do same to us. Residents can't get their cars out their garages anymore. The knotweed issue is getting worse and has entered 3-4 properties, he has got an estimate from a company, but has no intention of getting it treated properly so the council have backed off from that 21 day notice. Fences still up, lots of noise and men hanging around cars in the area.

What can you as our council do to help?

Is it okay to block access to garages?

Is it okay to block the path from Welbeck to Greenhead?

Can I take the land behind my house and put in planning application?

Can you contact Land registry to tell them the truth according to us 26 residents? - He is claiming to have looked after the land for 10 years - but we can all vouch against that!

As a result of this behaviour, all the residents on the 3 streets remain helpless and have to live in fear until any thing happens. Surely, 26 residents against one must earn some sort of help and support from our council - we do pay a considerable amount of council tax. We urge you to take action, we know you can support us. I would like to remain anonymous as I know Mr Khan can be very violent with anybody opposing his plans, hence why you may not have already had other complaints. Possible ways forward include:

- 1. The council sorting the land and sharing it equally between us residents so we all have bigger gardens (including Mr Khan).
- 2. Serving a notice for knotweed.
- 3. Enforcement action to allow us access to the back of our properties.
- 4. Enforcement action to leave the pathway open between both streets.
- Auction the land off.

Please do your utmost best to help us, we are helpless as of now. My daughter has refused to sit in the back garden for the past 6 weeks as all she can hear is swearing and arguing between these men! I hope you will take all my points on board and I will feel obliged if you could contact me to update with me any progress.

Objection – Unknown Address Received 18.05.2020

Dear Sirs,

I live on Greenhead Ave, I believe you are dealing with Mr Khan of 29 Greenhead Ave who is illegaly taking all our privacy away from us and getting away with it! The land in the picture which begins at Greenhead and end at Welbeck ave has been fenced off by him. For the past 30 years I take my dog for a walk through there. Surely he cant block public footpaths! Also, my neihgbour has a garage and that is blocked so he cant get out. We feel our privacy is being taken, all these men stood

looking and can see straight into our homes. He says he owns the land, but we have rang land registry who confirm its not his its nobodys. They hit another resident because he wanted to build a garage and needed access. I was in process of putting in planning permission with a garage as there isnt much parking at front nowadays but how can i when it is all blocked off! Actually myself and a few other residents on my street and welbeck do an annual clean up coz its full of flytipping! PLEASE HELP and get these thugs out of our sight. Please see pics and walkway i use. I await a response from you and hope this can be sorted asap. it is causing distress among all us residents, i am so fed up i have been looking to sell my house!







Objection – Unknown Address Received 18.05.2020

Hi Gavin and Nick,

I am a resident of Greenhead Ave and have been given your contact by a neighbour. I write to you both to complain about activity behind my property. I also have questions related to this issue. I will begin in chronological order beginning from as far back as I know.

Pre 2000 - area was a walkway to get from Welbeck Ave - Greenhead Ave 2000 - 2019 - Many residents used the boundary of our homes as entry to our garages & still used as walkway.

2019 - Mr Khan of 29 Greenhead purchases a house on the street, realises there is abandoned land and decides to fence the whole area off and claim it, however the council put a notice on him as there is knotweed and he clears off.

2020 - He has made more fences and lied to everybody that the land is his - land registry have confirmed it isn't. Any resident who approaches him and asks for

access to their garage is threatened and one person even physically attacked. We have no choice but to stay off the land or he will do same to us. Residents can't get their cars out their garages anymore. The knotweed issue is getting worse and has entered 3-4 properties, he has got an estimate from a company, but has no intention of getting it treated properly so the council have backed off from that 21 day notice. Fences still up, lots of noise and men hanging around cars in the area.

What can you as our council do to help?

Is it okay to block access to garages?

Is it okay to block the path from Welbeck to Greenhead?

Can I take the land behind my house and put in planning application?

Can you contact Land registry to tell them the truth according to us 26 residents? - He is claiming to have looked after the land for 10 years - but we can all vouch against that!

As a result of this behaviour, all the residents on the 3 streets remain helpless and have to live in fear until any thing happens. Surely, 26 residents against one must earn some sort of help and support from our council - we do pay a considerable amount of council tax. We urge you to take action, we know you can support us. I would like to remain anonymous as I know Mr Khan can be very violent with anybody opposing his plans, hence why you may not have already had other complaints. Possible ways forward include:

- 1. The council sorting the land and sharing it equally between us residents so we all have bigger gardens (including Mr Khan).
- 2. Serving a notice for knotweed.
- 3. Enforcement action to allow us access to the back of our properties.
- 4. Enforcement action to leave the pathway open between both streets.
- 5. Auction the land off.

Please do your utmost best to help us, we are helpless as of now. My daughter has refused to sit in the back garden for the past 6 weeks as all she can hear is swearing and arguing between these men! I hope you will take all my points on board and I will feel obliged if you could contact me to update with me any progress.

Regards,

Resident of Greenhead Ave.

Objection – Objector wants to stay anonymous Received 05.06.2020

To whom it may concern,

I have received a letter of planking application and wish to object to the plans. Firstly, I would like to mention I wish to remain anonymous.

The application includes a declaration by Mr Khan stating he has occupied the land for 15 years. He wishes to extend his garden.

However, I know for a fact and all the residents will confirm he has only purchased a house here last year and is trying to steal the land since then. Before that nobody here had seen Mr Khan. The local councillor will agree with that and so will land registry. IT IS NOT HIS LAND.

In addition to this, I am not happy him taking this land as he is taking away my privacy. My children usually like to sit in our garden, however since last year they have stopped as these men can see straight over! Our blinds remain closed 24 hours a day as they look through our windows.

The area has been used for anti social behaviour in the last year- the fire brigade have been out here numerous times as they have been making fires.

Also, There is japanese knotweed coming into my garden and they are making it worse by pulling out at the root, causing it to grow more wildly! My friends garage is next to mine and he cant take his car out as he is fenced in. Also, for 40+ years I used this area for walks and an access to get to Greenhead Ave and Welbeck Ave, I can no longer do this!

I am so unhappy at having these people behind my house it is making me depressed! They make so much noise I can't rest all day.

In summary, these are my main points to object against this proposal. I hope you understand my frustrations. I would be grateful if you could confirm this objection has been received and will be taken into consideration. Once again, please keep my personal information anonymous.

Objection - Mr Patel, Unknown Address Received 05.06.2020

Dear all.

I am resident of Greenhead Ave and got a letter today about planning permission for Mr Khan.

I want to object for the following reasons:

- 1. Land is not his and has only been here 4-5 months.
- 2. He is not treating knotweed on it which is coming to my garden.
- 3. I have no privacy anymore last 4-5 months been nightmare
- 4. Lots of noise coning from back.
- 5. Fires all the time bad smell and lots of smoke.
- 6. He has blocked access to the rear of my house meaning if there was fire behind my house we would not survive
- 7. I cant build a garage anymore because access blocked

Please confirm receipt and acceptance of this objection.

Thank you

Objection – Seema U, Unknown Address Received 05.06.2020

Dear Gavin,

I am writing to you with a formal objection with regards to the Planning Application reference number 10/20/0434.

I am a resident of Furness Avenue where this application for an extended garden area will have a significant impact on me and my neighbours.

Following review of the documentation issued on the Planning Application Portal; I have a number of major concerns against this development. Please see comments against the items raised by the applicant Mr Khan below:-

Existing Site Plan

The site plan which has been issued and marked up on AutoCAD by the applicant highlights a large area where no dimensions are listed. The existing chicken shed and existing concrete slab and shed were put in last year however due to chickens being in the land your enforcement team at the council had to attend site and inform the applicant that no further use would be possible and enforcement action would be taken if chickens were to continue in the area. These sheds have not been used since that date.

There were a large number of trees in the effected land which have recently been cut down by the applicant. I am not sure if this is allowed as they do not have legal ownership of this land. The cutting of at least 6 large trees has caused a huge negative effect on my property particularly due to a complete loss of privacy. Even though the area is fenced off; as my property is higher up than the land you can clearly overlook into my property when accessing this land. This has had a significant negative/adverse visual impact of the area. I cannot even open the blinds

in my property as there are usually a number of youths in the land which make it very uncomfortable to live in my own home.

The marked up drawing also requests land which goes behind number 26 Furness Avenue. This land is privately owned land which is fenced off so cannot be claimed. There are also a number of trees missing to the rear of 24 Furness Avenue which have not yet been chopped down.

The site is also full of Japanese Knotweed. The applicant keeps removing the knotweed by hand however it will keep growing back until this is treated correctly. A clear plan to remove this needs to be outlined in the proposal for the land. I am also extremely concerned with regards to noise, disturbance, nuisance and antisocial behaviour which will be carried out if the applicant is successful. There has already been a significant nuisance increase since work has been carried out by the applicant over the past few months. A bonfire in the land was also lit a few days ago where I believe the fire brigade had to be called out a couple of times before they put the fire out. Police also have a history of attending this address for anti-social behaviour issues.

Newspaper Article- Certificate D NPD

This was added on 18th May 2020 giving 21 days for residents to write in. The portal advises comments are until 24th June 2020. Please ensure comments can be accepted until 24th June 2020.

Application Form NPD

The first point I notice is that the applicant Mr Khan does not live at the address 29 Greenhead Avenue. The owner has no concerns for any of the residents as this will not impact him or his family with him not being a resident however, we as residents are going to see this land being used for all sorts of gatherings in the future were permission to be granted.

The proposal for an extension to garden is not a reasonable request for someone to extend their garden by such a large area. The current size of the garden at 29 Greenhead Avenue looks to be more than enough for a property of that size. The land that is being requested also used to house a number of garages/sheds which were built with asbestos materials which may lie within the grounds which will need reviewing.

The comment below is false. A number of trees have been chopped down, a bonfire has taken place, fences have been installed, a gate has also been added and chicken sheds added. The land previously was unoccupied and members from Blackburn Council have been on this site over the past few years so will be able to advise on how the land used to be.

Has the building, work or change of use already started?	Yes	X No
If Yes, please state the date when building, work or use were started (DD/MM/YYYY):		(date must be pre-application submission)

The below comment is also false. The existing use of this unregistered land is vacant. It has only in the past few months been taken over by the applicant without any planning permission or legal documentation to work in the land.

Please describe the current use of the sit	e:			
garden				
s the site currently vacant?	Yes	X No		
ne below are also incorrect as the buld have contaminated the land ere is Japanese Knotweed thro oes the proposal involve any of the folloyes, you will need to submit an approprisessment with your application.	d. A full surughout the wing?	vey will be red land.	0 0	
and which is known to be contaminated	? Yes	X No		
and where contamination is uspected for all or part of the site?	Yes	X No		
proposed use that would e particularly vulnerable o the presence of contamination?	Yes	X No		
he below statement is false. A n pplicant which has had a severe 15. Trees and Hedges			_	-
Are there trees or hedges on the proposed development site?	Y Yes	□No		
And/or: Are there trees or hedges on land proposed development site that could in levelopment or might be important as post the local landscape character?	adjacent to the	e X No		
f Yes to either or both of the above, you rate of the spore, you rate of the spore, you rate of the spore, you rate of the spore of the	may need to poly I planning aut In panying plar	ovide a full nority. If a should be		

The below statement is completely false. The land has been unoccupied for a number of years and only since the resident purchased 29 Greenhead Avenue in December 2018 was this land trespassed on. For the applicant to say they have occupied this for 15 years is clearly false and there is no evidence to back this up. There are members at Blackburn Council who have visited this site over the past few years and will be able to confirm this land has not been occupied as well as each resident in the area.

authority should make clear on its website what the survey should contain, in accordance with the current 'BS5837: Trees in relation to

design, demolition and construction - Recommendations'.

Certify/ The applicant certifies that: Certificate A cannot be issued for All reasonable steps have been to	this application aken to find out the names and address owner* and/or agricultural tenant** of able to do so. It or leasehold interest with at least 7 years year in section 65(8) of the Town and Councillors and	(England) Order 2015 Certificate under Article 14 ses of everyone else who, on the day 21 days before the rany part of the land to which this application relates, but rs left to run. ntry Planning Act 1990		
Notice of the application has been published in the following newspaper (circulating in the area where the land is situated):		On the following date (which must not be earlier than 21 days before the date of the application):		
lancashire teleg	raph	03/06/2020		
Signed - Applicant: Or signed - Agent		Date (DD/MM/YYYY)		
		03/06/2020		

As I am aware this land is unregistered and cannot be legally owned by a party unless they have looked after this land for a period of 10-12 years. Legal proceedings have begun by the applicant however the land has only been worked on since last year which would not be enough to take registered ownership of the land. Land grabbing like this should not be allowed to happen and I trust the council will make the correct decision on this application. Regards

<u>Objection – Objector wants to stay anonymous Received 05.06. 2020</u> Dear Sirs,

I live on Greenhead Ave, I believe you are dealing with Mr Khan of 29 Greenhead Ave who is illegaly taking all our privacy away from us and getting away with it! The land in the picture which begins at Greenhead and end at Welbeck ave has been fenced off by him. For the past 30 years I take my dog for a walk through there. Surely he cant block public footpaths! Also, my neihgbour has a garage and that is blocked so he cant get out. We feel our privacy is being taken, all these men stood looking and can see straight into our homes. He says he owns the land, but we have rang land registry who confirm its not his its nobodys. They hit another resident because he wanted to build a garage and needed access. I was in process of putting in planning permission with a garage as there isnt much parking at front nowadays but how can i when it is all blocked off! Actually myself and a few other residents on my street and welbeck do an anuual clean up coz its full of flytipping! PLEASE HELP and get these thugs out of our sight. Please see pics and walkway i use. I await a response from you and hope this can be sorted asap. it is causing distress among all us residents, i am so fed up i have been looking to sell my house! Regards





Objection – Objector wants to stay anonymous Received 08.06.2020

Sorry now I have been round to have a look, I have noticed all 4 accesses have been blocked by them! I have no way out from the back of my house! What if i had to escape a fire or emergency?

Please add to my objection. Also a reminder to remain anonymous.

Objection to planning for reasons:

Noise

Fires

Knotweed

Chopped trees

Not been on land for more than 6 months nevermind 15 years!!

No privacy in my home

Please keep my identity private.

Dear Sir

A planning application has been submitted. It is, however, currently invalid due to outstanding information. Once valid, the application will be registered and local residents adjoining and close to the site will be consulted by letter and display of a site notice. I would suggest that public representation on the merits of the application should be submitted following consultation. If, however, you wish me to treat your communication as a formal objection at this stage, I'm happy to do so.

Please be assured that all material issues, with reference to the use of the land and the impact of such will be considered during assessment of the application.

Kind regards

I believe the planning application went live today, I previously posted my objections to you and want to make them formal, however I really want to stay anonymous and I am also sending this from my Business address, I can guarantee that all residents will want to stay anonymous as Mr Khan is known to be a very aggressive bully. Do I need to write a letter or is my objection accepted over email like this? I am happy to write a letter up.

Objection – Objector wants to stay anonymous received 08.06.2020

Hi.

My name is xxxxx and I wish to object to the above planning proposal. I am a neighbour of Mr Khan, and have been threatened by him so really wish to remain anonymous!

My first and most poignant objection is the fact he does not own any of this land and has never looked after, I will post a picture at the bottom as reference. Mr Khan claims he looked after this land for 15 years - this is a false declaration!

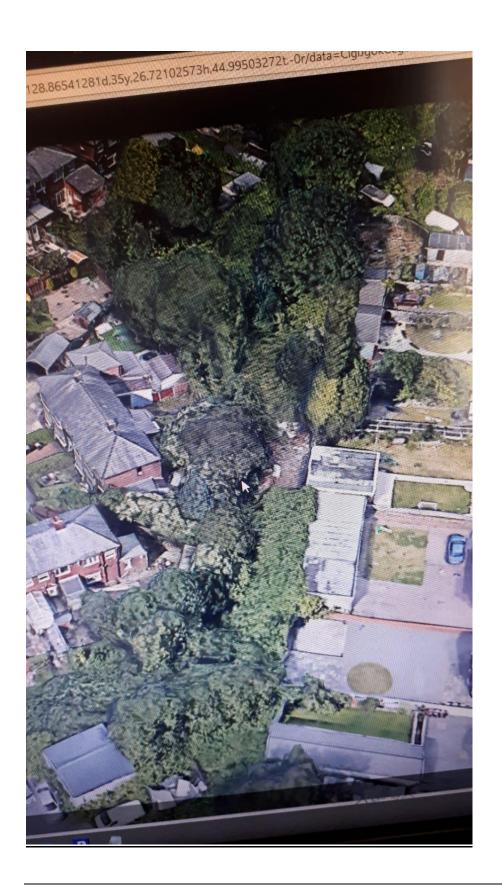
Secondly, the trees shown in the picture were trees with bees nests, bees are protected species. The bees have now moved to all of our gardens! The pollution caused by continuous burning of trees and knotweed makes our gardens a horrible place to sit in. We have not used the garden this year.

For the past 15 years it has remained private and peaceful. In the past 3 months it is loud and lots of peeping eyes on all our homes. 3 of us homes have now installed cameras.

We hope that as our council you would reject this plan, and enforce Mr Khan to clear this land. From there, we also want to push that you could consult with all residents around the area and work with us to sort this land out. It is causing sleepless nights and unrest in the community.

Khalid

Objection – Objector wants to stay anonymous Received 08.06.2020



Objection – Mr Mohammed Raza, 21 Greenhead Ave Rec 08.06.20

Dear all,

My name is xxxxxx and got a letter today about planning permission for Mr Khan.

I want to object for the following reasons:

- 1. Land is not his and has only been here 6 months or so.
- 2. He is not treating knotweed which is growing at the back of my garage.
- 3. I have no privacy anymore last 4-5 months been nightmare
- 4. Lots of noise coning from back.
- 5. Fires all the time bad smell and lots of smoke.
- 6. He has blocked access to the rear of my house, I have a garage at the end of my house.
- 7. I cant use my garage anymore he has blocked my access.
- 8. We no longer have a walkway between Greenhead ave welbeck ave and furness
- this used to be a walkway.

Please confirm receipt and acceptance of this objection.

Thank you,

Objection – Objector wants to stay anonymous Received 08.06.2020

Hi Nick.

I am writing to you regarding the planning application regarding the land to the rear of 29 Greenhead Avenue in Little Harwood.

My main concern is that the land does not belong to the Applicant. Nobody has ever maintained this land all this time ever since I have moved in my property. It was overgrown with trees and bushes which they have recently cleared and chopped most of the trees and put fencing around the area in the last 3 months.

My main issue are since clearing area there is lot of noise, and fires and invasion of privacy over our garden wall.

Land in question is unregistered land and does not belong to anyone they have just started work slowly in last few weeks to say its theirs but clearly its not theirs. Why can't council intervene in this matter as all neighbours have already complained about this.

Give this land to people around equally to make it fair. It should not be that people can go and take what they want.

I would like to remain anonymous as I don't want any trouble. Please take into account the above concerns as issues have already started.

Thank you

Objection – Objector wants to stay anonymous Received 08.06.2020

Dear Nick,

Following on from our phone call this morning, I wish to clarify my comments towards the planning application above. Before I begin, I must state I want all my details to stay confidential as I teach Mr Khan's daughter!

Mr Khan wishes to extend his garden; however the shape of his application shows clearly it isn't following the line of his home, he is being greedy and trying to take the land behind 6 other houses. The land isn't his and he has declared false information by saying he has occupied it for 15 years. I have lived here for more than 15 years and can confirm he only arrived on the scene last year.

Since his arrival, he has taken away our privacy by occupying this land which oversees into our gardens and our homes. He has a big family and a large group of friends who make alot of noise, something we are not used to at all! He has changed the land use, it was a land with beautiful trees separating the streets and giving us privacy, he has now chopped the trees changing the landscape of this area. Our primary concern is the way Mr Khan has fenced the whole land. We feel suffocated with his fences tight against ours, and he has blocked every access into the land which is unfair. These were used as walkways to get from one street to another, they were used for us to get our cars to our garages and also used a few times by the fire services.

The application outlines the area at the top of Greenhead Ave, but he has also fenced in the land at the bottom, surely this must be part of his application? To add to my objection, as far as I can recall, there was a lovely stream running through the land from top to bottom, in the past year Mr Khan has soiled up and covered the stream. He has moved soil to flatten what was a slightly slanted piece of land. Currently he has a digger here moving more soil around which is contaminated with Japanese Knotweed. Mr Khan has proposed he will be tarmacing the area over a stream, over knotweed?!

On the point of Japanese Knotweed, Mr Khan was issued a CPN last year. Since then he has pulled the weeds out burned them and just made it worse! He has failed to comply with the notice served on him. My neighbour now has the knotweed encroached onto his property - it is actually growing through his garage wall! In conclusion, the whole neighbourhood are against Mr Khan's proposal and I am sure there will be lots of objections. We wish the land can remain how it was, with the stream and the trees a beautiful land which gave us privacy that could be walked through by all of us. Please take into consideration my objection points.

Objection - Sarah Harding, Unknown Address Rec 08.06.20

To whom it may concern,

I live on welbeck ave and got letter today about this plan. Theres no way you can give them all that land to build a garden! Ill tell you what they do in there, they smoke drugs and park the cars there at night organise fights and store stolen cars. If you are gna put a camera there then go ahead but the minute u allow them they will do illegal things this is all they want. There is 100s of them around not fair! I feel vulnerable as a single lady!! I like how it was before this is my objection!!

Objection – Objector wants to stay anonymous Received 08.06.2020

Dear Mr Councillor Mustafa Desai.

I hope this letter reaches you in good health during difficult times. We, as residents of Little Harwood, urge you to help us with an escalating matter leaving us helpless, upset and now trapped in our own homes. The matter regards the land between our homes and how it is being taken.

Firstly, the land which is highlighted in an attached file, belongs to nobody we believe. It has been left empty and untouched for 80 years, I have lived here for 43 years. In the past year, MR KHAN of 29 Greenhead Ave and of Whalley Old Road has claimed this land. Last year he gated it off and now in the past week has fenced it off. The land itself has Japanese Knotweed running through it, hence the reason we haven't touched it or tried claiming it.

This issue was raised with the council last year, and we believe it was urgently dealt with. Mr Khan was given a penalty of £20,000 to treat the knotweed. Since, he left it

untouched and now has returned to the area. We, as a community, feel vulnerable to deal with Mr KHAN as he has threatened many of us, and even assaulted one of the neighbours. All the residents this issue affects are unhappy, however feel scared to approach Mr Khan.

MR KHAN should not be taking this land as he is breaking a lot of law and making us unhappy for the following reasons:

- 1. There are up to 20-30 asian men hanging around the area already during lockdown.
- 2. They are chopping trees down beautiful trees I have lived my life with.
- 3. Stealing land which doesn't belong to them.
- 4. Stopping us access to our garages.
- 5. Taking away privacy from our back gardens.
- 6. Occupying land which has Knotweed in, the knotweed is coming into our gardens and therefore he should be liable for that.
- 7. Blocking right of way to one neighbours land.

All 22 residents feel trapped and want a stop to this, we all feel like moving from the area as we feel unsafe and trapped. We have told you who we are but need to stay anonymous as these people are violent. Mr Surve, the previous councillor, did nothing last time and instead told MR KHAN we were unhappy which led to him threatening us individually. We would like you to deal with this confidentially, keep us residents informed of what you are doing and help us at a time when we are feeling helpless. Please contact me via email or you are free to contact any of the residents on the names streets.



Objection – Fatima Cola, Unknown Address Rec 09.06.2020

Dear members of the council,

My name is Fatima and I live on Greenhead Ave. I write to you with an urgent plea of help and support. I am a pensioner who has lived here for 40 years. For the past 39 years I have had a peaceful and private life within the perimeter of my home.

This has all changed in the last year, causing me depression and anxiety. Behind my home was an alleyway separating the streets with bushes beautiful trees and chirping birds. There was a lovely stream which ran down and added to the nutrients of my garden.

But in the past few months a group of thugs have come and settled on this land. Fight after fight, argument after argument and they've made it sound like a playground with at times 50 children playing on there. I have a little door to the rear of my land which they have fenced in so I can no longer go for my daily walks I was so used to! The land is not there's but they are stealing and using all of it!!

I used to walk to the shop this way as it was easier for me. I can't do that now. I can't sit in my garden anymore because it is like world war 2 out there. I no longer feel safe in my own home. I don't want this at my age, I want it back to how it was. I went the people behind here gone! I urge you to take action because I am getting more depressed not able to go out into my garden. I have been shielding now 3 months and just been witnessing these thugs swarming around my house. They walk up and down and look over my fences I hate it!

I wish I could sell house and move but I'm too old for a move. I wish I could sit with Kate and personally talk to her and express my worries about having these thugs here. If they were travellers in caravans all lingering around here it would be bad and I'm sure the council would be able to do something to get them out - this is worse!! Please assure me something is going to be done we are all worried and nobody - not one of all the residents here - wants them here. We are all so unhappy and need you to act. ACT FAST PLEASE!!!

I don't mind you using my name in my objection but please don't share my email address. Thank you for listening.

Objection – Edmund Redfem, 7 Wellbeck Avenue Rec 09.06.20

Sir

I refer to the above planning application and would submit the following information. My residence since 1982 has been and still is 7 Welbeck Avenue, Blackburn, BB1 5SF.

When I purchased the property it came with two garages, one sited to the side of my residence and another behind the fence on the land now claimed by the owner of 29 Greenhead Avenue. I used the garage until it was destroyed when vandals set fire to it.

The concrete base is still there and recently a wooden fence has been erected to the rear of my property so cutting off any access to it.

The most direct access to the garage was a right of way between numbers 8 and 10 Welbeck Avenue, however this path has been removed by combining the paths of numbers 8 and 10 into a common garden area and constructing a high breeze block wall. The only other access was to the rear of numbers 2,4,6 and 8 Welbeck Avenue but recently this access has also been closed. There was access to the land by a narrow road adjacent to 29 Greenhead Avenue but this has now been closed with the erection of a stout wooden fence.

My objections to this planning application are:

That there was no consultation before the wooden fence was erected.

That my garage base is now not accessible for the use that it was originally intended.

That all access points to my garage base are now closed.

That no approaches have been made to discuss the purchase of my property, namely the garage base

Objection – Objector wants to stay anonymous Received 10.06.2020

To whom it may concern,

We absolutely object to this plan and any movement on the land.

It is a great shame that the 'occupiers' have been allowed to freely roam on to this area and in 12 months do as they wish whilst threatening, bullying and creating unrest amongst the whole community.

Blocked access routes, theft of privacy and peace, demolished trees and wildlife, growing cases of anti social behaviour and the list goes on.

There is a petition being sent to Kate Hollern and further demands within the council asking why we are being ignored and that no stops, sanctions or enforcements have been carried out until now.

Please keep our objection and details as anonymous

Objection – Objector wants to stay anonymous Received 10.06.2020

To whom it may concern,

In receipt of your letter referenced 10/20/0434 I would like to make a strong objection against it. My name xxxxxx. I would like to keep my name anonymous.

The reason I look to keep my name anonymous is because Mr Khan threatened me and kicked my car. I have reported to police. Since then I live in fear and do not use my back garden.

My biggest objection is the fact the Mr Khan has an incomplete planning application; size unspecified, use of materials, he has fenced it up and put drainage in and also electrical cables.he says he has looked after the land 15 years, we can all vouch this is not the case. All us neighbours are unhappy with Mr Khans presence he is a bully.

Another objection and quite important is the fact he has blocked me in, theres no access for me to get my car to the back. For 10 years i used that as access to load and unload my tools - i am a builder!

I also feel vulnerable as if there was a fire, I wont get out from the back. A few times the fire brigade used the access to come round the back.

My land has japanese knotweed just behind it, how can that be okay? He must sort it. Why does his garden need to extend behind all our houses as we need access to the back of our garages?! He will be asking to extend his garden round Blackburn next! It is selfish it isnt even his land!

My children are aged between 9-14 and love the garden space. In the past year since Mr Khan has adopted this land -which isnt even his- we have no privacy in our gardens and no peace it is too loud!

Last year there was a meeting the councillor organised but we werent invited so thats not fair! How and why did the councillor only call the Khan family! I believe the councillors are scared of Mr Khan!

Finally, what makes me sad is I can no longer walk through this land to Welbeck avenue. Since I moved here that was my daily route to the shop. On the way there was a beautiful habitat with trees a stream birds and now it has all been ruined! I hope you can help us as we are not happy and want to sell our properties if Mr khan is granted permission. I cant live in fear forever with a person behind me peeping into my house. He may hit me or do worse- he is capable!

Objection – Objector wants to stay anonymous Received 10.06.2020

I would like to add to my objection please:

Having analysed the application, I am quite befuddled to see the application has been registered, it is incomplete; dimensions haven't been covered, any use of materials? No was ticked however, There are fences and today Mr Khan installed drainage pipes and cables. There was also a stream there and now has been covered up with soil, he ticked no flood risk! I really think this application needs to be assessed before going to committee! It seems like Mr Khan can do what he wants and you aren't stopping him, albeit he has not been given planning permission!

Petition – Multiple Addresses Received 11.06.2020 (wants to stay anonymous)

- 3 Greenhead Ave
- 5 Greenhead Ave
- 7 Greenhead Ave
- 9 Greenhead Ave
- 11 Greenhead Ave
- 13 Greenhead Ave
- 15 Greenhead Ave
- 17 Greenhead Ave
- 19 Greenhead Ave
- 21 Greenhead Ave
- 23 Greenhead Ave
- 25 Greenhead Ave
- 27 Greenhead Ave
- 1 Welbeck Ave

- 3 Welbeck Ave
- 5 Welbeck Ave
- 7 Welbeck Ave
- 9 Welbeck Ave
- 11 Welbeck Ave
- 14 Furness Ave
- 16 Furness AVE
- 18 Furness Ave
- 20 Furness Ave
- 22 Furness AVE
- 24 Furness Ave

To Whom it may Concern,

I write this letter beseeching some help and support when we all feel helpless and trapped. 23 residents of Blackburn with Darwen who pay council tax and are law abiding are in desperate need of urgent help. We live in an area which has land between the named streets above. For the past 40 years this land has been open, allowing us to take our dogs for walk, allowing us to enter our streets via this path and also allows us access to our garages on the rear of our gardens. What was a blissful and peaceful area has now become a place of anti social behaviour where trees are being chopped and burned every single day! This land belongs to nobody yet MR KHAN of 29 GREENHEAD AVE is claiming it and has fenced it in. We can no longer walk through or get our cars out as he has fenced us in. Also, when he has been asked he has threatened 4 or 5 of us. We no longer want to use our names as the last councillor told MR KHAN who was unhappy and I was threatened as a result by MR KHAN! My daughter no longer sits in the garden as all she can hear is swearing and fighting! I and all 23 residents have all agreed if MR KHAN continues and nobody does anything to help, we will have no choice but to all sell our houses, but then again who will want to buy a house when there is a group of vile and dangerous people squatting We have taken legal advice, as been suggested by many councillors who have already looked into the matter. However, as Mr Khan is not the legal registered owner we cant do anything. The worst problem with this land is it is filled with Japanese Knotweed. Our gardens are being affected too as it is growing into our properties. We have called experts out who have told us it will cost

£30,000. We are happy to pay this however we cant even get into the land! We urge you as our council to mediate this and allow us to live peacefully once again. We suggest the following:

- The council enforces MR KHAN to leave the land alone
- The council fences the area
- Us residents pay to remove knotweed
- The council shares the land between the home owners who can ALL extend their gardens
- Leave a 2m access through the land so we can get into our garages

 All 23 residents have met and agreed this is our best way forward. I hope you can
 reply to my email asap and also write to us all with action taken. We are all having
 sleepless nights at the moment due to the anti social behaviour and unfair treatment
 of the land by MR KHAN.

Yours

Unhappy residents of Little Harwood, Blackburn

Objection - Mohamed RAVAT, 7 Greenhead Av Received 12.06.2020

I wish to object to the planning application 10/20/0434 for 29 Greenhead Avenue, Blackburn.

I have lived at 7 Greenhead Avenue since 1993 and the land behind my house has always been waste land/unadopted / unregistered land when I have made enquiries with the council as to who is responsible for the upkeep of the land. I do not believe this land is owned by the occupant of 29 Greenhead Avenue.. The applicant has not provided adequate proof of any ownership and the land registry document is not clear.

The site as shown in the planning application is not directly behind my property however the land behind my property has been cleared of all trees, without consulting me, which provided me with privacy. My property and garden is now overlooked by properties which it was shielded from previously. Who has given permission to the applicant to clear the land behind my property. Is this simply a land grab? The entire area from 29 Greenhead to 3 Greenhead Avenue has been cleared; why? Who has provided the authorisation for this work to commence? Is there a separate planning application that I am not aware of?

The waste land behind my property and in fact the land that is subject to the planning application is infested with Japanese Knotweed. The applicant has cleared this by simply digging it out using a large excavator!!! Where has the rubbish been dumped? There now appears a large skip on the land directly behind my property. I believe that the unlawful removal of the Japanese Knotweed will now increase the invasion into my garden. What pre-approval site assessment did the council carry out? Why has Japanese Knott weed not been mentioned on the application by the applicant? Over the past few months, even prior to the planning application a large portion of the land has been partitioned off by building a large perimeter wall. Has the council authorised this partition? Is it subject to a separate planning application as it appears to be extremely high, in excess of 2.5 meters.

I am directly affected and have been directly affected due to the loss of privacy, why was I not consulted prior to this application since my garden backs onto the land? This was shoddy work on the councils part in supposedly consulting with local residents who may be affected.

I strongly object to this application on the grounds that It is a land grab, it affects my privacy as the applicant has removed trees behind my property and the applicant has cleared beyond the scope of the application and has unlawfully removed Japanese Knott Weed.

Should you wish to see the change in view and the loss of privacy, I will have photographs taken in the garden since I moved into the property, I will gladly share these with you.

The Council must ensure that any further work is ceased immediately until the matters I have raised are addressed.

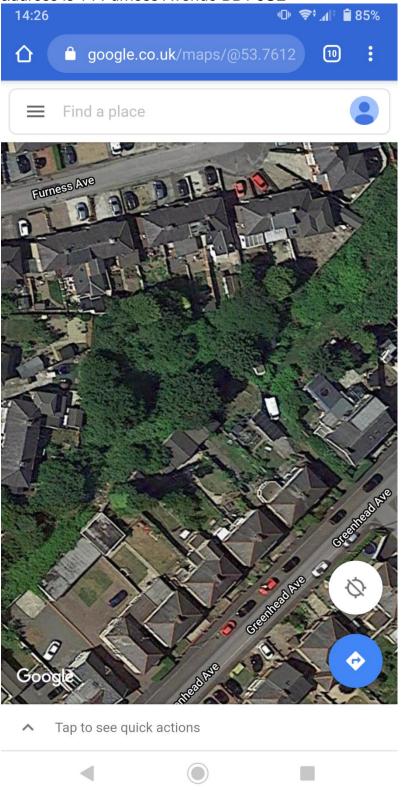
Objection – Objector wants to stay anonymous Received 12.06.2020

Hi Nick

Further to my previous email about the land behind

Greenhead Avenue or my house Furness Avenue this has never been maintained by anyone until last year. Mr Khan started cleaning it and people objected it and he stopped work last year around August 2019. As u can see he has dumped chopped trees behind my garden. He's never been near this land before so he can't say he's been maintaining it for 15 years. You can see it on Google map that it's been never maintained by anyone. This picture is on Google maps currently which looks like it has been taken after March 2018 as the new extension to my property and new shed in my back garden work was completed in March 2018. You can verify this by my

planning application and completion of work before I got certificate from council. My address is 14 Furness Avenue BB1 5SE



None of the councillors have contacted any neighbours regarding this issue. He should never be allowed to go in that land as he's doing something which is causing problems to people around this land. Thanks

Objection – Objector wants to be anonymous received 12.06.2020

The reason I look to keep my name anonymous is because I am scared of the ones this email is about. I am aware of their bad reputation and threatening nature and would like to stay safe for me and my family.

Mr Khan as I am aware, has an incomplete planning application. This is my biggest objection because of the size unspecified, use of materials. The fact that he states he has looked after the land for 15 years is not true. I've been living here for 20 years and there are people on this street that have been living here for longer like 40 years. There is proof and knowledge that no one has been maintaining the land as we all thought it belonged to the council.

Us, as neighbours do not like his presence.

Another objection is the fact that my fire exit exists at the back. We have a specific exit route in case of a fire and we need access at the back. How would me and my family get out from the back?

My children are aged between 7-19 and love the garden space, they spend a lot of time there. In the past year since Mr Khan has adopted this land which isnt even his, we now have no privacy in our gardens and no peace it is too loud! There is always chattering and sometimes, use of foul language.

Last year there was a meeting the councillor organised but we werent invited so thats not fair! How and why did the councillor only call the Khan family? I believe the councillors are scared of Mr Khan.

Finally, we maintain our fences by painting and taking care of them. We don't have access to paint and take care of the fences due to the land adoption. How would we be able to take care of them or replace them?

Also, if you look at the map of the houses at the back of the fence. There is a garage shown behind the garden. It was owned by Welbeck Avenue. Therefore, he has no right to that land if the garage was owned by Welbeck Avenue.

I hope you can help us as we are not happy and want to sell our properties if Mr khan is granted permission. I cant live in fear forever with a person behind me peeping into my house.

Objection – Objector wants to stay anonymous Received 12.06.2020

I'm sure you have had numerous complaints regarding the adverse possession of land behind Greenhead Ave. Today dispute having given the council forewarning - Mr Khan the owner of 29 Greenhead Ave has moved land from heavily infected areas and deposited it behind other residents houses. He has had a CPW issued regrading this matter 12 months ago and failed to act.

Japanese knotweed is classed as 'controlled waste' under the Environmental Protection Act 1990. This requires disposal at licensed landfill sites. This action is surely illegal.

I have copied in my father who you may recall from Response Clothing on Bay St who is a resident at no 11. Please could we an urgent meeting to discuss this matter.

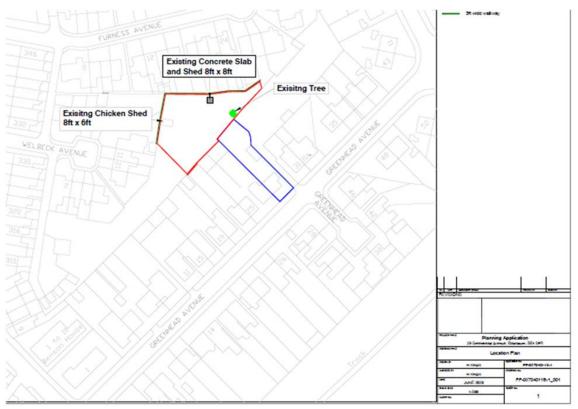
Dear Kate/Martin,

It is with regret that I have to contact you again however the development of the site with industrial machines (diggers) to the rear of 1-25 Greenhead Ave continues for a 4th day, yet no action or communication has come from the planning department to these residents.

I wish to highlight that in the letter to Martin Kelly issues raised by 3-21 Greenhead Ave residents are referred to as matters relating to the planning application ref 10/20/0434. Whilst the two are related, the area in question is not included the application. The activity is therefore outside of the planning application scope and yet the land is being transformed unrecognisably with no enforcement of regulations.

Please see maps below of land and the application area:





This area has deliberately been omitted from the application due to the overgrowth of Japanese knotweed and the encroachment onto neighbouring properties. There are numerous reasons for objection of all activity to be permitted on this site. However due to COVID-19 restrictions the resident are unable to meet and coordinate a response and civil servants are overrun and seen as being ineffective.

To give you one example of this there is clear evidence of flood risk to the area, via a water stream, which is referred to in my title deeds. I have attached a conveyance report of my property that confirms this. There is a large communal land drain besides no 3 Greenhead Avenue (photo attached) with links directly to the sewer. Up until Monday there was clear ditch and evidence of pipework to ensure water drained from the top of the street down into this land drain. Over the years residents have on occasions cleaned and maintained this drain. The industrial ground works being allowed to continue by the council have enabled this ditch to be filled with soil and the water system potentially significantly debilitated. Coupled with the removal of trees and shrubs, we are now at more risk of flooding and given my experience of water flooding into gardens and damp to outbuildings in previous years, a period of heavy rainfall will test this area.

You will be aware that the Council as lead local flood authority is required, under section 21 of the Flood and Water Management Act, to maintain a register of structures and features that are likely to have a significant effect on flood risk in their area. As such, the Council has a duty to investigate flood risks within its area and determine which individuals have responsibility for taking remedial action.

We are in the early stages of instructing a litigation lawyer and will need to add this to the growing list of areas we need take legal advice on both in relation to the adverse possessor and the council's role in allowing this despite it being reported.

Once again, I would like to repeat my request from my previous emails in the trail below;

In the best interest of the boroughs residents, to avoid escalation of the matter and to avoid major civil disturbance and hate crimes, the current application should be put on hold and ALL on site work must be paused. After COVID-19 restrictions are lifted a full formal consultation should be commissioned that is under senior executive and MP supervision. Everyone should have a fair opportunity to have their say. Expert legal opinion will also be encouraged and supported.

We have so much more evidence and photos but it appear senior council planning and enforcement management do not have time for us. There are 30-40 households in despair and suffering for a 4th day..



Save our neighbourhood

Petition to Kate Hollern, MP for Blackburn - 10/6/20

We, the undersigned, are opposed to the claiming and inappropriate use of Land between Greenhead Ave, Welbeck Ave and Furness Ave, which was used by hundreds of local people for access for garages, used as a walkway and worked as a privacy barrier between the 3 streets. We call on Blackburn Council to:

reject any plans to close the access
stop work on this unregistered land
use your authorities to put a stop to anti-social behaviour
evict the current occupiers who are taking adverse possession of the land
consult with residents on how to make use of the land
enforce action to sort Japanese Knotweed from the land, with a 10 year insurance back guarantee

Over the past 30 years, hundreds of people have used the land referenced above to either walk through, drive to their garage or take their dog for a walk on. The residents have used this land to access the back of their homes, to walk through or used as a backup for a fire escape. However, in the past 3 months, the new homeowner of 29 Greenhead Ave (Mr Khan) has fenced all the land in, chopped trees and blocked accesses. He has put in a planning application to make the land into his garden, and has told many of us he wishes to build 2 houses there in the future. The land isn't his – confirmed by land registry, councillors and the undersigned - and occasions been tidied by us, hence we feel strongly about it.

We, the residents adjacent to the land, are demanding communication with yourself in order to help us with this situation. Our proposal which has been discussed with our councillor and also agreed at a residents meeting is as follows: evict the current occupier, open all the accesses, treat the area of Japanese knotweed professionally and consult the residents on how to use the land. We understand this comes at a cost, but some residents are willing to contribute towards this cost. I'm sure you will agree not only is this fair, but it follows the British values of liberty and justice. How can it be fair and just for one person to come and steal all the land after moving in a year ago, when some residents have lived here since 1960?

Since the arrival of Mr Khan, our privacy has been lost by him occupying this land, which oversees into our gardens and our homes. He has a big family and a large group of friends who are using the land for anti-social behaviour, 29 Greenhead Ave (Mr Khan's property) is currently boarded up according to neighbours following a drugs raid by the police! Surely in the long term you are allowing a private den inviting unlawful activity if enforcement action doesn't take place! He has changed the land use, it was a land with beautiful trees separating the streets and giving us privacy, he has now chopped the trees changing the landscape of this area. A reminder – the land isn't his.

For the past 30 years this has been a peaceful neighbourhood, a neighbourhood which allows us to live as one big family. In the space of 3 months this has changed, all this due to Mr Khan's actions. We are all frustrated and fed up, we do not want to live with Mr Khan's violence and his anti-social behaviour behind us. Most of us feel like this neighbourhood will never be the same now! We feel helpless and trapped!

To add to our petition, as far as I can recall, there was a lovely stream running through the land from top to bottom, in the past year Mr Khan has soiled up and covered the stream. He has moved soil to flatten what was a slightly slanted piece of land. Currently he has a digger here moving more soil around which is contaminated with Japanese Knotweed. Mr Khan has proposed he will be

tarmacking the area - over a stream, over knotweed?! Again, not his land.

On the point of Japanese Knotweed, Mr Khan was issued a Community Protection Warning last year. Since then he has pulled the weeds out burned them and just made it worse! He has failed to comply with the notice served on him. A few residents now have the knotweed encroached onto their properties - it is actually growing through some garages!

We need answers regarding Mr Khan's claim of local councillors he refers to in his planning application: Who were the councillors? Are they allowed to pass on land to others? Why weren't the residents consulted? Are they aware Mr Khan has used them as a reference to help claim the land? No formal invitation was given to any of us.

In normal circumstances, we would consult with the land occupier and try to come to an amicable agreement. However, over the past 3 months many of us have been threatened, one person even assaulted and on two separate occasions in the presence of Council staff: John Wood (Principal Officer - Environmental Protection, john.wood@blackburn.gov.uk) and Richard Waters. These threats have been reported to the police. Furthermore, this is why we request our petition to remain private and confidential from Mr Khan. We would also aim for more signatures normally, but we feel 48 out of 49 residents - Mr Khan being the only one exempt - speaks volumes.

We demand answers on the following:

- 1. Is it fair for all residents to suffer at the expense of one new resident?
- Why are the planning department allowing Mr Khan continue to work on the site without planning permission? He has fenced up, inputted drainage, cables and toady CCTV.
- 3. Should we all have to feel unsafe in our homes?
- 4. Would it be fair for us to have to possibly sell our properties and look to move elsewhere?
- 5. What have the council done to stop this action?
- 6. How can one person take/steal so much land without any questions asked?
- Why was there a meeting with councillors regarding this land in April 2019 without all residents? Only 10 people were invited.
- 8. Why has action not been taken by the council for Mr Khan not complying with the Community Protection Notice?
- 9. If the action taken by Mr Khan is okay, then are we safe to do the same (steal land, build fences, be a nuisance, block peoples access) around plots of land within Blackburn?
- 10. Is councillor Desai or the unknown councillors he refers to in his planning permission doing us an injustice by not taking any action/listening to our concerns?
- 11. Is it fair for us to have our accesses blocked and not be able to use our cars anymore.

In conclusion, the whole neighbourhood are against Mr Khan's proposal and illegal grabbing of land and urge you to stop his actions, he is causing unrest in our neighbourhood, at a time where tensions are running high following the recent murder in Blackburn – we feel anxious and worried. He is getting away with all of it and it seems he can do what he wants. We request an urgent meeting with some/all of the undersigned, so we can express our concerns rightfully.

Below is a list of residents who have undersigned, thank you for taking our points and our proposal. Attached are pictures/map of the land and accesses before, during and after the land grab.

Response to Kate Hollern MP 22nd June 2020:



Kate Hollem MP Constituency Office Richmond Chambers Richmond Terrace Blackburn BB1 7AS Date: 22nd June 2020 Our Ref: G&D/10/20/0434 Your Ref: KH/KH44076DT Please ask for:

Direct Diai: (01254) 585585 Email: planning@blackbum.gov.uk

Dear Kate,

Land to the rear of No.29 Greenhead Avenue, Blackburn - use of land as residential garden (ref: 10/20/0434)

I refer to your letter dated 9th June 2020, sent on behalf of your constituents who live on Greenhead Avenue, Welbeck Avenue and Furness Avenue in Little Harwood, regarding the above piece of land, of which a part is now subject to a formal planning application to change the use of the land into a private residential garden (ref: 10/20/0434).

I can confirm that the local planning authority has also received correspondence relating to the piece of land from local residents expressing a number of concerns/issues along with a letter/petition containing 48 signatures submitted to you on the 10th June 2020. With regard to the latter, can you please confirm that you wish for the Council to deal with this petition in accordance with the Council's adopted procedure relating to petitions? The issues/concerns raised by the residents can be summarised as follows:

- 1) The applicant, Mr Khan, claiming possession of the land
- 2) Japanese Knotweed present on the site
- 3) Assessment of the current planning application (ref: 10/20/0434)
- Claims of anti-social behaviour and intimidation witnessed and experienced by local residents in relation to the applicant's conduct.

All of the above issues/concerns are being taken seriously by the Council, and officers from the relevant services, including Legal, Planning, Public Protection and Community Safety, met on the 11th June, to discuss the way forward in dealing with these issues. I will endeavour to deal with each issue in turn.

The applicant, Mr Khan claiming possession of the land:

For context, this issue was first brought to the attention of the Council's Planning Enforcement Team in March 2019. A Planning Enforcement Officer made a visit to the site in March 2019, accompanied by an officer from the Public Protection Team to ascertain the extent of the activity

Martin Kelly, Director of Growth and Development Town Hall, Blackburn, Lancashire, BB1 7DY carried out. During this visit, the officers explained to Mr Khan, that fencing off the land and progressing to use it as an extension to his residential curtilage, would amount to a breach of planning control which would be subject to the threat of enforcement action. Mr Khan was advised to submit a formal planning application to seek planning permission for change of use of the land to residential. A Planning Contravention Notice (PCN) was issued and served on Mr Khan by the Council in March 2019, requesting further information regarding the land uses and its future intended use. This was returned completed in the appropriate period of time.

The Planning Enforcement team continued to monitor the site, and on the 12th May 2020, a formal planning application was received. Should the application be refused, Planning Enforcement will review the situation and take appropriate action if a breach of planning control is identified.

With regards to Mr Khan claiming possession of the land, it is known that this land is unregistered and the Council understands that no one claiming to be the owner by virtue of holding title deeds to this land has ever come forward. This land is not owned by the Council nor has the Council ever had any legal interest in the land, therefore, it has even less of a legal right to possession of the land than the adjoining land owners. Therefore, the Council's statutory powers under environmental and planning laws (for instance) are the ones which are applicable in this situation. The local residents are strongly advised to seek their own independent legal advice in the matter. The Council is unable to advise individuals in relation to any private legal rights they may have in the matter.

Turning to the question raised "Is the Council able to write to HM Land Registry objecting to a claim for adverse possession"?

At the appropriate time, there is no reason why the Council could not write to the Land Registry to object. The strength of the Council's direct knowledge of the site in question will dictate how seriously the Land Registry will takes the Council's views. The Land Registry will assess the Information to ascertain whether the 12 year requirement for adverse possession is met. If the Land Registry believes both cases have merit they will generally try and mediate the matter formally but it could go to a form of land tribunal inquiry. At this point, the Council could assist in the Inquiry process, subject to advice that confirmed the legitimacy of the Council to act.

Japanese Knotweed present on the site:

The Anti-social Behaviour, Crime and Policing Act 2014 allows local authorities to issue a Community Protection Warning (CPW) on a landowner where they are failing to manage Japanese Knotweed. In the event of non-compliance with the CPW a Community Protection Notice (CPN) can be issued. There can be penalties for failing to comply with a CPN, upon successful prosecution. An individual who is served with a CPN has the right to appeal.

Whilst the land has no legal owner, the Council's Environmental Protection Team (part of the Public Protection service), issued a CPW on Mr Khan on the 12th July 2019.

This CPW required Mr Khan, within 28 days, to submit a written program for control of the knotweed, for the Environmental Protection Team's approval. No such program was received by the Council. Mr Khan then appeared to leave the site and very little further activity occurred. With the land having no legal owner and little further activity then we were unable to escalar the CPW to the CPN stage.

Martin Kelly, Director of Growth and Development, Town Hall, Blackburn, Lancashire, BB1 7DY In May 2020 it was brought to the Environmental Protection Team's attention that Mr Khan was working on clearing the site and his son had made a planning application regarding part of the land. As a result, the Environmental Protection Team have progressed to the next stage under the Anti-Social Behaviour Crime and Policing Act. A CPN was served on the 15th June 2020.

The Environmental Protection Team served the CPN on Mr Khan on the 15th June. This Notice gives Mr Khan a period of time to produce the Knotweed Management Plan. Mr Khan has been given 28 days but this is reliant upon a third party. We may allow some flexibility with this deadline if progress is made with an agreed Plan.

To also add to this Mr Khan has agreed to cease works on the site for the time being whilst this matter is progressed.

Noise Nuisance:

Recent correspondence has been received in relation to chickens now being present on the site. The chicken pen that has been erected is within the red edge boundary of the current planning application site, and will be assessed as part of this application. Environmental Protection have contacted Mr Khan on the 22nd June, and he confirmed there are four chickens and one young cockerel. Mr Khan claims he has kept them one the land for years. They have been temporarily absent whilst works have been carried out on the land. Noise issues around the chickens etc. can be investigated by the Environmental Protection Team. If anybody is affected by them please call 01254 267699 and we can advise further. We must stress it is not uncommon for people to keep chickens. We would need to assess any nulsance caused.

Assessment of the current planning application (ref: 10/20/0434)

The current planning application proposes a change of use of the land edged on the attached plan to the residential garden. To date, the local planning authority considers that no unauthorised development has occurred, as the land is currently not in domestic use. Although it is accepted that the land has been cleared of low level trees (which were not protected) and the saccepted that the land has been cleared of low level trees (which were not protected) and authority as the works do not require planning permission. It would appear the activity that has occurred is enabling works. In addition, the fence that has been erected does not require planning permission as it does not exceed 2 metres in height.

So far as the planning application is concerned, a formal decision will be reached in due course, following consultation with key stakeholders, and a detailed assessment of the proposal against relevant Development Plan policies. At the time of writing, 19 individual objections have been received from the local residents. The aforementioned Japanese Knotweed Management Plan will form part of the overall assessment of the application.

With reference to land ownership, the applicant Mr Khan has submitted a Certificate D with the application. This is a declaration that the land is beyond the applicant's ownership and is untitled. In accordance with the statutory provision, the relevant notice associated with the Certificate has been published in the local press, advertising the intention to develop the land and offering the opportunity for anybody with an undeclared ownership interest to come forward. The notice was duly publiclised on the 18th May 2020. The application is, therefore, accepted as valid and call?

Martin Kelly, Director of Growth and Development Town Hall, Blackburn, Lancashire, BB1 7DY A number of residents have referred to activity beyond the application site (as defined by the red edge boundary). I should advise that this is outside the scope of the assessment, and any activity relating to the removal of Japanese Knotweed is being addressed by the Council's Environmental Protection Team. The Planning Enforcement officer is also investigating what works have occurred on this adjacent piece of land, to ascertain whether development has occurred or there has been a material change of use of the land, which will require the benefit of planning permission.

Concerns have also been raised in terms of flood risk to the area, via a water stream located on this piece of land. I can confirm that the Council's Drainage Engineers are currently assessing the concerns raised, and will be discussing these both with the planning case officer and the applicant.

I can confirm that the planning case officer Nick Blackledge visited the site on the morning of 18th June with the Council's Drainage officer, Roger Lever. The application site was padiocked, though they were able to view the site and establish that the land was well drained. Although historic plans show a watercourse on the land, there is no evidence of it on the surface, nor was there any indication of significant surface flows after the heavy rainfall during the previous 48 hour period. There is a channel at the back of Nos. 3 and 5. This channel is cut off upstream by an outbuilding at No.7. The channel was full of rubbish and on the day visited there was a minute flow, which was probably ground water.

If the development is limited to garden (beds and lawn) and the access behind Nos 3-21 remains gravel or soil then no new drainage problems are anticipated. However, if the area is paved / hard landscaped then a formal drainage system will be required. The application makes no mention of proposed surface materials. In the event of the planning application being granted planning permission, such works can be controlled through the removal of permitted development rights. In the event of any construction on the site, the original watercourse could be piped or culverted through on or close to the line of the former ditch.

Mr Biackledge visited the site again, on the morning of the 19th June with John Wood, Environmental Protection Officer. As previously explained, an invasive species consultant was present with reference to the Japanese Knotweed. Submission of a management / eradication pian is anticipated. In the event of the pianning application being granted pianning permission, implementation of the pian will be secured by condition.

The application is under assessment and a recommendation will be advanced in due course. Should the recommendation be for approval, the planning application will be presented to the next available meeting of the Planning & Highways Committee. In the meantime, Mr Khan has been advised to cease all work on site.

Claims of anti-social behaviour/intimidation witnessed / experienced by the local residents in relation to the applicant's conduct:

Reports have been received regarding incidents of anti-social behaviour involving a dispute over the parcel of land behind Greenhead Avenue. Such instances are taken seriously by the Council's Community Safety Team. Council officers met with Police colleagues on the 18th June 2020, to discuss ASB issues and next steps. Any individual identified as engaging in anti-social to the council of the

Martin Kelly, Director of Growth and Development, Town Hall, Blackburn, Lancashire, BB1 7DY

or criminal behaviour will face action being taken against them, and the Community Safety Team may consider serving a CPW if the evidence supports such an action. Following the meeting with the Police, I understand the Police will contacting local residents this week to discuss their concerns.

I trust the above information is of assistance to you.

Yours sincerely,

MA lelly

Martin Kelly

Mr khan has claimed councillors have checked something about this application - we think it is to do with permission of use! I believe a meeting was held by a councillor with 10 Khan representatives and 2-3 residents. I for sure wasn't invited! Please add to my objection

Objection – Fatima Cola, Unknown Address Rec 15.06.20

With the application I am not happy, it says there is no flood risk I want to add a picture of Greenhead ave 19 and what's happened in the past year since mr khan came and blocked the stream, my garden floods with heavy rain. See picture.

Also, up until mr khan arrived I used the rear of my garden to bring my car in. You can see the metal gates. But mr khan blocked me and fenced me in so I can't even get my car through.

I can't believe you haven't stopped his actions yet, I hope you do and can help all us elderly residents feel safe once again.

See pictures below.





Objection – Objectors wants to stay anonymous Received 16.06.2020

To Blackburn with Darwen planning department and planning officer Nick Blackledge.

I received a letter from the planning department regarding a planning application for land at rear of 29 Green head avenue to be used as garden. I write to the council to make a objection. And to refuse plans for the owner at 29 green head to turn this abandoned land into his garden.

I have owned my house for 5 years and lived at my address for 4 years and the land at the back has been unregistered for many years. Previous owners at my residence whom have lived here for 40+ years can confirm that this land is unoccupied and the owner is untraceable. So the plans submitted to the council by Mr Khan are false that he has owned it for 15 years. Mr Khan has only owned 29 Green head for 12 months himself. Many residents whom have lived in this area can confirm this. Satellite images can prove that he has not looked after or maintained it until recent months where he has gated of the land and describes it as private land and keep of. How is this possible or even allowed?

Please can you look into this matter as urgency. I believe there is some people working in the council whom are giving out information as to who is objecting his application and thus Mr Khan is being verbally abusive rude and aggressive towards local residents. This is the reason why I would like to remain anonymous, for my family and my own well being.

Since, he has gated of the land Mr Khan and his team have took down atleast 10 trees and burnt trees creating a hazard and nuisance and thus many wild life have lost a place to reside. This is unfair. This should not be permissible. Please can you accept this email as a objection to his false application and keep me anonymous. Also: Local residence should be given a chance to decide what to use this land for or the council should make it into a communal area

Objection – Objector wants to stay anonymous Received 22.06.2020

I would like to add to my objection if it isn't too late. Again, I wish for my information to remain anonymous. This morning, I am completely angered by the land change over the previous days. In particular, last nights actions have made me decide if his

planning is passed I will be selling my home. There were 4-5 cars here last night, engines being revved and loud music blaring! I didn't sleep till 2! I had to wake up at 7 for work!

Objection – Michael J Poultney, 12 Welbeck Av Rec 23.06.20

I wish vehemently to oppose this application.

I have been the sole resident of 12 Welbeck Avenue, BB1 5SF since 8 April 1991 and at that time there appeared to be a thoroughfare from the rear of 2 Welbeck Avenue through this area to a passage ending between 29 and 31 Greenhead Avenue which I used several times many years ago.

Although I am not sure that this was and may now be a Public Right of Way, at that time, there was no indication to the contrary or any reference to its or most of its being part of the title deeds of No.29 Greenhead Avenue and hence being private land.

Currently the area in question is cordoned off with a sign 'Private Land Keep Off' at the rear of 4 Welbeck Avenue, iron gates with the words 'Private Land' in the centre inaccessible part of the land visible from the back of my property, and a notice mentioning 'Private Land available for Rent' with a mobile telephone number visible over the fence between 29 and 31 Greenhead Avenue.

I understand that Mr.Khan has purchased 29 Greenhead Avenue in 2019. I would be astounded if the entirety of this land appears on the title deeds of that one property. It appears that the owner has commandeered this extra land for himself – I believe that it is unadopted land or land where the true owner is not traceable. I would be surprised if he is the true owner having acquired it through proper legal channels.

As an application is now forthcoming using the word retrospective, I believe that these notices have been placed there without full planning permission and probably therefore have no standing in law.

His actions have prevented any thoroughfare between the rear of 4 Welbeck Avenue and the passage into Greenhead Avenue between 29 and 31. It also prevents any rear access to this area in emergency or to tend to fences/boundaries from 9,11,6-12 Welbeck Avenue,14-30 Furness Avenue and 3-11 and 15-27 Greenhead Avenue causing inconvenience to several residents. I reiterate that I feel that this application should be rejected.

Objection – Objector wants to stay anonymous Received 24.06.2020

Since yesterday I havent really heard the sound of the chickens. However, I have noticed 2 large rats in my garden today and yesterday. As you can imagine, my children are refusing to play out! I am certain the rats are here since the arrival of the chickens! Therefore, please add this to my objection to the garden extension as I am worried if the garden application is accepted I will be dealing with rats more often. Like the rest of my objection, please keep my identity anonymous.

Objection – Objector wants to stay anonymous Received 24.06.2020

Please review points raised alongside the specific questions in the application:

Q3- Description of the proposal - Has the building, work or change started/completed. To which the applicant has answered no. However work had already started before 3/6/2020 the date of the application. This is a retrospective planning application and therefore this application constitutes a planning breach where a development that requires planning permission has been undertaken without the permission being granted or been sought. Especially as there is no doubt that this application and the planned breach has been "harmful to our neighbourhood". Work has continued on this development despite huge local campaigns, council and local MP involvement.

The decisive issue is that the breach unacceptably affects public amenity and use of the existing unregistered land which is in the public interest. This is evident from the petition which has been forwarded to the local MP and senior council management.

There have been massive effects on the area - this includes the previously private character of the area which has now been transformed to being:

- Over-developed feels like having a farm or agricultural site on the adjacent land.
 The size and scale of the project is overpowering, larger the dwelling and does not
 resemble a garden to dwelling in this area.
- Intrusive Loss of effect of mature trees and shrubs means applicant can see right through adjacent homes and overlooking the gardens of neighbours. Homes have been forced to erect temporary screens to provide temporary privacy.
- Noisy noise levels of significant numbers of livestock including hens, chickens, cockerels, ducks etc. that are planned.
- Visual intrusion the applicant has removed a peaceful sanctuary for the homes and contrasted with open landscape.
- 5) Smell from manure, animals feeds and livestock.

An example of this is "the existing chicken Shed" referred to in the existing site plan. When exactly did this chicken shed appear? Was planning sought for this? My understanding is that 'enclosures' such as this for livestock (Class E) are 'incidental to the enjoyment of the dwelling house as such'. The definition of 'purpose incidental to the enjoyment of the dwelling house is restricted to the domestic needs or personal enjoyment of the occupants of the dwelling house. However the purpose here is not solely for the occupant but also for the applicant's extended family that are not resident in the dwelling house. As tested by the courts over the years it can no longer be incidental if it is out of scale or disproportionate to the main dwelling house or has facilities well beyond the norm for such incidental activities.

Q4 - Site Address - Land to the rear of Greenhead Avenue. This is not specific, is inaccurate and incomplete. The application should clearly state their intent regarding which land to the rear of which specific houses. There are various versions of site plans and some are contradictory. Furthermore actual change of use extends way past the indicated area and involves the whole plot of land. The application is unclear and remains ambiguous.

An example of this is that the area in RED indicated on the existing site plan which does not represent the actual area. There is land that has been left around the perimeter of the fenced area. It is not visible on the plan however is indicated by a green-line referenced as a 3ft walkway. In reality the area and walkway differs considerably. This will likely lead to more disputes in the future.

Furthermore, the planning consultation has also not been sent to many residents e.g. 1-9 Greenhead Avenue, Whalley Old Rd and Robinson St who are all affected by this proposed area. I was not personally notified at 9 Greenhead Avenue of an application despite the council neighbour notification policy saying it should have. My address is abutting the plot of land in question.

Q6 - Rights of Way - Right of access has been closed for many residents that they have had use of for the last 30-40 years. There is an outstanding legal case between no 31 and no 29 regarding a joint access way which is also included as a right of way in title deeds for some of the Furness Avenue, Welbeck Avenue and Greenhead Avenue residents. Also many of the residents have been blocked access to access ways to the rear of 7-9 Greenhead Avenue denying them access to their garages. Again legal advice is being sought by residents.

Q9 - Materials - This section has not been completed. No materials are stated e.g. fences, walls, gates, lighting etc. Will these all require subsequent planning permission?

Also see Q12 flood risk area - hard surfaces may be used going forwards and they have the potential to increase downstream flood risk by decreasing flood plain storage and increasing the scale or speed of run-off.

Q10 - Vehicle Parking - This section has not been completed. There is clear intent from the visible landscape to change use of part of the land to a private road access via a double gate. This has not been stated in the application. The parking question is therefore of paramount significance. Cars have already been driving up to the "new garden". This will further add massive effects on an area as stated above making it over-developed, intrusive, noisy and a significant visual intrusion.

Q12 Flood risk assessment – My conveyance reports and title deeds clearly highlight a flood risk due to a pond and an active stream that runs from the applicants' proposed area down the full length of the Greenhead Avenue. The planned area is within 20m of a stream. A flood risk assessment is needed for the site. Any significant introduction of hard surfaces has the potential to increase downstream flood risk by decreasing flood plain storage and increasing the scale or speed of run-off. Also, how does the applicant intend to connect his area to the mains land drain at the base of the hill to avoid flood risk to the neighbours.

Q13 Biodiversity – The area is extensively contaminated with Knotweed. There is no mention of this or the outstanding work under the Community Protection Warning served in relation to this application (July 2019). The applicant has so far failed to act in response to the CPW and not cooperated with environmental protection. The applicant may also have processed controlled waste illegally by transferring knotweed across the whole plot and by attempting to treat it himself. A Community Protection Notice has been served since the submission of this application. The proposed use has involved removing established trees and shrubs potentially allowing knotweed to grow into new areas.

Q14. Existing use – Answered no? As above land is contaminated with Knotweed and also low risk corrugated cement asbestos sheets.

Q21. Site area Answer not provided. Application is incomplete and should be void. What is the area in question? The applicant has already moved fences around the plot to suit his objectives. How will this be prevented in future without having a clear planning record of the area in question?

Q22. Plant and machinery have been on site from the 8th June dealing with land that was contaminated with knotweed which is controlled waste and can only be dealt with by approved licensed contractors only. The contaminated land was deposited adjacent to other homes to "level up" the adjacent land. As stated above a CPN has subsequently been issued

Q23. Hazardous Waste - Applicant has been spraying the area with an unknown chemical on land adjacent to other properties. Applicant has also been burning general waste, trees and vegetation regularly in the area. The area has been filled with black smoke on hot spring days during COVID-19 lockdown.

Q24. Ownership – Not completed or signed - Applicant should provide evidence to show that they have undertaken the necessary checks to establish a legal owner 15 years ago from when the site is claimed to have been maintained. This is a clear case of land grab which all relevant council departments are aware of. Many local authority staff have undertaken site visits to the area before the adverse possession. The applicant has only had an interest in the application area since the purchase of 29 Greenhead Ave – 12 months ago.

The applicant should be requested to clearly state for the record which councillors he has checked with and support this application. I find it hard to believe that a local councillor would put their name to this application. Also applicant should be requested to provide evidence of land register checks and ownership checks prior to the last 3 years to support his 15 years claim. I have evidence of council staff, local councillor and CAPITA staff making these searches and checks in 2014 in search of an owner on my behalf.

The Title Deeds Outline submitted highlight in blue the land of 29 Greenhead Avenue and an area behind no 9 Greenhead Avenue. This does not correlate with the land registry documents for 29 Greenhead Avenue as it is still unregistered. I'm not sure what the applicant is trying to establish by highlighting this area.

Finally given the large number of complaints and inconsistencies with this application and bearing in mind that the functioning of council departments have been extremely compromised due to the COVID-19 lockdown this application should not be considered by the council until a full and proper review or all of the above can be undertaken by seniors council staff. Due to the large number of complaints a public consultation should be commissioned of all households, including the elderly and vulnerable who may be shielding due to COVID and those at risk of violence and aggression, to ensure the everyone has a full opportunity to participate in the consultation. I note that a Planning Contravention Notice was served already in relation to this applicant already on 22/3/2019 with an alleged breach for the change of use of the vacant land and garage site to extension of residential curtilage. The local authority should use further enforcement action, beyond planning, in the publics' best interest in this case.

I find it extremely difficult to believe that such an inadequate application could be approved. If this is approved I and other residents will be extremely unhappy with the outcome and will no doubt complain again to the council and may go on to request an investigation by the Ombudsman.

I sincerely hope there will be a fair and robust review of the objections with consideration given to the ill effects and negative impact on local residents lives of this application.

Objection – Faisal Patel, 15 Greenhead Av Received 24.06.2020

Dear Martin.

I wish to strongly oppose this application.

We have been living at 15 Greenhead Avenue for over 30 years, Mr Khan purchased the property last year, after he purchased the property he claimed the land and blocked our access to the rear of our garden and garages for all residents. In application, Mr Khan has not answered all the questions and submitted an incomplete application.

According to my opinion/knowledge, Mr Khan has only been maintaining the land for 1 year, he has definitely not been maintaining the land for the last 15 years, as I have been a resident here and have had clear oversight from my property. Please note my points.

- 1. Flood risks- there is a stream on the land, and when it rains heavily, my garden gets heavily flooded.
- 2. Noise levels have increased in the area significantly and privacy has been lost.
- 3. There appears to be a driveway being developed linked to this garden. There is no planning permission on this land.
- 4. The area is unsuitable for the scale of livestock and hens etc planned. A cockerel/hen was in our garden loose last year.
- 5. Rats and rodents will be attracted to the area due to the livestock.
- 6. Knotweed In my garden and 7m from my boundary knotweed is present, this is a heavy risk of devaluing my house value and selling my property (according to the surveyor, if knotweed is present, we unable to sell our home with an insurance backed treatment plan).
- 7. This is one piece of land; Applicant cannot claim some parts of the land and not others to avoid claims/damages being made against him. There is no clarity where his garden starts and ends.
- 8. It has come to my attention, that there was a consultation meeting in April 2019 with the Councillors and Mr Khan, why were residents from 1- 19 Greenhead Avenue not invited to the meeting?
- 9. Access to the rear of my property I have no access to the back of my property, in the event of a fire, the fire brigade would have no access to the rear of my property.
- 10. There has been activities on this land, there has been burning of trees, waste with strong smells, he has been carrying these out when he has no permission, you can imagine what he will do when he has permission?

- 11. There is a genuine risk and fear of crime. A number of incidents have been reported to the police in recent weeks and allegedly no 29 Greenhead Avenue there was a drug raid by the police in recent months.
- 12. Can Mr Khan provide evidence of land registration searches for ownership of 15 years ago as per his claim?

To conclude, I strongly oppose this planning application without further consultation and reviews with residents at this moment in time, as we are also in the process of taking legal action.

Objection – Soab Patel, 11 Greenhead Av Received 24.06.2020

I am writing in response to your letter regarding a planning application reference 10/20/0434. It says you are referring to a previous consultation letter, however nothing has been received previously. I would like to put forward my observations as required. I am sure you are aware of many issues regarding this piece of land in question as there has been much communication with the council and our local MP regarding this.

The first issue I would like to address is our loss of privacy. There are people who claim to own the land and their family consistently walking by, lighting fires and sitting around directly behind my house. They can look directly in to our garden as they are walking by or even just sitting around with their friends/family. We have also received threats from the people who claim to own the land behind my house, so you can imagine how close they are and how we have absolutely no privacy whatsoever. The applicant has already chopped a lot of the trees down from behind my house which has again caused a major loss of privacy which we had become accustomed to as they have been there for over 25 years.

The applicant already causes nuisances by lighting fires which causes excessive smoke. This means I need to bring my grandchildren in very quickly so they do not inhale the smoke as it is always very thick and heavy. Washing needs to be brought in ASAP, even on a hot summers day as they cause nuisances by burning things whenever they feel like it. They hang around in groups and try to be intimidating. The land in question behind my house has only been maintained by the applicant for the past year. So how he can suddenly claim it as his and put in a planning

application with the council is beyond my understanding. Furthermore the form has not even been fully completed so I do not know how an incomplete application can be accepted by the council.

The application is not clear as to whether they are putting in the planning application for all of the land behind Greenhead Avenue or part of it. If only part of it then how much? And if all of it then how can he claim ownership of land he has only tried to claim and work on in the past year.

Since they have started working at the back there has been a large influx of rats coming on to my property. I have seen them running around in broad daylight now which has never been an issue before.

I have deep concerns with the planning application going forward as if the council grants the applicant his land grab opportunity then I feel the nuisances they have caused so far will only get worse. They have blocked accesses to numerous houses which were used before. They have taken away our privacy, they have caused a rat problem, they cause enough disruption which affects our day to day life, they give threats, they hang around at the back making fires causing thick heavy smoke. As you can see I have grave concerns with them having access and being granted the planning application and I feel if they are granted this they will feel and have the right to cause as much if not more nuisance than what they have already caused. I hope you take my concerns and comments on board.

Objection – Objector wants to stay anonymous Received 24.06.2020

Are you going to do ANYTHING? I have just witnessed MR KHAN with another 3 men. Looking into our gardens, the picture shows him leaning on a neighbours wall looking straight into the house! Where is our privacy? Still using the bottom land as access to his 'beautiful' garden! Walking up and down it and spreading the japanese knotweed! Should we just stay quiet, lock our doors and close the blinds?? Seems the best option at the moment. Here are pictures to show you what is going on. Please keep my pics confidential to the council.

Objection – Sarah Harding, Unknown Address Rec 24.06.20

i have just seen a big bloody rat in my garden because they have animals in the back this planning permission is gna make my life a nightmare. please object for another reason

Objection – Edmund Redfern, 7 Welbeck Av Rec 26.06.20

I refer to my email dated 9 June on the above subject and the subsequent visit of a member of the Planning Department accompanied by two police officers.

I attach a plan of the true area of land which has been fenced off and I have indicated the area on that land where my garage base is situated. There is no chicken shed and there never was an 'Existing Chicken Shed 8ft x 6ft' on that base. I would point out that the 'chicken shed' was not marked on the plan available to view online on 9 June 2020, only the base of my garage.

When I took up residence at 7 Welbeck Avenue in February 1982 there were four points of access to the land, between numbers 8 and 10 Welbeck Avenue, around the rear of numbers 2, 4, 6 and 8 Welbeck Avenue, between numbers 29 and 31 Greenhead Avenue and at the side of 24 Furness Avenue. Now the only access is behind the houses on Benson Street, however this is now closed off with two steel gates.

I trust that the real area being claimed and the closing off of all access points to the land will be brought to the attention of members of Blackburn with Darwen Borough Council before a decision is made

Objection – Objector wants to stay anonymous Received 29.06.2020

3 weeks and no response or action from your side. From our side, further threats and continuous peeping into our gardens. Still blocked accesses and now an ice cream van and chickens making noise. What would you do if this was happening directly behind your house? I am too old to be dealing with all this and too old to consider a move. Please answer my question above, what would you do if you had to put up with this?

Objection – Objector wants to stay anonymous Received 10.07.2020

Notes relating to planning application for garden extension to 29 Greenhead Avenue BB1 5PR

Note A – The area shaded orange is provided as a passage to the houses on Furness Avenue. There is not enough width provided to bring vehicles close to the back doors. Although a verbal promise has been made to all residents, to allow them to use the path, no formal written statements have been provided by Mr Khan. An area for safety concern.

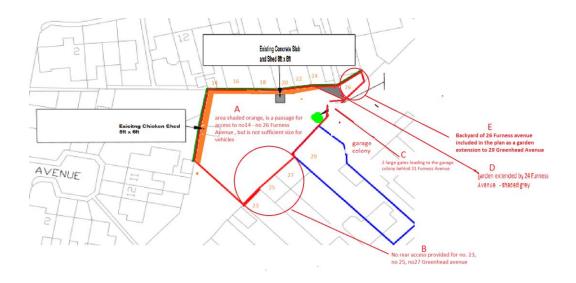
Note B – No rear access is provided for 23, 25 and 27 Greenhead Avenue. If a verbal promise has been made for the time being, then there is no guarantee that access will be granted in future, at all times and without disruption.

Note C – Two large steel gates providing access for the land/garage colony behind 31 Greenhead Avenue has not been shown on plan. The gates were installed over 10 years ago preventing antisocial behaviour to happen on that land. The owner has driven his vehicles through this land at times. No written authority has been provided by Mr Khan to allow the owner of the garage colony to drive through the garden .

Note D - Garden (shaded grey on drawing) extended by the occupier of 24 Furness Avenue is not shown on the submitted plan, similarly this might also be the case when submitting the plan to Land registry. There is a possibility of future conflict between occupiers of 24 Furness and occupiers of 29 Greenhead Avenue with occupation of this triangular section of the land.

Note E – Backyard of 26 Furness avenue has been included in the submitted site plan for garden extension. Possibly a mistake made by the applicant, due to lack of planning knowledge experience.

It has been witnessed by almost all those residing/owning around the said land in the garden application, that no maintenance had been done at all until early 2019, that is just after Mr Khan purchased the house on 29 Greenhead Avenue. Rumours were initially spread around, that the said land has been included in the sale of the house. Then the story changed that the land was maintained for over 10 years and now has been claimed via legal routes.



Objection – Objector wants to stay anonymous Received 30.07.2020

To whom it may concern,

I am extremely angered and worried with the above application. When I put in my objection I clearly asked to remain anonymous. Mr Khan yesterday asked me why I objected and left a very disturbing remark hinting if i don't stay out of it there will be trouble.

You are already aware the majority of residents do not want the above application to be granted. Can you enforce them to stay away from this land - we don't feel safe. I have had sleepless nights last 6 months knowing my children aint safe if these people are going to be here. They can see through my windows and garden I need to pay hundreds of pounds to keep my privacy. It is not fair.

Yesterday they were up on the land in their marquee which is visible. There were 20+ men hanging around smoking shisha pipes. I was scared to take pictures they might see me. But if application is granted this area will be worse it is not going to be a garden but more of a chill out pad for drugs and shisha. There will he upto 50-100 people. PUT A STOP TO IT PLEASE!

Objection - Mo Raza, Unknown Address Rec 14.09.20

Hi nick,

I already objected to this application, why we have to object again?

I want to object because of noise, lots of chicken noise and motorbikes behind my house. My house is 21 Greenhead Ave and my name is Mr Raza. I work nights so when I try sleep during day it is impossible in last 6 months. It would be okay if only one family use this garden but see through window there are 20 plus people every day.

Also, all around my house everybody has same size garden so it will look very silly if one garden is massive in very weird shape. i also like my privacy, at the moment they can see in my garden and house because of the unusual landscape of this garden. I cant even have a sit and relax in garden because they are directly behind my fence so i feel uncomfortable. the other day i saw one of them looking over into my garden and this makes me feel scared.

The biggest objection i have is my garage allows me to bring my car in through this back alley, however at the moment they have blocked the access, i cant use my garage. this family are very threatening and i dont want to make a case with court to give me access. i live here 25 years these people never looked after land, i looked after every year and paid people to keep clean. now this guy has turned up and lying he looked after for 15 years.

all the people in my street are selling the houses if he has garden because we all know what he is doing in this garden of his, he is selling drugs, making lot of noise having parties with so many people and making our life mysery.

PLEASE REMOVE HIM AND LET US LIVE

Objection – Sarah Harding, Unknown Address Rec 14.09.20

hi,

please can i once again object i received another letter saturday. like i said before i have no privacy, no peace and the area looks so disgusting already with chickens ice cream vans parked. lots of drug use, loud noise in the area. it used to be so nice in there id take my dog for walks everyday but now all blocked off. i dont feel safe. worst possible planning application because my life has changed since they arrived. my details

sarah harding welbeck avenue.

Objection – Objector wants to stay anonymous Received 14.09.2020

Dear Nick,

Following on from our phone call this morning, I wish to clarify my comments towards the planning application above. Before I begin, I must state I want all my details to stay confidential.

Mr Khan wishes to extend his garden; however the shape of his application shows clearly it isn't following the line of his home, It will ruin the landscape of how we all have our gardens in rectangular shape straight across greenhead ave. The land isn't his and he has declared false information by saying he has occupied it for 15 years. I have lived here for more than 15 years and can confirm he only arrived on the scene last year.

Since his arrival, he has taken away our privacy by occupying this land which oversees into our gardens and our homes. He has a big family and a large group of friends who make a lot of noise, something we are not used to at all! He has changed the land use, it was a land with beautiful trees separating the streets and giving us privacy, he has now chopped the trees changing the landscape of this area.

Our primary concern is the way Mr Khan has fenced the whole land. We feel suffocated with his fences tight against ours, and he has blocked every access into the land which is unfair. These were used as walkways to get from one street to another, they were used for us to get our cars to our garages and also used a few times by the fire services.

The application outlines the area at the top of Greenhead Ave, but he has also fenced in the land at the bottom, surely this must be part of his application?

To add to my objection, as far as I can recall, there was a lovely stream running through the land from top to bottom, in the past year Mr Khan has soiled up and covered the stream. He has moved soil to flatten what was a slightly slanted piece of land.

This land gives us access to be able to treat our fences we will lose that. It also is an odd shape which helps to keep our streets seperated. With this garden plan we lose that privacy and the noise we have had in the lst 6 months has been despicable. Ive had mr khan look over my fences many a time i want that to stop! If he gets a garden application he can see straight into my home as the land is on higher ground compared to my garden.

On the point of Japanese Knotweed, Mr Khan was issued a CPN last year. Since then he has pulled the weeds out burned them and just made it worse! He has failed to comply with the notice served on him. My neighbour now has the knotweed encroached onto his property - it is actually growing through his garage wall! In conclusion, the whole neighbourhood are against Mr Khan's proposal and I am sure there will be lots of objections. We wish the land can remain how it was, with the stream and the trees a beautiful land which gave us privacy that could be walked through by all of us. Please take into consideration my objection points.

Objection – Objector wants to stay anonymous Received 14.09.2020

Dear Gavin/Nick,

I have received notification of an update to the planning application reference 10/20/0434.

Looking at the updated documentation the only update I can see is that the site plan has been updated removing the section of land to the rear of 26 Furness Avenue which is privately owned. There are still no dimensions listed and the tree which has been highlighted is in the wrong location. This extension to the garden is disproportionate to the local area and will not suit this area.

I am not sure if my formal objection comments which have previously been issued are now discarded as an updated application has been submitted however my comments below stated previously on 05/06/20 still remain and please keep them or add again if necessary to this application.

Please note I would like to remain anonymous with my comments and do not want my details shared with the applicant.

Objection – Objector wants to stay anonymous Rec 16.09.2020

Dear Nick

I want to object again appalled at decision to let him continue use as garden without permission. none of us happy all residents complaining we have whatsapp group against this planning and petition. we want quiet and private life this garden will not lef ys live in piece. I told you before i had plan for garage resdy so i can bring car in but now not possible. please make this neighbourhood go back to normal

Objection – Objector wants to stay anonymous Received 15.09.2020

Dear all,

I have been vocal about this issue from day 1 and can't believe you still haven't done anything about it. Here are my objections

1. MY PRIVACY - see picture of MR KHAN looking over my fence.



- 2. LAND ISNT HIS!
- 3. ANTI SOCIAL BEHAVIOUR AND DRUGS
- 4. WOODLAND AREA WAS BEAUTIFUL KEEP IT SAME
- 5. WHAT A ODD SHAPE OF A GARDEN BETWEEN ALL OF US
- 6. ACCESS OF OURS BLOCKED
- 7. WAS USED AS WALKWAY FOR PUBLIC AND DOG WALKERS
- $8.~\mathrm{WAS}$ USED FOR CAR PARKING AND BOW PARKING PROBLEMS ON ALL OUR STREETS

Objection – Objector wants to stay anonymous 16.09.2020

Objection to planning for reasons:

Noise

Fires

Privacy issues

More than 10 people so its not used as garden

better with trees and used as back alley before

access to rear of my own house

spoils little harwood

Knotweed

Chopped trees

Not been on land for more than 6 months nevermind 15 years!!

No privacy in my home

Please keep my identity private

Objection - Yasin Seedat, 19 greenhead Av Rec 18.09.20

To whom it may concern,

We strongly object to any sort of planning intention / application on this stolen and deceptive plan for any part of the land.

Has been a joke from the onset and remains so.

Objection – Yusuf Seedat, 23 Fountains Av Rec 18.09.20

I would like to object to the above application due to the fact the area of the proposal is within an area which has been private since I have bought my house. The reason I bought my house was because of the privacy, quiet and peace I could get knowing that there is nobody behind my home. Recently, the proposer has been using the area as a garden and it has change the whole surroundings. It no longer feels private, or peaceful.

I have researched and checked this perimeter is of abandoned land, doesn't belong to the applicant and I can assure you hasn't been looked after for 15 years. I have lived here since then and never seen him. It will look ridiculous having a garden in what has been a back alley for all of us for so many years.

I know for sure our house value will all drop if this application is successful - who wants loud, violent neighbours directly behind their back gardens?

Currently, the applicant is using the area as a garden and has been doing work every day please can you put a stop to this? The area he has proposed was used as a walkthrough for many years. We can no longer use this route as it is wrongly being occupied.

Noise levels has also been a concern for me since February, before then I would sit in my garden for a bit of peace and quiet. I cant do this any longer as it os very loud when the applicant and family are having parties very regularly. I also feel safer knowing if there was a fire to the rear of my hkuse the access is open for the fire services to get through.

Definition of a garden: a piece of ground adjoining a house, in which grass, flowers, and shrubs may be grown. The key word here is adjoining; the proposal shows area adjoining the home then taken back to other adjoining homes and left towards other homes. Surely that area on the left is adjoining other homes (21 Greenhead to 27 Greenhead, 18 Furness - 26 Furness and 5 Welbeck to 11 Welbeck) so that should be their garden space not his! I have signed a petition recently and would like to highlight the concern of all residents. None of us and I mean NONE are happy since the applicant has used this space for garden.

I know many residents used this land to park their cars or to access their garages. I did see a fight with the applicant a few months ago when one resident tried to bring their car through go their garage.

There are 4 streets which surround this area, this land has worked as a division/barrier for us to keep private and safe. This will be gone now for all 4 streets! I hate looking out my window and hearing/seeing 30/40 people congregating in this new garden! I know my garden doesnt ever have this many in. So if there are that many people now I wonder how many once permission is passed?

Finally, If you look at google maps of the area I love the layout of all homes and gardens it is a special area and this garden will look so out of place and spoil the whole surrounding and layout.

In conclusion, it is a ridiculous application which has caused lots of anger and unrest in the community, please confirm acknowledgement of my objection and take into consideration my points.

Objection – Objector wants to stay anonymous Received 21.09.2020

To Blackburn with Darwen planning department and planning officer Nick Blackledge.

I received a letter from the planning department regarding a planning application for land at rear of 29 Green head avenue to be used as garden. I write to the council to make a objection. And to refuse plans for the owner at 29 green head to turn this abandoned land into his garden.

I have owned my house for 5 years and lived at my address for 4 years and the land at the back has been unregistered for many years. Previous owners at my residence whom have lived here for 40+ years can confirm that this land is unoccupied and the owner is untraceable. So the plans submitted to the council by Mr Khan are false that he has owned it for 15 years. Mr Khan has only owned 29 Green head for 12 months himself. Many residents whom have lived in this area can confirm this. Satellite images can prove that he has not looked after or maintained it until recent months where he has gated of the land and describes it as private land and keep of. How is this possible or even allowed?

Please can you look into this matter as urgency. I believe there is some people working in the council whom are giving out information as to who is objecting his application and thus Mr Khan is being verbally abusive rude and aggressive towards local residents. This is the reason why I would like to remain anonymous, for my family and my own well being.

Since, he has gated of the land Mr Khan and his team have took down atleast 10 trees and burnt trees creating a hazard and nuisance and thus many wild life have lost a place to reside. This is unfair. This should not be permissible. Please can you accept this email as a objection to his false application and keep me anonymous. Also: Local residence should be given a chance to decide what to use this land for or the council should make it into a communal area.

Objection – Objector wants to stay anonymous Received 21.09.2020

Please review points raised alongside the specific questions in the application:

Q3- Description of the proposal - Has the building, work or change started/completed. To which the applicant has answered no. However work had already started before 3/6/2020 the date of the application. This is a retrospective planning application and therefore this application constitutes a planning breach where a development that requires planning permission has been undertaken without the permission being granted or been sought. Especially as there is no doubt that this application and the planned breach has been "harmful to our neighbourhood". Work has continued on this development despite huge local campaigns, council and local MP involvement.

The decisive issue is that the breach unacceptably affects public amenity and use of the existing unregistered land which is in the public interest. This is evident from the petition which has been forwarded to the local MP and senior council management.

There have been massive effects on the area - this includes the previously private character of the area which has now been transformed to being:

- Over-developed feels like having a farm or agricultural site on the adjacent land.
 The size and scale of the project is overpowering, larger the dwelling and does not
 resemble a garden to dwelling in this area.
- Intrusive Loss of effect of mature trees and shrubs means applicant can see right through adjacent homes and overlooking the gardens of neighbours. Homes have been forced to erect temporary screens to provide temporary privacy.
- Noisy noise levels of significant numbers of livestock including hens, chickens, cockerels, ducks etc. that are planned.
- Visual intrusion the applicant has removed a peaceful sanctuary for the homes and contrasted with open landscape.
- 5) Smell from manure, animals feeds and livestock.

An example of this is "the existing chicken Shed" referred to in the existing site plan. When exactly did this chicken shed appear? Was planning sought for this? My understanding is that 'enclosures' such as this for livestock (Class E) are 'incidental to the enjoyment of the dwelling house as such'. The definition of 'purpose incidental to the enjoyment of the dwelling house is restricted to the domestic needs or personal enjoyment of the occupants of the dwelling house. However the purpose here is not solely for the occupant but also for the applicant's extended family that are not resident in the dwelling house. As tested by the courts over the years it can no longer be incidental if it is out of scale or disproportionate to the main dwelling house or has facilities well beyond the norm for such incidental activities.

Q4 - Site Address - Land to the rear of Greenhead Avenue. This is not specific, is inaccurate and incomplete. The application should clearly state their intent regarding which land to the rear of which specific houses. There are various versions of site plans and some are contradictory. Furthermore actual change of use extends way past the indicated area and involves the whole plot of land. The application is unclear and remains ambiguous.



Q22. Plant and machinery have been on site from the 8th June dealing with land that was contaminated with knotweed which is controlled waste and can only be dealt with by approved licensed contractors only. The contaminated land was deposited adjacent to other homes to "level up" the adjacent land. As stated above a CPN has subsequently been issued.

Q23. Hazardous Waste - Applicant has been spraying the area with an unknown chemical on land adjacent to other properties. Applicant has also been burning general waste, trees and vegetation regularly in the area. The area has been filled with black smoke on hot spring days during COVID-19 lockdown.

Q24. Ownership – Not completed or signed - Applicant should provide evidence to show that they have undertaken the necessary checks to establish a legal owner 15 years ago from when the site is claimed to have been maintained. This is a clear case of land grab which all relevant council departments are aware of. Many local authority staff have undertaken site visits to the area before the adverse possession. The applicant has only had an interest in the application area since the purchase of 29 Greenhead Ave – 12 months ago.

The applicant should be requested to clearly state for the record which councillors he has checked with and support this application. I find it hard to believe that a local councillor would put their name to this application. Also applicant should be requested to provide evidence of land register checks and ownership checks prior to the last 3 years to support his 15 years claim. I have evidence of council staff, local councillor and CAPITA staff making these searches and checks in 2014 in search of an owner on my behalf.

The Title Deeds Outline submitted highlight in blue the land of 29 Greenhead Avenue and an area behind no 9 Greenhead Avenue. This does not correlate with the land registry documents for 29 Greenhead Avenue as it is still unregistered. I'm not sure what the applicant is trying to establish by highlighting this area.

Finally given the large number of complaints and inconsistencies with this application and bearing in mind that the functioning of council departments have been extremely compromised due to the COVID-19 lockdown this application should not be considered by the council until a full and proper review or all of the above can be undertaken by seniors council staff. Due to the large number of complaints a public consultation should be commissioned of all households, including the elderly and vulnerable who may be shielding due to COVID and those at risk of violence and aggression, to ensure the everyone has a full opportunity to participate in the consultation. I note that a Planning Contravention Notice was served already in relation to this applicant already on 22/3/2019 with an alleged breach for the change of use of the vacant land and garage site to extension of residential curtilage. The local authority should use further enforcement action, beyond planning, in the publics' best interest in this case.

I find it extremely difficult to believe that such an inadequate application could be approved. If this is approved I and other residents will be extremely unhappy with the outcome and will no doubt complain again to the council and may go on to request an investigation by the Ombudsman.

I sincerely hope there will be a fair and robust review of the objections with consideration given to the ill effects and negative impact on local residents lives of this application.

An example of this is that the area in RED indicated on the existing site plan which does not represent the actual area. There is land that has been left around the perimeter of the fenced area. It is not visible on the plan however is indicated by a green-line referenced as a 3ft walkway. In reality the area and walkway differs considerably. This will likely lead to more disputes in the future.

Furthermore, the planning consultation has also not been sent to many residents e.g. 1-9 Greenhead Avenue, Whalley Old Rd and Robinson St who are all affected by this proposed area. I was not personally notified at 9 Greenhead Avenue of an application despite the council neighbour notification policy saying it should have. My address is abutting the plot of land in question.

Q6 - Rights of Way - Right of access has been closed for many residents that they have had use of for the last 30-40 years. There is an outstanding legal case between no 31 and no 29 regarding a joint access way which is also included as a right of way in title deeds for some of the Furness Avenue, Welbeck Avenue and Greenhead Avenue residents. Also many of the residents have been blocked access to access ways to the rear of 7-9 Greenhead Avenue denying them access to their garages. Again legal advice is being sought by residents.

Q9 - Materials - This section has not been completed. No materials are stated e.g. fences, walls, gates, lighting etc. Will these all require subsequent planning permission?

Also see Q12 flood risk area - hard surfaces may be used going forwards and they have the potential to increase downstream flood risk by decreasing flood plain storage and increasing the scale or speed of run-off.

Q10 - Vehicle Parking - This section has not been completed. There is clear intent from the visible landscape to change use of part of the land to a private road access via a double gate. This has not been stated in the application. The parking question is therefore of paramount significance. Cars have already been driving up to the "new garden". This will further add massive effects on an area as stated above making it over-developed, intrusive, noisy and a significant visual intrusion.

Q12 Flood risk assessment – My conveyance reports and title deeds clearly highlight a flood risk due to a pond and an active stream that runs from the applicants' proposed area down the full length of the Greenhead Avenue. The planned area is within 20m of a stream. A flood risk assessment is needed for the site. Any significant introduction of hard surfaces has the potential to increase downstream flood risk by decreasing flood plain storage and increasing the scale or speed of run-off. Also, how does the applicant intend to connect his area to the mains land drain at the base of the hill to avoid flood risk to the neighbours.

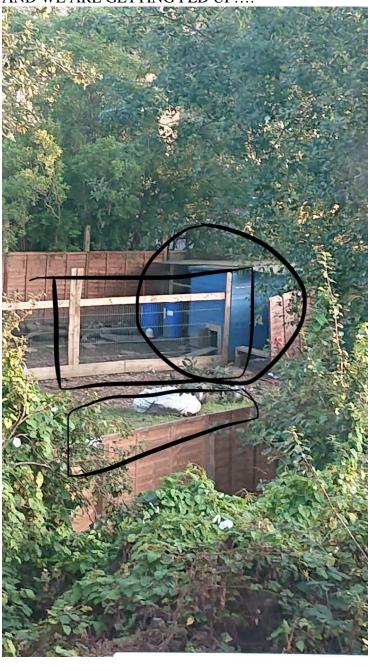
Q13 Biodiversity – The area is extensively contaminated with Knotweed. There is no mention of this or the outstanding work under the Community Protection Warning served in relation to this application (July 2019). The applicant has so far failed to act in response to the CPW and not cooperated with environmental protection. The applicant may also have processed controlled waste illegally by transferring knotweed across the whole plot and by attempting to treat it himself. A Community Protection Notice has been served since the submission of this application. The proposed use has involved removing established trees and shrubs potentially allowing knotweed to grow into new areas.

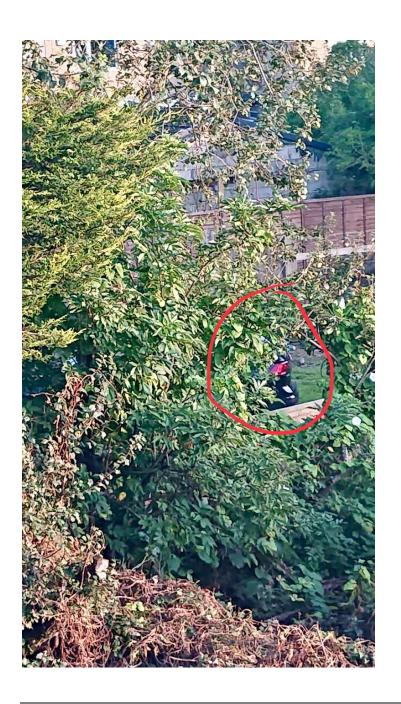
Q14. Existing use – Answered no? As above land is contaminated with Knotweed and also low risk corrugated cement asbestos sheets.

Q21. Site area Answer not provided. Application is incomplete and should be void. What is the area in question? The applicant has already moved fences around the plot to suit his objectives. How will this be prevented in future without having a clear planning record of the area in question?

WHAT A JOKE!!! I AM GOBSMACKED THAT THE COUNCIL ARE STILL ALLOWING MR KHAN TO DO WHAT HE WANTS HERE!!! HE IS BRINGING CARS UP HERE HAVING LOUD MUSIC AND PARTIES. THERE WERE MOTORBIKES GOING UP AND DOWN YESTERDAY! HE IS MAKING A MESS BEHIND OUR

HOMES AND GOING AGAINST THE KNOTWEED MANAGEMENT PLAN!! HE IS MEANT TO BE STAYING OUT AS THE SIGNS FROM INSPECTAS SAYS STAY OUT!! HE IS COVERING ALL THE KNOTWEED NOW WITH DISGUSTING LOOKING THINGS!! HE IS BRINGING HIS CAR IN VIA THE WELBECK ENTRANCE AND USING THAT AS GARDEN AND ACCESS TOO - THAT ISNT ON HIS PLANNING MAP!!!! THE KNOTWEED WILL SPREAD FURTHER AND THE BIGGEST CONCERN IS THE FACT THAT THE LAND ISNT EVEN HIS HE IS JUST CLAIMING IT AFTER 6 MINTHS OF BUYING HOME HERE!!! SEEE THE PICS ATTACHED!! HOWEVER THE WHOLE AREA HAVE PUT IN OBJECTIONS YET YOU GRANT HIM ACCESS TO CONTINUE TO BUILD A GARDEN IT IS A JOKE AND WE ARE GETTING FED UP!!!!





Objection – Objector wants to stay anonymous Received 21.09.2020 Hi all,

Hope you are well. I am writing regarding the above planning application. I am confused and want some answers.

Why is the land being used? There is an inspectas stay out notice. Why is there work happening without permission granted? Has the use of land changed from welbeck up until the gate? As it is now being used as a driving access? Are our objections going to make a difference? We are not happy with the noise and get togethers these people are having? is the land theirs?

Objection - Objector wants to stay anonymous - Received 22.09.2020

I am a pensioner who has lived here for 40 years. For the first 39 years I have had a peaceful and private life within the perimeter of my home.

This has all changed in the last year, causing me depression and anxiety. Behind my home was an alleyway separating the streets and giving us privacy.

But in the past few months a group of thugs have come and settled on this land.

Fight after fight, argument after argument and they've made it sound like a playground with at times 50 children playing on there. I had a little door to the rear of my land which they have fenced in so I can no longer go for my daily walks I was so used to! I went behind my home to paint my fence at the back but The man who is applying for a garden swore at me and threatened me to never step foot on 'his' land again. The land is not there's but they are stealing and using all of it!!

I used to walk to the shop this way as it was easier for me. I can't do that now. I can't sit in my garden anymore because I no longer feel safe in my own home. I don't want this at my age, I want it back to how it was. I went the people behind here gone! I urge you to take action because I am getting more depressed not able to go out into my garden. I have been shielding now 5 months and just been witnessing these thugs swarming around my house. They walk up and down and look over my fences I hate it!

I wish I could sell house and move but I'm too old for a move. I wish I could sit with Kate and personally talk to her and express my worries about having these people here. If they were travellers in caravans all lingering around here it would be bad and I'm sure the council would be able to do something to get them out - this is worse!! Please assure me something is going to be done we are all worried and nobody - not one of all the residents here - wants them here. We are all so unhappy and need you to act. ACT FAST PLEASE!!!

please don't share my email address, address or my name. I am scared. Thank you for listening.

Objection – Objector wants to stay anonymous Received 23.09.2020

To whom it may concern,

I want to add comments towards the planning application above. Before I begin, I must state I want all my details to stay confidential as I have been threatened by Mr Khan this morning!

The garden is a farce, it looks silly where it is and doesnt look right on Greenhead Ave. The land isn't his either!

This garden takes away my privacy and peace. He has a big family and a large group of friends who make alot of noise, something I cant live with.

He has changed the land use, it was a private little area which i used to walk through it was separate and abandoned. I went for a walk thorough there today and Mr Khan told me he is going to slap me and to get off now. I am awaiting the police officer to visit me and i will share the police reference.

Our primary concern is the way Mr Khan has fenced the whole land. We feel suffocated with his fences tight against ours, and he has blocked every access into the land which is unfair. These were used as walkways to get from one street to another, they were used for us to get our cars to our garages and also used a few times by the fire services.

This land gives us access to be able to treat our fences we will lose that. It also is an odd shape which helps to keep our streets seperate. With this garden plan we lose that privacy and the noise we have had in the past few months has been despicable intolerable.

In conclusion, the whole neighbourhood are against Mr Khan's proposal and I am sure there will be lots of objections. We wish the land can remain how it was, with the trees a beautiful land which gave us privacy that could be walked through by all of us. Please take into consideration my objection points.

Objection – objector wants to stay anonymous - Received 15.06.2020

Nick.

Having read the application clearly I want to add there are many false/missing declarations on the application - not sure how on earth this application was registered!

I would like to add to my objection. Firstly he says no materials used on site, there are fences and a gate. No access needed/created, if you look carefully at the map/site area it shows a route from welbeck avenue into the area. There are no dimensions on this plan, rear of Greenhead Ave - does that mean all of Greenhead? Land isn't his, he says checked with land registry and councillors - i have checked with them too and they confirm it isnt. He hasnt occupied for 15 years at all that is a ridiculous claim! 20m within a stream? Yes there is a little stream which runs down the street it is on our title deeds.

On the question about trees he says no it had no trees. It was filled with trees just look at a satellite image on google. All trees have been chopped and burned. The landscape of this area totally changed. I am Very upset that you have allowed his work to continue and even consider this incomplete plan!

Comments - Objector wants to stay anonymous Received 08.06.2020

Hi Nick,

Thank you for confirming acceptance.

Looking at the privacy issue I have raised, a way of removing that would be for the applicant to increase the height of the fencing to the rear of properties 18-24 Furness Avenue. Currently I believe the fencing installed is approximately 2 metres. With the properties effected being higher up than the land there is not much coverage at the current height which is easily visible from the land which also includes the garden being visible for anyone in the land; with young children I would prefer this is not visible.

An increase 0.5m to 1m in fence height should be sufficient to protect the privacy for these properties. Please see below highlighted area of land which would need increased fencing height and also a photo from an effected property which is zoomed in for reference as to the privacy issue being discussed.

Please note this image is for your receipt only as part of the comments for the planning application and I do not want this shared outside the Planning Department.





Objection – Sarah Harding, Unknown Address Rec 24.09.20

What is going on here i really want you all to visit this land. right now there is people walking up and down, at this time and i cant sleep. it looks disgusting when i look out my window i didnt pay 130k to live with this! please do something there will be uproar if this carries on and u gv them a garden plan permission. it isnt even there area they knocked down all garages used to belong to my grandad and other men around here. please help us and make this area what it was before. these people stole so much and using it all like its theres from welbeck entrance all the way to fountains. the plan only shows little bit!

Objection, Objector wants to stay anonymous. Received 29.09.2020

To whom it may concern,

In receipt of your letter referenced 10/20/0434 I would like to make a strong objection. I would like to keep my name anonymous.

The reason I look to keep my name anonymous is because Mr Khan threatened me and kicked my car. I have reported to police. Since then I live in fear and do not use my back garden.

My biggest objection is the fact the Mr Khan has an incomplete planning application; size unspecified, use of materials, he has fenced it up and put drainage in and also electrical cables.he says he has looked after the land 15 years, we can all vouch this is not the case. All us neighbours are unhappy with Mr Khans presence he is a bully.

Another objection and quite important is the fact he has blocked me in, theres no access for me to get my car to the back. For 10 years i used that as access to load and unload my tools - i am a builder!

I also feel vulnerable as if there was a fire, I wont get out from the back. A few times the fire brigade used the access to come round the back.

My land has japanese knotweed just behind it, how can that be okay? He must sort it. Why does his garden need to extend behind all our houses?! He will be asking to extend his garden round Blackburn next! It is selfish it isnt even his land! The nature of this street is simple - house with a good size garden behind - 15 houses all

identical - if one is granted this permission it will look odd and spoil the landscape around here!

My children are aged between 7-16 and love the garden space. In the past year since Mr Khan has adopted this land -which isnt even his- we have no privacy in our gardens and no peace it is too loud!

Last year there was a meeting the councillor organised but we werent invited so that's not fair! How and why did the councillor only call the Khan family! I believe the councillors are scared of Mr Khan!

Finally, what makes me sad is I can no longer walk through this land to Welbeck avenue. Since I moved here that was my daily route to the shop. On the way there was a beautiful habitat with trees a stream birds and now it has all been ruined! I hope you can help us as we are not happy and want to sell our properties if Mr khan is granted permission. I cant live in fear forever with a person behind me peeping into my house. He may hit me or do worse- he is capable!

Agenda Item 4.3

Plan No: 10/20/0511

REPORT OF THE DIRECTOR

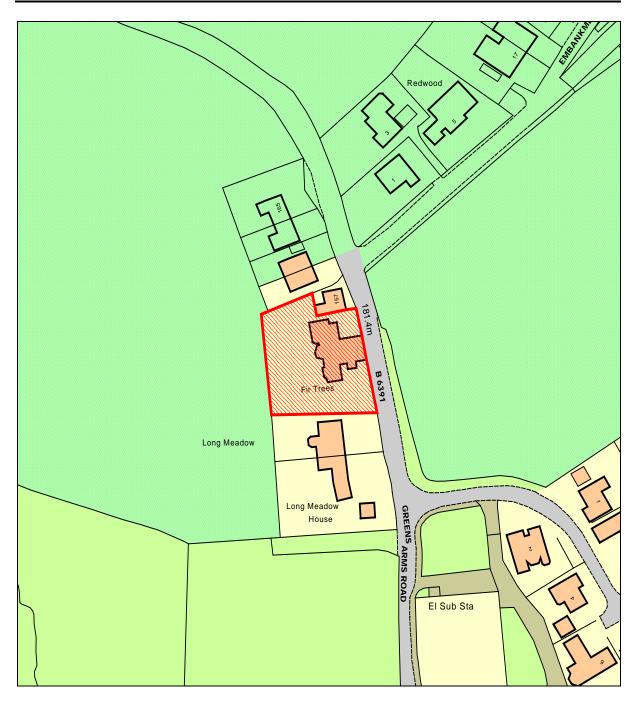
Proposed development: Proposed detached garage and relocation of gate

Site address: Fir Trees, Greens Arms Road, Turton, BL7 0NA

Applicant: Mr and Mrs Hood

Ward: West Pennine

Councillor Colin Rigby OBE Councillor Jean V Rigby Councillor Julie H Slater



1.0 SUMMARY OF RECOMMENDATION

1.1 **APPROVE** – Subject to recommended conditions (see Section 5)

2.0 KEY ISSUES/SUMMARY OF PLANNING BALANCE

- **2.1** The Council's Development Plan supports new domestic developments which constitute sustainable development and accord with the Development Plan.
- 2.2 The proposal will deliver an architecturally sympathetic domestic garage and amended plans have been received following negotiations, which have addressed the issues and concerns initially raised. 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 planning conditions.

3.0 RATIONALE

3.1 Site and Surroundings

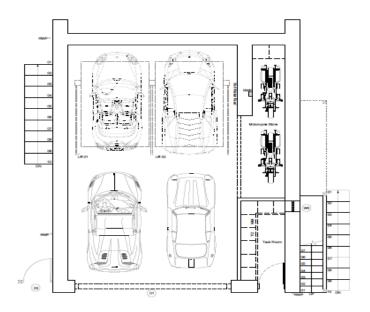
- 3.1.1 The site is a large domestic property which is located within the village boundary of Turton. It is surrounded by smaller dwellings to two sides with fields to the east and west.
- 3.1.2 The site covers circa 0.14 hectares with the dwelling positioned immediately adjacent to Greens Arms Road. An existing gravel driveway is in place to the dwellings south which is accessed via a vehicle gateway on the sites east boundary.
- 3.1.3 Large mature trees grow around the sites boundaries which are protected by the Chapeltown Tree Preservation Order 1991 (Ref: Old 001). The two groups of trees comprise of native species which include Sycamores, Horse Chestnut, Beech and Willow.
- 3.1.4 The dwelling has natural stone elevations, a slate roof and cream painted timber doors and windows. It is ornate in its style with steep pitched roofs and a decorative fenestration. Much of the dwellings architectural merit is found within its west and south elevations which exhibit a sequence of bay windows and timber framed open porch.

3.2 Proposed Development

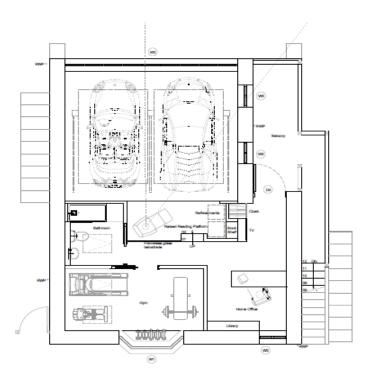
- 3.2.1 This planning application is for the construction of a large domestic garage providing 6 car parking spaces and motorcycle storage, an office, gym and associated facilities. Two of the car parking spaces would be provided at first floor level accessed via an internal car lift.
- 3.2.2 The garage would have a footprint of circa 100 square meters and a dual-pitched roof up to 9m in height. An external staircase and balcony feature would be installed to its north elevation with a pedestrian access gate and stairwell to the south.



- 3.2.3 Its elevations would be finished with natural stone and its roof with natural slates and terracotta grooved ridge tiles. All proposed doors and windows would have cream painted frames to match the host dwelling.
- 3.2.4 The architectural detailing proposed would harmonise with the host dwelling with a timber garage door and first floor bay window proposed facing Greens Arms Road. Timber boarding would be applied within the apexes and three slim-line heritage style rooflights would also be installed in the south roofslope.



Garage Ground Floor Plan as Proposed



Sarage First Floor Plan as Proposed

3.2.5 A number of wider works within the garden are also shown on the proposed plans which include repositioning gates, removal of a raised bed and various ground works in the rear gardens northern part.



3.3 Site Photos



3.4 Relevant Planning History

- 3.4.1 10/04/0506 Formation of a new vehicular access, closure of the existing access and construction of a detached double garage Approved with Conditions July 2004.
- 3.4.2 10/18/1225 Two storey side extension, rear patio veranda and alterations to access Approved with Conditions September 2019.

3.5 Relevant Tree Preservation Order Works History

- 3.5.1 10/18/0747 Felling of one tree (adjacent to house) Permitted July 2018.
- 3.5.2 10/20/0362 Felling of a Sycamore Tree (adjacent to gateway) Permitted June 2020.
- 3.5.3 10/20/0397 Pruning of four trees (on north boundary) Permitted May 2020.
- 3.5.4 10/20/0895 Crown lift to 5m and reduce secondary branches Decision Pending.

3.6 Consultee Responses

3.6.1 <u>BwD Arboricultural Officer</u> – There isn't any information about the removal of the existing dry stone wall that is effectively a banking housing the majority of roots of a protected tree. This issue cannot be ignored therefore; there are significant grounds for refusal just on this alone. The main consideration is that the health of T3 is paramount.

We will need to remind the owners that any tree roots to be cut need permission the same as branches and at no stage during this operation that any tree roots should be cut. I would also advise that the area excavated is back filled with a suitable soils material and the use of a granular fertiliser is recommended.

(Update) All the points that were discussed on site have been added to the AIA and the AMS. Please make a note that any tree pruning will need to be dealt with through the normal TPO application route as there isn't any direct impact on any of the trees, just some facilitation pruning that will be required. Please assure the applicant that this will be dealt with relatively quickly.

I will need to oversee the structural engineer's calculations, in particular the pile and beam construction. I would also add that I can be available for a precommencement site meeting at a time that suits all parties.

3.6.2 North Turton Parish Council – North Turton Parish Council objects to application 10/20/0511 for the erection of a detached garage at Fir Trees, Green Arms Road, on the grounds that it is an over-development of the site

and will result in the loss of a tree which it is understood is the subject of a Tree Preservation Order.

(Update) North Turton Parish Council objects to the amended application 10/20/0511 for the erection of a detached garage at Fir Trees, Chapeltown Road, Chapeltown, on the grounds that it is an over-development of the site.

3.6.3 <u>Ward Cllrs</u> – I am also a member of the Parish Council and the decision (to refuse) was unanimous. I believe next door also objected - maybe there were others.

3.7 Public Response

- 3.7.1 The nearest neighbours have been notified by letter and a site notice was posted. Comments have been received objecting on the following grounds;
- The proposed position of the garage as a two-storey building is in advance of the building lines of adjacent properties.
- The position of tree T3 is not in the correct position on the Arboricultural Implications Assessment - this tree is actually positioned right up against the property boundary and as such the root protection area needs to be amended and reconsidered:
- The proposed development would have an unacceptably adverse impact on neighbouring properties;
- The garage would cause losses of light;
- No daylight assessment has been submitted;
- The adjacent properties name is incorrect on the submitted plans;
- An extension at an adjacent property is not shown on the submitted plans:

3.8 Development Plan

- 3.6.1 Core Strategy:
- Policy CS16 Form and Design of New Development
- 3.6.2 Local Plan Part 2:
- Policy 8 Development and People
- Policy 9 Development and the Environment
- Policy 10 Accessibility and Transport
- Policy 11 Design
- 3.6.3 Residential Design Guide Supplementary Planning Document (SPD)

4. ASSESSMENT

4.1 Design and Visual Amenity

- 4.1.1 In general terms, Policies CS16 and 11 require development proposals to represent a good standard of design through demonstrating an understanding of the sites wider context and making a positive contribution to visual amenity. Those requirements are reiterated by the Design Supplementary Planning Document (SPD) in relation to the siting, scale and appearance of domestic developments.
- 4.1.2 Concerns have been raised in public and consultees comments with regards to the proposed garage's scale alongside the potential for adverse impacts on the character of adjacent dwellings.
- 4.1.3 The site is positioned within a semi-rural location and the adjacent dwellings range in their age and style. As discussed above, the host dwelling exhibits a certain level of architectural merit which is provided by its detailing, proportions and traditional finishes. As such, the site currently provides a positive contribution to the immediate street scenes setting and any development proposals here must be wholly appropriate in terms of aspect, design and scale.
- 4.1.4 Initially the garage was proposed circa 7m from the boundary with Greens Arms Road. In that position, and given its significant scale, the building would have obscured an adverse level of the host dwellings architectural detailing, which would have been harmful to public visual amenity. Following on-site negotiations with the Agent, it was agreed to set the garage back circa 14m from the highway boundary. It is considered that alongside obscuring less detailing on the dwellings south elevation that change would lessen the impact of the garages bulk from the public domain.
- 4.1.5 It is appreciated that repositioning the garage in such a way would result in the building appearing unbalanced to the dwellings west elevation. That elevation is the buildings principal elevation in architectural terms though no public footpaths span the fields to the west and large mature trees line that boundary. In light of those considerations, and given that it can only be glimpsed from afar, the dwellings attractive west elevation provides a minimal contribution to public visual amenity. The merits of this submission must therefore be assessed with that firmly in mind.
- 4.1.6 The same logic should be applied when considering the visual impact on adjacent dwellings. Those which would be most affected by this scheme are positioned to the south. In comparison to Fir Trees, those dwellings are more modern in their style and mature trees line the sites south boundary which would soften the garages bulk from the perspective of those properties. Given those reasons, the proposed garages scale would not have a detrimental impact on the character of the host, nor adjacent dwellings.

4.1.7 As discussed above, the garage would now be positioned circa 14m from the boundary with Greens Arms Road. Such a level of setback would result in the building aligning with the front elevation of the adjacent property to the south, Long Meadow (see Figure 1). The proposed garage would be similar in height to Long Meadow and the revised position would result in its scale being acceptable in the context of the immediate street scene. Revised CGI images have been submitted by the Agent illustrating the proposed garage (see Figure 2).

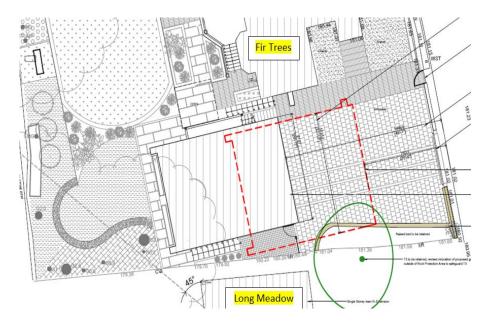


Figure 1 – Amended Proposed Site Plan showing the garages initial (in red) and revised position.



Figure 2 - CGI image showing the revised position of the proposed garage in the context of the host dwelling.

- 4.1.8 The garages physical appearance would be sympathetic to the host dwellings style. The proposed fenestration, roof detailing and choice of materials would acceptably harmonise with Fir Trees and the door styles would also be appropriate for this development and site.
- 4.1.9 The wider works proposed within the dwellings grounds could mostly be conducted under Permitted Development and the repositioning of gates would have no harmful impact on the host dwellings character. Subject to the imposition of a condition to control the quality and finish of the external construction materials condition, alongside one to control the finishes of hard surfacing forward of the garage, the proposed development would be acceptable in visual design terms thereby according with Policies CS16, 11 and the guidance of the Design SPD.

4.2 Protected Trees

- 4.2.1 Within Policy 9 of the Local Plan, there is a fundamental requirement to incorporate existing trees into the design and layout of schemes. Further clarity in that respect is set out in Policy RES 3C (Trees) in the Design SPD. All planning applications for developments in close proximity to protected trees should be submitted with a tree survey and an Arboricultural Implication Assessment & Protection Methodology which accurately cover the proposals merits.
- 4.2.2 Concerns have been raised in public and consultee comments in relation to the impacts on protected trees. A number of discrepancies were also raised in relation to the submitted arboricultural assessments.
- 4.2.3 The garages initial position would have been circa 2.5m from a mature Sycamore (labelled T2 on Figure 3) in the garden of Long Meadow. In order to facilitate building the garage in that position, a raised bed would need to be removed on the sites south boundary. It is acknowledged that removal of the raised bed was approved with the previous application 10/18/1225.
- 4.2.4 The Council's Arboricultural Officer has made it clear however that in order to lawfully facilitate removal of the raised bed, a corresponding Tree Preservation Order application must have been approved for root pruning works to T2. The level of works required would be detrimental to that trees health and they would have increased the risk of its loss during strong winds. On that basis, the Arboricultural Officer affirmed on site to the Agent that they would be unsupportive of such an application. The amended plans submitted now show the raised bed to be retained in response to those comments.

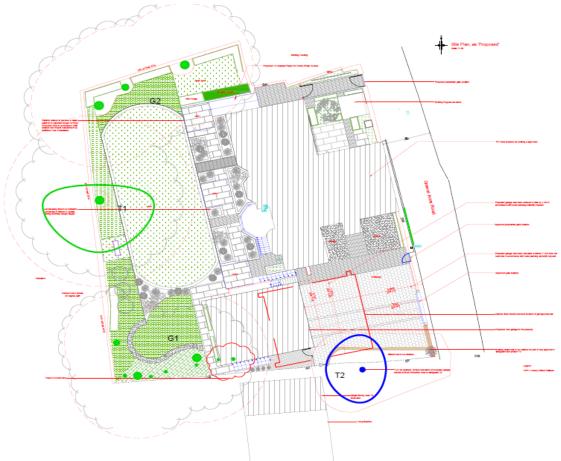


Figure 3: revised plan and impact on the surrounding trees

- 4.2.5 In order to accommodate the revised garage position crown lifting works to the trees on the sites south boundary (labelled G1 on Figure 3) would be required. An application in that respect has recently been submitted under the reference 10/20/0895 and its outcome will be added as part of a committee update report.
- 4.2.6 Updated information within the Arboricultural Implications Assessment and Method Statement (Rev C) affirm that a pile and beam foundation system would be used in order to minimise damage to the adjacent group of protected trees (G1). A number of other measures of mitigation are also laid out in those reports and delivery of the methods detailed can be enforced with use of an appropriate condition. The BwD Arboricultural Officer has also requested to oversee construction of the foundations and the Agent is aware of this.
- 4.2.7 Subject to the imposition of further conditions to control the technical details of the foundations construction, the erection of tree protection fencing and to control the logistics of the construction phase including the delivery and storage of plant and materials, the proposed development would have no harmful impact on protected trees in, and around the site in coherence with Policy 9 and the guidance of the Design SPD.

4.3 Residential Amenity

- 4.3.1 Policy 8 states that all development proposals should secure a satisfactory level of amenity for surrounding occupants in relation to light, privacy and overlooking. For domestic developments the Design SPD requires extensions to not cause any adverse impacts in that regard. Concerns have been raised in public comments regarding the potential for overbearing impacts, losses of light and overlooking.
- 4.3.2 The adjacent dwelling to the south, Long Meadow, would be the closest neighbouring property to the proposed garage. Figure 1 shows the relationship between the proposed garage and Long Meadow. That adjacent property has no windows in its north elevation. An extension has been built adjacent to the south boundary.
- 4.3.3 When a 45 degree line is drawn from the centre of the windows closest to the site towards to garage, the line is not breached. That relationship is also shown in Figure 1. Although typically applied to extensions, the '45 degree rule' sets a good precedent for the positioning of outbuildings and that guidance was applied through revising the proposed garages position.
- 4.3.4 Tall trees on the sites south boundary already cause significant overshadowing of the adjacent property. Although works are proposed to prune some of those trees their large canopies would still cause overshadowing following those works. Furthermore, the garage would be built directly to the north of Long Meadow which would limit the effects of overshadowing. Given those reasons, construction of the garage proposed would not contribute to losses of light for the immediate neighbours to an extent which would warrant a refusal. Public comments have mentioned that no Daylight Assessment has been submitted yet the Council would not expect such a document for a domestic outbuilding.
- 4.3.5 A condition is recommended to ensure all trees and shrubs on the sites south boundary are protected throughout the construction phase, and retained following the garages first use. Those trees would soften the impact of the garages scale significantly and on that basis their retention is necessary.
- 4.3.6 Main habitable room windows would be installed to the front though they would not directly face towards the adjacent residential property. The window to the rear would serve a first floor parking area and retention of the trees/shrubs on the south boundary would further limit the effects of overlooking. In addition, the balcony feature would not adversely overlook any adjacent property given the position at which it would be installed.
- 4.3.7 Subject to conditions, the proposed development would therefore be acceptable in terms of residential amenity in accordance with Policy 8 and the guidance of the Design SPD.

4.4 Highways

- 4.4.1 In relation to highway safety, a general requirement for development proposals to not prejudice road safety, or the convenient movement of highways users, is highlighted in Policy 10. The scheme would provide additional parking for the dwelling and the levels proposed would accord with the BwD Parking Standards.
- 4.4.2 Ample manoeuvring space would be retained forward of the garage which would ensure vehicles can both enter and leave the site in a forward gear. The works proposed to the gates would not compromise the function of the existing vehicle access point to an adverse level. The short wall fronting Greens Arms Road currently ensures an adequate level of visibility and no details have been submitted to increase its height.
- 4.4.3 A condition is recommended to ensure a bound surfacing material is used forward of the garage to prevent loose surfacing materials being carried onto the highway. Subject to that condition, the proposed development would be acceptable in relation to highway safety in compliance with Policy 10, the guidance of the Design SPD and the BwD Parking Standards.

4.5 Wider Considerations

- 4.5.1 Public comments have made reference to a number of discrepancies on the submitted plans. The incorrect naming of the adjacent property is likely a discrepancy on the software used to produce the plans and that point has no material impact on how this application has been assessed.
- 4.5.2 The amended plans now show the extension at the adjacent property and that structure has been assessed alongside the merits this application. Those comments therefore have no material impact on this schemes outcome as the matter raised has been acceptably addressed during the application process.

4.6 Summary

- 4.6.1 This application involves the erection of a large domestic garage with associated uses. A number of wider works within the dwellings curtilage are also shown on the submitted plans.
- 4.6.2 Upon receipt of amended plans and arboricultural assessments, and subject to appropriate conditions, the proposed development would be acceptable in relation to design, protected trees, residential amenity and highways and accords with the policies and guidance set out in Section 3.8.

5. **RECOMMENDATION**

APPROVE planning permission subject to the following conditions;

- Commence within 3 years;
- Approved details/drawings
- Samples of all external materials to be submitted and implemented;
- Technical details regarding the garages foundations to be submitted;
- All trees on the south boundary to be retained;
- All trees adjacent to works proposed to be protected with fencing;
- Construction Method Statement to control the logistics of the construction phase;
- Use of a bound surfacing material for the driveway alterations and details of colour/type to be submitted;
- Development to proceed in strict accordance with all of the recommendations submitted within the Arboricultural Implications Assessment and Method Statement (Rev C).
- The development hereby approved shall only be used for private vehicles and not for any trade, business or storage use.
- The garage hereby approved shall be retained as a garage, and shall not be converted into a habitable room/rooms.
- **6. CONTACT OFFICER**: Christian Barton Planning Officer
- **7. DATE PREPARED**: 29th September 2020

8. SUMMARY OF REPRESENTATIONS

Objection from Glenys Syddall, Clerk to North Turton Parish Council, Rec 17.06.20

North Turton Parish Council objects to application 10/20/0511 for the erection of a detached garage at Fir Trees, Green Arms Road, on the grounds that it is an over-development of the site and will result in the loss of a tree which it is understood is the subject of a Tree Preservation Order.

Glenys Syddall Clerk to North Turton Parish Council

Objection from Mike Davies & Diane Harrison, Long Meadow Green Arms Road, Turton, Rec 26.06.20

Dear Mr Barton

Ref. 10/20/0511 Proposed Detached Garage & Relocation of Gate - Fir trees, Greens Arms Road, Turton BL7 0NA

We write to object about the above planning application for the following reasons:-

- 1) The location plan provided is incorrect, it does not show the correct outline of our property, a previous extension has been missed off. Please see the drawing above. Also the property identified as Long Meadow is incorrect, that is in fact Long Meadow House our property is the closest to Fir Trees.
- 2) The proposed development by reason of its overbearing impact, overlooking, loss of privacy, loss of light, size, close proximity, depth, width, height and mass would have an unacceptably adverse impact on of our property.
- 3) The proposed position of the garage as a two-storey building is in advance of the building line of both Long Meadow and Long Meadow House and is out of character and detrimental to those properties.
- 4) The position of tree T3 is not in the correct position on the Arboricultural Implications Assessment this tree is actually positioned right up against the property boundary and as such the root protection area needs to be amended and reconsidered.

Yours sincerely

<u>Further Objection from Cassidy & Ashton on behalf of Mike Davies & Diane Harrison, Rec</u> 27.08.20

Dear Mr Barton

RE: PLANNING APPLICATION 10/20/0511 PROPOSED DETACHED GARAGE AND RELOCATION OF GATE AT FIR TREES, GREEN ARMS ROAD, TURTON, BOLTON, BL7 0NA.

I write further to receipt of your recent correspondence in respect of the above planning application.

We have now had an opportunity to consider the amended documentation, as submitted by the applicant, and set out our comments on behalf of our Clients, Mr Davies and Ms Harrison, below.

Site Description

Mr and Mrs Hood occupy Fir Trees, which is located to the north of our Clients' property.

This is in turn located to the northern boundary of the small village of Chapeltown, sited on the western side of Green Arms Road (the B6391), connecting Blackburn and Darwen, with Bolton to the south.

The site has extant permission for a two-storey side extension, a rear patio veranda and alterations to existing access points, which was approved in September 2019 (application ref: 10/18/1225).

The applicants now seek householder permission for a proposed, two-storey detached garage, comprising gym and office facilities, a lounge, a bathroom and a balcony feature, alongside the relocation of a gate from Green Arms Road (application ref: 10/20/0511).

Planning Policy

It is not necessary to set out all planning policy of relevance in this objection, however it should be noted that as established by Section 38(6) of the Planning and Compulsory Purchase Act 2004 (as amended), the starting point for the determination of planning applications is the development plan, unless material considerations indicate otherwise.

The key elements of the statutory Development Plan for Blackburn with Darwen Borough Council are; the Core Strategy (Part 1 of the Local Plan), which was adopted in January 2011 and therefore predates the National Planning Policy Framework, alongside the Local Plan Part 2, which was adopted in December 2015.

Both Policy CS16 from the Core Strategy and Policy 11 from the Local Plan Part 2, require all new development to present a good standard of design, particularly taking into account:

- Existing topography, buildings and landscape features and their integration into the development:
- Layout and building orientation to make best use of existing connections, landmarks and views:
- Building shapes, plot and block sizes, styles, colours and materials that contribute to the character of streets and use these to complement local character;
- iv. Height and building line of the established area:
- v. Relationship of buildings to the street; and
- vi. Frontage treatments such as boundary walls.

The Council have adopted a Residential Design Guide Supplementary Planning Document (SPD), which should also be a material consideration for determining a planning application. New buildings, alterations and extensions to existing buildings should be built to a high standard, with consideration given to the local character of the area.

Within this document, Policy RES1A requires all new residential development to be; in keeping with the local area both in terms of scale and mass, appropriate to the form and function of the building and complement existing features of the design of the building. Policy RES1C ensures new residential development responds to and respects its physical context.

Policy RES2B requires the building heights of new residential development to relate to the form and proportion of surrounding buildings.

Overall, the policies mentioned above seek to protect the character of the area and new development should be of an appropriate scale, massing and form, relative to its surrounding properties. In this case, the proposed development is out of scale, poorly related to adjoining properties and will be detrimental to the character of the area, and the applicants have therefore clearly failed to follow the requirements of planning policy.

As such, Section 38(6) requires the application to be refused, unless there are other material considerations that outweigh the requirements of the policy, which we do not believe have been demonstrated.

Amended Documentation

Since our clients' original objection, the applicants have made amendments to the existing documentation that we do not consider address the concerns set out within our Clients' previous correspondence, in respect of this application.

As stated in the previous objection, the location plan is still incorrect. The property referred to as 'Long Meadow' is in fact two separate properties, with the closest dwelling to Fir Trees known as Long Meadow, which is our Clients' property, and the adjacent dwelling known as Long Meadow House.

It would appear that the only alteration that has been made within the revised documentation is the position of the existing tree identified as 'T3' in the supporting Arboricultural Impact Assessment and Method Statement. This is now in accordance with the information set out within our Clients' previous objection. However, we do believe that the development would still have a significant encroachment into the root protection area of this tree. Furthermore, the tree is sited within a wider group of trees protected by the Chapeltown Tree Preservation Order 1991. Whilst the accompanying Arboricultural Impact Assessment states that the applicant has received planning permission to remove the raised area of land which contains T3, we find no evidence of such. We therefore argue that this requires further consideration of its impacts.

As such, the other reasonings for the previous objection still remain valid. The proposed garage does not maintain the building line of both Long Meadow and Long Meadow House, and is indeed positioned further to the east, which does not respect the character of the immediate area.

In addition, given the close proximity of the proposed new building to Long Meadow, the scale and massing of the development is entirely unacceptable. The sheer size of the building in this location would be highly overbearing and detrimental to the amenity of neighbouring properties, particularly Long Meadow. In addition, the physical design and use of materials would not respect the precedent set throughout the street. Indeed, it would appear that no account has actually been taken of the proximity of our Clients' premises to the site and this seems to indicate a lack of preparation or research, which fails to provide confidence in the evidence submitted in support of the proposals.

Given the above, the scale and massing of the proposed building presents issues with the loss of daylight and sunlight. The proposals would significantly impact on the daylight and sunlight levels received by the adjacent property to the south of the application site, Long Meadow. Furthermore, there has been no daylight and sunlight assessment submitted to sufficiently evidence that this would not be the case. In the absence of this report, it is therefore concluded that the impact of the proposed development would be materially detrimental to residential amenity, as a result of both the loss of daylight and sunlight.

The application proposals still contradict Policy CS16 of the Core Strategy, Policy 11 of the Local Plan Part 2, alongside the residential guidance within the relevant SPD, as the development would result in a development out of scale with its immediate surroundings.

It is our belief and that of our Clients', that the building would result in an overbearing presence upon the property at Long Meadow and further information should be requested from the applicant to illustrate what impact the development would have on our Clients' property and their amenity.

Concluding Remarks

We consider that the comments made within our Clients' earlier correspondence are still of relevance, as there is no demonstrable need for a development of this scale, and it will result in significant harm to the immediately adjacent premises.

The siting, scale and massing of the proposed garage has not been appropriately justified nor has it been illustrated to enable consideration of its impacts upon the neighbouring property, Long Meadow. As discussed above, the application has also not provided correct information to enable the potential impact of the development upon the existing tree to be determined.

Overall, there is no justification for the proposals and it is considered that the development would result in significant harm to the neighbouring property in terms of both its character and residential amenity. As such, the concerns set out in the Clients' earlier response still remain valid.

As the adverse effects of the development are so significant and there are no substantive benefits, we would respectfully request that the above planning application is refused.

I trust that the information set out above is sufficient. However, should you require any additional information, please do not hesitate in contacting me.

Yours sincerely

Dear Mr Barton

RE: PLANNING APPLICATION 10/20/0511
PROPOSED DETACHED GARAGE AND RELOCATION OF GATE AT FIR TREES,
GREEN ARMS ROAD, TURTON, BOLTON, BL7 0NA.

I write further to receipt of your most recent correspondence in respect of the above planning application.

We have now had an opportunity to consider the amended documentation, as submitted by the applicant and whilst we acknowledge the updated proposals, the comments made within our Clients' and our own earlier correspondence still stand.

The siting, scale and massing of the proposed garage has still not been appropriately justified, nor has it been illustrated to enable consideration of its impacts upon the neighbouring property, Long Meadow. Overall, there is no justification for the proposals and it is considered that the development would result in potentially greater harm to the neighbouring property following the relocation of the building, in terms of both its character and residential amenity.

As the adverse effects of the development are so significant and there are no substantive benefits, we would once again respectfully request that the above planning application is refused.

I trust that the information set out above is sufficient. However, should you require any additional information, please do not hesitate in contacting me.

Yours sincerely

Agenda Item 4.4

REPORT OF THE DIRECTOR Plan No: 10/20/0625

Proposed development: Full Planning Application for Form new access/reopen former access onto Blackburn Road

Site address: Land Adjacent Hob Lane Farm Blackburn Road Edgworth Bolton BL7 0PU

Applicant: Mr Kenneth Warner

Ward: West Pennine Councillors: Colin Rigby

Jean Rigby Julie Slater



1.0 SUMMARY OF RECOMMENDATION

1.1 The proposed development for access from Blackburn Road into the proposed caravan site is **recommended to be granted planning permission** for the reasons as stated in Paragraph 4.1.

2.0 KEY ISSUES/SUMMARY OF PLANNING BALANCE

- 2.1 This application is presented to the Committee in accordance with the Scheme of Delegation following the receipt of 24 letters of objection from residents, including a letter of objection from North Turton Parish Council and objections from Councillors Colin and Jean Rigby. A summary of the comments is provided at Paragraph 6.1 below. The proposed development has been publicised through letters to residents of adjoining properties. It is noted that nine of the submitted objections refer specifically to access into the site from Hob Lane, a proposal which is not part of this current application but had at one point been considered by the applicant as an alternative to the Blackburn Road access.
- 2.2 The key issue to be addressed is whether the access would be appropriate development in the West Pennine Moors Green Belt, with particular reference to the following:
 - Local and national planning policy considerations concerning the impact of the development in the Green Belt.
 - Local and national approaches to the development of the tourist industry in rural areas.
 - Local and national planning policies concerning the impacts on traffic and transport infrastructure.

3.0 RATIONALE

3.1 Site and Surroundings

- 3.1.1 The site of the proposed development is located alongside Blackburn Road, between Hob Lane to the south and Wheatsheaf Brook to the north. The land lies outside the Edgworth village boundary and within the West Pennine Moors, in an area designated as Green Belt.
- 3.1.2 Hob Lane, to the south of the site, is comprised of a row of modest stone-fronted terraced cottages, presenting their rear elevations to the former Hob Lane Farm. Nos. 2 and 4 Hob Lane are listed buildings. Two further cottages, 473 and 475 Blackburn Road, form a small row of cottages with the east gable end facing the highway. Wheatsheaf Brook, to the north of the site, runs through a narrow, steeply-sided valley, with a dense covering of trees and vegetation on both banks. The course of the brook, along with the woodland on both banks, forms an eastern limb to the Wayoh Reservoir Biological Heritage Site. This watercourse, although not in the ownership of United Utilities, feeds the Wayoh Impounding Reservoir.

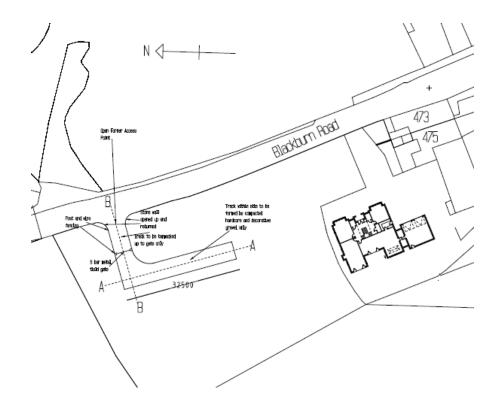


Above: View of the land photographed in 2018 with derelict caravan, centre, and derelict outbuildings, left.

Below: View of the land photographed June 2020 with derelict caravan to the right and excavations already commenced in the foreground.

Overleaf: The proposed layout of the access track





3.2 Proposed Development

- 3.2.2 It is considered that some background be given as to why this application for a new access into Green Belt land has been submitted.
- 3.2.3 In a letter dated 19th June 2019 the Camping and Caravanning Club notified the Council that an application had been received to create an exempted caravan site at Hob Lane Farm. Members are advised that under Part 6 of the General Permitted Development Order 2015 (as amended), a caravan site may host up to five caravans without requiring planning permission (this is more fully explored at 3.5.4 below).
- 3.2.4 The Council responded by setting out its concerns in a letter dated 28th June 2019 regarding the Green Belt location of the site, the poor visibility splays and sightlines when exiting Hob Lane Farm, the potential for harm to the West Pennine Moors, Wheatsheaf Brook (and so on water quality the Brook feeds the Wayoh impounding reservoir) and the Wayoh Reservoir Biological Heritage Site.
- 3.2.5 Because the Council was unable to assess and condition the proposal through the normal planning process, it objected to the proposal.
- 3.2.6 In a letter dated 27th November 2019 the Camping and Caravanning Club advised the Council that its comments had been considered and noted but that the Club was continuing to process the application to establish a small caravan site, plus tents, at Hob Lane Farm "as in normal circumstances, such sites have little or no impact on the environment and the area concerned".

- 3.2.7 In the process of assessing this application, the Camping and Caravanning Club was approached as to the progress of issuing of the certificate. An e-mail was received on 15th September 2020 explaining that the certificate was still to be issued. This would be subject to the satisfactory completion of 'works to be done' and an inspection visit by the club's Site Officer. The works to be completed, as confirmed in an e-mail dated 21st September 2020 include Installing a hardcore access road around the Certificated Site area to enable towing vehicles to access the site, creating 5 x caravan/motorhome locations within CS area, creating a designated tent camping area, installing a Chemical Disposal Point and waste water supply, and installing a freshwater supply.
- 3.2.8 Members are advised that this application covers only the first of these works. Any structure which has a sufficient degree of permanence through physical attachment to the ground or to main services will involve operational development. Such elements of caravan sites as chemical disposal points, hard surfacing and water standpipes come under this category and are likely to need permission. The applicant has been invited to enter into discussion with the Council regarding these requirements.

3.3 Development Plan

3.3.1 <u>Blackburn with Darwen Borough Local Plan Part 2 – Site Allocations and</u> Development Management Policies (December 2015)

Policy 8: Development and People

Policy 9: Development and the Environment

Policy 10: Accessibility and Transport

Policy 11: Design

Policy 3: The Green Belt Landscape

3.3.2 <u>Blackburn with Darwen Borough Local Plan part 1 – The Core Strategy</u> (January 2011)

Policy CS18: The Borough's Landscapes

3.4 Other Material Planning Considerations

3.4.1 National Planning Policy Framework (NPPF) (February 2019):

Section 6: Building a Strong, Competitive Economy

Section 9: Promoting Sustainable Transport
Section 12: Achieving Well-Designed Places

Section 13: Protecting Green Belt Land

Section 15: Conserving and Enhancing the Natural Environment

3.5 Assessment

- 3.5.1 <u>Development in the Green Belt</u>. The fundamental aim of Green Belt Policy is to prevent urban sprawl by keeping land permanently open the essential characteristics of Green Belts being their openness and permanence (NPPF Paragraph 133).
- 3.5.2 The Government's Planning Practice Guidance states that openness is capable of having both spatial and visual aspects in other words, the visual impact of the proposal may be as relevant as the volume.
- 3.5.3 The Local Planning Authority is required by the NPPF to ensure that substantial weight is given to any harm in the Green Belt. 'Very special circumstances' will not exist unless the potential harm to the Green Belt by reason of inappropriateness, and any other harm resulting from the proposal, is clearly outweighed by other considerations. Exceptions to inappropriate development include appropriate facilities for outdoor recreation "as long as the facilities preserve the openness of the Green Belt and do not conflict with the purposes of including land within it".
- 3.5.4 As regards the establishment of the proposed caravan site at Hob Lane Farm, Members are referred to Part 5 of the General Permitted Development Order 2015. Class A permits 'the use of land, other than a building as a caravan site' (A.1). The circumstances under which this is permitted are those set out in Schedule 1 Paragraphs 2 to 10 of the Caravan Sites and Control of Development Act 1960. Paragraph 5 is relevant to the site at Hob Lane Farm where the land is in use "as respects which there is in force a certificate issued under this paragraph by an exempted organisation if not more than five caravans are at the time stationed for the purposes of human habitation on the land to which the certificate relates." Neither of the two Acts that cover the establishment of the caravan site refer to such a site being inappropriate development for land in the Green Belt. The first question to be addressed by the Committee, then, is whether or not the addition of an access track would amount to inappropriate development in the Green Belt.
- 3.5.5 The proposed access is located at the northern end of the site. The access track projects approx. 20 metres into the field from the highway before turning at right angles and proceeding 32.5 metres to the south. The first approx. 9 metres from the highway to the gate to the site is proposed to be of tarmac with the remainder of the track to be comprised of compacted hardcore and decorative gravel.
- 3.5.6 The ecological value of the field has been lost as a result of excavations carried out prior to the determination of this application, and an ecological assessment in support of these works has not been presented with the submission documents for this application.
- 3.5.7 It is possible that the excavations carried out may not have required planning permission. Certainly, Part 2 Class B of the General Permitted Development

Order permits "the formation, laying out and construction of a means of access to a highway which is not a trunk road of a classified road, where that access is required in connection with development permitted by any class in this Schedule (other than by Class A of this Part)." These permitted development rights would cover caravan sites.

- 3.5.8 Hob Lane is a non-classified highway; and in principle would therefore present the development with a means of access that would not require planning permission. In practice, in discussions with the applicant, the Council has maintained that access onto Hob Lane for car and caravan would be out of the question in terms of safety, and that the amount of engineering works required to form an access onto Hob Lane would be such that permission might actually have been required in connection with the alteration of land levels.
- 3.5.9 To determine the way forward, the Council's Network Manager walked the site with the applicant to consider the options of providing an access, and agreed that with some minor adjustments and additional details in terms of sightlines and manoeuvrability details, the access being considered by Members was the best, and probably only, option.
- 3.5.10 In terms of harm to the Green Belt, the excavation has probably had the most profound effect on the visual aspect of its amenity. However, given that the caravan site can and will operate without the need for planning permission, it is considered that much of that amenity can be restored over time through a carefully worded planning condition attached to an approval of the access track. This would require the submission, for approval in writing, of a detailed landscaping scheme for the land edged in red on the location plan, including details of landscaping around the proposed pitches and wildflower planting in the wider site. Providing the condition requires implementation of this scheme within the first planting season following the date of the planning permission, the visual impact of the proposed access track should be softened, and some ecological and Green Belt amenity restored to the site.
- 3.5.11 Members are also recommended to approve a condition stipulating that, should the site cease to operate as a caravan site, the access track should be removed and the site restored to its previous grassland state within six months of the cessation of the use.
- 3.5.12 It is therefore considered that the proposed extension accords with both Policy 3 of the Local Plan Part 2 and the provisions of the NPPF in terms of development within the Green Belt.
- 3.5.13 <u>Tourism Considerations.</u> Planning decisions, states the NPPF (Paragraph 83) should enable the development and diversification of agricultural and other land-based rural businesses, including sustainable rural tourism and leisure developments which respect the character of the countryside.
- 3.5.14 The proposed access into the caravan site is considered to facilitate such development. The Core Strategy includes a provision for the active use of the

Borough's landscapes through leisure and tourism where this is compatible with objectives relating to their protection. Policy 34 of the Local Plan Part 2 develops this further, giving priority to tourism-based development within a number of locations – one being the West Pennine Moors. Those developments likely to generate a large number of trips should be within the villages of Edgworth, Chapeltown and Belmont, or else associated with an existing facility. The proposed access is to serve a facility just beyond the boundary of the village of Edgworth. Given the nature of this facility, the proposal is considered unlikely to find sufficient open space within the village boundary to operate; and the field, being adjacent to edge of village development, is considered acceptable.

- 3.5.15 The proviso set out in both the Core Strategy and the Local Plan Part 2 is that recreational development must be sensitive to the natural environment and secure appropriate maintenance of the facility in the long term. The proposed access, therefore, would be considered acceptable within the context of the landscaping scheme set out at 3.5.10 above the wildflower planting being considered to enhance the natural environment.
- 3.5.16 <u>Traffic and Transport Infrastructure.</u> Both the NPPF (Paragraph 108) and Policy 10 of the Local Plan Part 2 require development to provide safe and suitable access for all users. It is this issue that causes greatest concern amongst the objectors to this planning application.

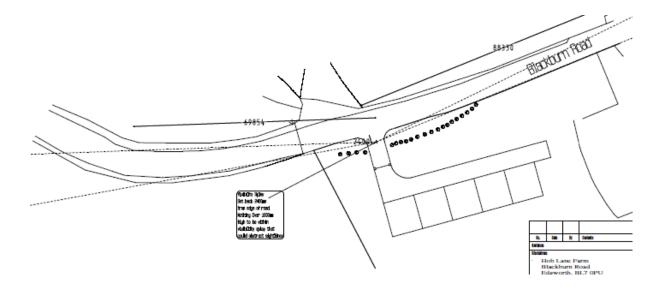


Street view image 2008 looking south. Access to the site is beyond the first telegraph pole to the right.



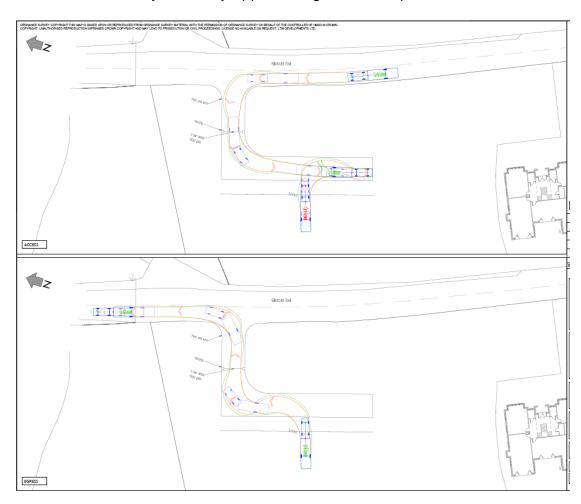
Street view image 2009 looking north. Access to the site is just before the second telegraph pole to the left.

- 3.5.17 Blackburn Road is appreciably narrow. Approaching the site from the north, the road drops down from Dingle Farm to Hob Lane Bridge, where the road crosses Wheatsheaf Brook. Not until the approach to the brook is reached does the proposed access point come into view. The road bends slightly eastwards, with the trees thinning out beyond the Brook, after which the road bends right, towards the application site. The vista encompasses Hob Lane Farm at the top of the rise to the west, with the application site being on the field to the right (west) of the highway. The street view images are dated 2008 and 2009 respectively, but give an understanding of how the road looks in its approach to the site and the views obtained of the proposed access.
- 3.5.18 Details have been received to demonstrate how the access arrangements will maintain highway safety. Visibility splays show the extent to which drivers



emerging from the site will have sight of oncoming traffic. Highways have expressed concern that these splays clip the boundary treatment either side of the entrance. However, it is considered that a condition requiring the height of boundary treatment either side of the entrance to the site to be kept to a maximum of 1 metre will suffice.

3.5.19 A swept path analysis has also been submitted. The mouth of the access track where it joins with the highway measures about 8.3 metres across, and with the track being 9 metres back to the gate it is considered that sufficient space is available for a car and caravan to turn in safely in one move. Whilst concern has been expressed regarding vehicles approaching from Edgworth pulling out into the centre of the road to execute the movement into the site, if a driver considered this necessary they would be more than likely to perform this manoeuver only once any approaching traffic had passed.



3.5.20 Furthermore, in site discussions with the Council's Network Manager, the possibility of road signage was raised; and it is recommended that, if the application be approved, a condition be attached requiring a road sign to be erected on both approaches to the site to warn of the possibility of vehicles turning. The signs and their placement would be for the written approval of the

Council's Highways department and would be erected at the expense of the applicant.

4.0 RECOMMENDATION

- 4.1 It is therefore recommended that the Planning and Highways Committee **approve** the application subject to conditions which relate to the following matters:
 - Development to commence within 3 years
 - Prior to the first use of the access, a detailed landscaping scheme is to be submitted for approval in writing for the land edged in red on the location plan, including details of landscaping around the proposed pitches and wildflower planting in the wider site. Implementation of this scheme to be within the first planting season following the date of the planning permission.
 - Should the site cease to operate as a caravan site, the access track is to be removed and the site restored to its previous grassland state within six months of the cessation of the use.
 - Prior to the first use of the access, a scheme is to be submitted to the Council's Highways department for the erection of a 'caravans turning' sign on both approaches to the site along Blackburn Road, details (including location) to be agreed in writing and the cost borne by the applicant.

5.0 PLANNING HISTORY

- 5.1 10/20/0809 Erection of garden shed to rear of garage at White Lodge Farm (the new dwelling approved under 10/20/0019). Application still to be determined.
- 5.2 10/20/0254 Conversion of existing barns at Hob Lane Farm to new single family dwelling including internal alterations and extensions. Withdrawn by applicant before refusal issued.
- 5.3 10/20/0226 Discharge of Condition Nos 2, 3, 4, 5 and 9 pursuant to planning application 10/20/0019. Approved under delegated powers 16th April 2020.
- 5.4 10/20/0019 Variation of Condition No.15 pursuant to planning application 10/19/0149 - demolition of outbuilding and erection of one dwelling reposition and increase size of garage and alterations to front elevation. Approved under delegated powers 2nd March 2020.
- 5.5 10/19/0149 Demolition of outbuildings and erection of one dwelling (resubmission of application 10/18/1002). Approved under delegated powers 29th April 2019.
- 5.6 10/18/1234 Discharge Condition No 3 pursuant to planning application 10/18/1002. Approved under delegated powers 27th February 2019.

5.7 10/18/1002 - Demolition of outbuildings and erection of one dwelling. Approved under delegated powers 9th November 2018.

6.0 CONSULTATIONS

- 6.1 <u>Neighbours.</u> Eighteen neighbouring properties were consulted and two site notices were erected. 23 letters of objection and 1 letter of support have been received. The letters of objection can be viewed at 9.0 below. The main points can be summarised as follows:
 - Detrimental to the Green Belt
 - Access/egress extremely difficult due to width of highway and the combined lengths of car and caravan
 - Caravans would be manoeuvring very slowly on a fast road with limited visibility
 - Safety concerns as it would mean 2 entrances on each side of the road immediately after the brow of a hill (following start of development opposite)
 - Dangerous for vehicles to access onto Blackburn Road where the speed limit is 40 mph and (access) is concealed in a dip in the road
 - Impact on local wildlife of further vehicles
 - (Potential for) the new access and hardstanding to be grounds for future development
 - Planning statement says limited consultation has been carried out which locals have been consulted?
 - Blackburn Road may be more appropriate than Hob Lane, but should not become private driveway to house being built or used as access for further green belt development.
 - The adjacent road at Hob Lane already causes multiple car queues daily with vehicles queued in both directions on Blackburn road and Hob lane for many metres, and dozens of cars daily. To add to this a slow turning series of caravans is reckless
- 6.2 North Turton Parish Council. The objections can be summarised as follows:
 - Road too narrow and the access too close to a blind bend and the brow from Hob Lane, to the detriment of road safety
- 6.3 <u>Highways.</u> A vehicular access point is proposed, from Blackburn Road. Sightlines have been provided with the application, they have indicated them in the correct position however, the drawing does not take into account the rising gradients and vegetation along the frontage. This would hinder clear visibility of cars approaching the access. We note that the proposed access drawing CCS01 indicated new hedge planting, there is however no mention on what and how the land would be regarded along the carriageway to improve the visibility, the most recent drawing does not mention the hedge planting changes at all.

There are gates proposed at the site entrance, these have been set back 9 metres, there is no turning area being provided to facilitate an exit, should a

driver inadvertently venture down the access point, this would leave the driver to reverse out, which is not acceptable.

The internal layout does not provide for any turning area. No indication is offered on how the track will be surfaced.

No swept path of vehicles entering, turning within the site and leaving is provided, this should be demonstrated for turning into and out in both directions, a swept is to be provided.

To conclude, we would acknowledge that the applicant has attempted to address the underlying issues that would need addressing with an access in this location. However, the main concerns are

- gradient of the road,
- narrowness of Blackburn Road,
- the relationship of the track to Blackburn Road for levels,
- sightlines
- turning facility

Refusal of the application is recommended, as the proposal is contrary to Policy 10 of the Local Plan Part 2. The introduction of an access point would be detrimental to the safety of all highway users.

(N.B. These comments were offered prior to the meeting between the applicant and the Network Manager. No formal comments have been received, though the Highways Officer retains her concerns).

- 7.0 CONTACT OFFICER: John Wilson, Planner Tel: 01254 585585
- 8.0 DATE PREPARED: 4th October 2020

9.0 SUMMARY OF REPRESENTATIONS

Support from Lesley Jacques, Edgworth resident, Rec 07.09.20

This email is to confirm my support for an entrance to the caravan site via Blackburn Road. I am strongly against any access on Hob Lane which would be quite ridiculous. Thank you

Lesley Jacques Edgworth resident

Objection from Shaun Readey, Rec 03.08.20

Hi john im some what worried about the proposed caravan park across from my house you will see from my plans there's bathroom on the front elevation I'm sure your aware that people don't sit in the caravans but outside also there has never been an entrance .To get a caravan and camping licence you need planning which he doesn't have so he carnt have a licence .The width of the road were he wants his new entrance will not allow a car and caravan To enter the site with Out entering my land as for the land in question it's green belt but if like mine it's an heritage site If he wants a caravan park let him put it in the field in front of his house we're he claims to have access of Hob Lane part of the caravan and camping web site state about the access plus he wouldn't need a new road and hard standing I trust you will take this into consideration
Thanks Shaun Readey

Objection from Andy Tighe, 1 School View, Edgworth, Rec 04.08.20

Mr Wilson,

I object to application ref: 10/20/0625 - new access onto Blackburn Rd from land adjacent to Hob Lane Farm for the following reasons: -

- 1. I agree with the Local Authority's opinion that a new access off Blackburn Rd would have a greater detrimental impact on the Greenbelt than an access off Hob Lane. Also, an access off Hob Lane would be akin to just another almost unobtrusive farm track and could potentially provide the added benefit of improving the lane surface & embankments at that particular point.
- 2. The Blackburn Rd access would be a 'new' access, definitely not a 're-opening of a former access', so it seems to me that the applicant is being deliberately misleading in the hope that it will help the application. It makes me suspicious that other parts of the application are also not true statements.
- 3. The 'Access Plan' diagram doesn't show the footprint of the large house that is currently being built adjacent to the caravan pitches, which is strange & somewhat suspicious. It leads me to believe that if this application was successful there is a plan by the applicant in the future to apply for permission to build houses in the field. This

I believe would definitely be damaging to the Greenbelt and the general outlook of that location.

Please give my comments due consideration.

Yours sincerely,

Andy Tighe of 1 School View, Edgworth, BL7 0PP.

Objection from Glenys Syddall, Clerk to North Turton Parish Council, Rec 05.08.20

North Turton Parish Council objects to appplication 10/20/0625 for the formation of a new access/re-opening of an access at Hob Lane Farm, Blackburn Road, on the grounds that the road at this point is too narrow and too close to a blind bend and the brow from Hob Lane, to the detriment of road safety.

Glnys Syddall Clerk to North Turton Parish Council

Objection from Cllr C Rigby, Rec 10.08.20

John./Gavin

Please see below my comments on the above application.

- 1) Access & Egress. Hob Lane is single track with passing places. Not practical
- 2) "" Blackburn Rd. in the area indicated currently has no access to the adjoining land, and the Access/Egress would be extremely difficult due to the width of the Highway and the combined length of a car and caravan. I note that there has been limited local consultation (very limited)
- 3) His conclusion oddly enough mirrors his interest in the site.
- 4) Site drawing shows Former Access. Never existed. No dimensions for access roadway works. Needs to show length and width of cut back and to be finished to highway standards

In general this application should be refused on road access and sight lines, a car/caravan is some 11mtrs long, not practical on either Hob Lane or Blackburn Rd. Regards

Colin

Objection from Mr P Taplin & Miss A L Jones, Dingle Cottage, BLackburun Road, Turton, Rec 11.08.20

Re the above application I would make the following comments - 1/. I thought access already existed to this site from both Hob Lane and higher up on Blackburn Road.

- 2/. Building work and access has already started on a site directly opposite this proposed new access/reopening.
- 3/. Might be safety concerns as it would mean 2 entrances on each side of the road immediately after the brow of a hill. Cars accelerate after the village and are doing 40 mph plus at this point.

4/. It is believed that the entrance is for the use of caravans. They would manoeuvring very slowly on a fast road with limited visibility.

I trust that you will consider the above in your deliberations. Thank you for inviting comments. Mr P Taplin and Miss A L Jones

Objection from Katie Grimwood, 2 Hob Lane, Edgworth, Rec 17.08.20

Dear sir/madam.

I wish to object to planning application 10/20/0625 as I am concerned about the impact on local wildlife. Since moving to the area in August 2018, I know of 2 incidents where deer have been hit and killed by motorists travelling at speed on Blackburn Road. The addition of further vehicles unaware of the local wildlife could increase this danger. Mr Warner has been advised to install owl boxes which he has not done showing his lack of respect to his surroundings and protected wildlife. I would like to know if he has taken any surveys to assess whether there are any habitats that he will be disturbing if he is allowed to demolish a historic stone wall and create a roadway across greenbelt land.

Objection from William & Lisa Aspinall, 11 School View, Turton, Rec 17.08.20

Dear Sirs,

With reference planning application number 10/20/0625

I wish to object to the re-opening of an access route onto Hob Lane & Blackburn Road, Hob Lane is a very busy single track road and can not sustain any further traffic, in particular vehicles towing caravans, which we believe is what the access route is for, it would also be very dangerous for vehicles to access onto Blackburn Road as the access road joins Blackburn Road where the speed limit is 40 mph and is concealed in a dip in the road. It should be noted the access road was initially closed due to the high number of accidents recorded at that location, which fell significantly when the road was closed, why would now be deemed a "good idea" to reopen the route?

Yours Faithfully

William & Lisa Aspinall

Objection from Christine Grimwood, 2 Hob Lane, Edgworth, Rec 17.08.20

Dear Sir/Madam

with ref to planning app 10/20/0625 I wish to object for the following reasons.

The positioning of the entrance is in a hidden dip on a very busy commuter route and as caravans would be entering and exiting slowly, the chances of a serious collision are very likely.

The applicant says this entrance is a better alternative to Hob Lane, which is ridiculous as access from Hob Lane would be almost impossible, even to highly trained professional drivers, let alone weekend, hobby caravan towers.

Although the caravan site does not require planning permission the introduction of a roadway would have a devastating effect on the greenbelt land.

I believe the applicant is using the caravan site as a vehicle to gain access to the land which has already been over developed and now the current access to his un-finished house has been compromised by him selling off the land and buildings surrounding it to 2 other parties.

I also believe that if permission is granted, in the future he will try to use the new access and caravan hard standing as grounds to put in further applications to build on this parcel of land.

I hope that the planning department are not naive enough to believe that this application is as simple as it purports to be, the future development of the area is the applicants ultimate goal.

Regards, Christine Grimwood, 2 Hob Lane Edgworth BL7 0PS.

Objection from P & LR Saunders, 8 Hob Lane, Edgworth, Rec 17.08.20

We are writing to object to the above planning application.

Initially we would like to point out that the applicant's Planning Statement states that he has carried out limited local consultation regarding the access and the overwhelming opinion is that the proposed access is far more desirable than the approved access.

We would be interested to see which locals have actually been consulted and are supportive of the proposed access as we are not aware of one signal resident of Hob Lane and the surrounding area who has been consulted by the applicant. In fact, when speaking to neighbours, not one resident is happy with the opening of the caravan park.

Which ever way Edgworth is approached, access into the village is problematic as the roads are very narrow and many are steep. Some roads have signs advising they are unsuitable for HGV's so how can the roads be deemed safe for cars towing caravans?

The proposed entrance to the caravan site is in a dip on Blackburn Road. Traffic up and down this stretch of Blackburn Road often have no regard for the speed limit and therefore it would be extremely dangerous manoeuvring caravans in and out of the site.

We are therefore of the opinion that this application should be rejected due the potential hazards the proposed access could create.

Objection from Alan & Julie Highton, Braestone, Hob Lane Rec 17.08.20 Dear Mr Wilson,

We reply in response to the letter received in regard to this planning application.

We live on Hob Lane.

Our points are as follows...

- 1 Access from Hob Lane is completely inappropriate and would compound an already difficult traffic/passing area , even for people who know and live here. The prospect of 4x4,s and twin axle caravans accessing a caravan site is unimaginable .
- 2 The access proposed on blackburn road is more appropriate but with the following provisos..
- a. We feel that this is application is a "Trojan horse" to satisfy the applicants desire for a private driveway to his new house, currently being constructed. His current access is not in keeping with a development of this scale ..but he perhaps should have considered this with his original application.

- b. The proposed siting of the caravan pitches is acceptable and it should be stipulated that no deviation from this siting is permissible.
- c. The proposed access from blackburn rd should be to the caravan site only with no access to the applicants new property.
- d. The new access should not be seen as a "green light" for access to further development on a greenbelt site .

Not withstanding all the above, the access from blackburn road is less than ideal, even in view of the proposed sight lines etc.

The applicant may have a legal right to access from Hob Lane but I am certain he will not pursue this especially in view of the route required past the land he has sold to the new owners of the 2 barns at Hob Lane Farm.

These are our views on the proposal. The Hob Lane access is in our opinion the worst case scenario.

If blackburn road is considered then the above points should be of note.

Kind regards,

Alan and Julie Highton

Objection from Andy Tighe, 1 School View, Edgworth, Rec 27.08.20

FAO Mr. John Wilson re: application ref 10/20/06 resubmission.

Dear Mr Wilson, thank you for your recent letter regarding the applicant's amendment. Fundamentally my opinion is unchanged i.e. the application should be refused for the reasons stated in my previous email.

The inclusion now of the substantial property currently being built adjacent to the application plot is again suspicious to me i.e. that they initially tried to 'hide' this fact but once it was made known to your team by local householders they have had to 'come clean'.

Therefore, I'm again wondering whether other relevant info might be being withheld or misrepresented by the applicants?

To re-state my position, I object to the application.

Regards,

Andy Tighe.

Objection from Andrew Hamilton, 463 Blackburn Road, Turton Rec 03.09.20

Dear Planning Department Blackburn.

Please see my objections to the planning application 10/20/0625

The caravan site is yet another addition to this highly regarded stretch of land in Edgworth that has now in the square quarter of a mile is subjected to numerous planning applications. The **fifth** major build now ongoing in application or planning in this now beleaguered part of

the village, now being transformed. The amount of hap hazard planning has now peaked with this commercial development.

I object to this planning application for the below reason.

A caravan site is not required, the enormous facility less than 4 miles down the same road at Brocklehead Farm, more than caters for any leisure caravan visitors in the area. There is no need for additional space to be built.

The access to the proposed site is a creating a potential road traffic black spot with slow manoeuvring caravans having to block the entire road in both directions just to position the vehicle for entrance and exit. Granting permission will cause major road accidents. With the increased housing being planned and extra traffic generated on a daily basis it would only increase the likelihood of numerous accidents.

The adjacent road at Hob Lane already causes multiple car queues daily with vehicles queued in both directions on Blackburn road and Hob lane for many metres, and dozens of cars daily. To add to this a slow turning series of caravans is reckless.

The visiting caravans will occupy the one of the highest points in the village at over 200 meters making the caravan site very visible. A row of caravans will be the focal point of the eye from any position west of the proposed site.

Caravan sites are not quiet, they will generate outside entertainment and noise by many if not all of the caravan visitors. The extra waste and litter does not seem to be accommodated at all in this planning permission. We are blessed with clean water and rivers in the area. This site is adjacent to Wheatsheaf Brook which feeds a major source of drinking water.

Thank You

Regards

Objection from Mr P Taplin & Miss A L Jones, Dingle Cottage, Blackburn Road, Turton, Rec 04.09.20

Dear Sir,

Further to my previous Email I would just reiterate the points made and express my concern as to the safety aspect of the proposed access on to Blackburn Road. Especially given that the vehicles are pulling caravans, and therefore moving slowly, there has to be a question mark over traffic being able to stop in time after coming over the brow of a hill. Traffic on this road is usually travelling at 40 mph plus.

Thank you again for inviting comments.

Regards, Philip Taplin.

Mr P Taplin & Miss A L Jones

Further Objection from Christine Grimwood, 2 hob Lane, Edgworth Rec 07.09.20

Dear Sir/Madam.

I would like to register my further objection to the above planning application.

It has become clear, that as suspected, Mr Warner is using the caravan site as an excuse to gain alternative access to his new build house, with also the possibility of developing the land further. He believes that he will be permitted 5 dwellings on the Hob Lane Farm site without incurring " claw back " fees from the original seller.

The fact that his original plans included the driveway to extend beyond the caravan hard standing, to his new property are an indication of his future intentions.

His demonstration today of his lack of respect and concern for his neighbours by commencing the digging of the land close to Hob Lane, highlights his frustration that his plans have been unveiled.

I understand that he wants access to his new property to be as easy and pleasant as possible,but when he has denied that same courtesy to his 4 neighbours on Hob Lane I find it difficult to find any empathy for him.

I am also concerned to learn that he has enquired as to the identity of the 10 people that lodged their objections to his original application.

People may be afraid to give their opinions in future, in case of any retaliation.

Objection from Anne McCann, Rec 07.09.20

I am a resident of Entwistle. I understand that a Caravan Park is planned for five caravans in a field off Hob Lane and that access to the site from Blackburn Road has been refused by Blackburn with Darwen Local Authority.

Councillor Colin Rigby has informed Entwistle residents that the applicant intends to implement access to the site from Hob Lane within the next seven days as this will not require planning permission.

Hob Lane is a narrow, single track lane in poor condition and has a considerable gradient. It readily becomes congested with motorists frequently having to reverse into passing places. It is particularly bad at weekends as there is an increase in traffic from people going to the Strawbury Duck Pub, as well as people visiting the area for walking and recreation as it is an area of natural beauty.

Many residents of Entwistle try to plan not to have to go out at weekends as it is difficult to navigate the traffic on Hob Lane and parked cars on the bridge over the Wayoh reservoir. However it is sometimes necessary to do so.

It will cause absolute chaos to add to that already difficult situation by having cars towing caravans down Hob Lane and then manoeuvring to access the site. In my view this will result in an unacceptable situation for residents for whom Hob Lane is the only access to their homes.

There must surely be some means of preventing the proposed access, in the public interest, even if planning permission is not required.

I look forward to hearing from you.

Kind Regards.

Anne McCann

Objection from Nick Grimwood, Rec 07.09.20

Firstly I would like to say all my objections relating to the original planning application still stand but would like to add that if the permission is granted to the Blackburn Road access site it is right opposite another access point for the other development across the road, this in my mind makes a crossroads in this very dangerous position. It would also become a big turning circle for people that miss the turn for the Wayoh/ Strawbury Duck and Railway station. The wall where the proposed entrance to the caravan site will be ,is very low ,most probably due to the number of cars hitting it over the years.

This developer (Mr Warner) has total disregard for the local community, local residents and seems to think he can do what he wants and to anybody.

He is applying for a second access to his new property yet he his trying to take access away from four properties that have had historical access for over three hundred years.

Is planning not supposed to be for the good of the community, and take all things into account.

Objection from Jeannette Ramsbottom, 3 Edgworth Views, School Lane, Edgworth Rec 07.09.20

Afternoon John.

I have recently been made aware of an application for access to a greenfield site off job lane, Edgworth for 5 caravans. I live on school lane, the junction which faces the top of hob lane on the opposite side of Blackburn road, it creates a sort of offset cross road.

The junction itself can be difficult to navigate at the best of times.

There is a blind hill on a corner on Blackburn road towards Darwen with cars reducing speeds from 40-30 at that point.

There are cars parked most of the time to both sides of Blackburn road close by to the junction making it difficult to see when exiting either hob lane or school lane.

The entrance itself to hob lane is very tight and I could not see it as being a regular access for caravans or any long vehicles without causing mishap.

As hob lane is narrow, with limited small passing points, backed up lines of cars (including cars waiting at the top of hob lane on Blackburn road) and cars having to reverse good lengths of the road to allow passing happens regularly and daily basis. Again I do not feel that this is a place for Caravans to be travelling down and certainly cannot see them reversing up the lane. The traffic issues created would be nothing short of terrible.

As there are no pavement down hob lane any knock on effects from traffic issues could be very dangerous to walkers which there are many as it is an access to the wayoh reservoir.

I therefore object to the proposal.

Kind regards Jeanette Ramsbottom

Objection from Jack Straw, 5 School View, Turton Rec 07.09.20

To whom it may concern,

I wish to voice my concerns regarding the recent application for access to a caravan park on hob lane in edgworth Bolton.

I'm a resident with a clear view of the lane and I can assure you accidents are narrowly avoided daily, from drivers familiar with the road and area. Furthermore the entrance to this road via Blackburn road is extremely narrow and has extremely poor visibility. The entrance had a very tight turn onto a single track road with listed building to the right. I would say the turn is all but impossible for large caravans and difficult for experience caravan towers with smaller caravans. Damage to the walls would become unavoidable. The need for such a slow speed of approach will cause delays and disrupt traffic in the area. This will then become an accident waiting to happen due to the speeds drivers coming over the hill to the right of hob lane frequently do.

Recent contractors working on the rail way had to deliver their heavy machinery at night as this was the only time they could have space to maneuver down hob lane.

The increased traffic from a caravan park will further clog an already aging road system in the area. The traffic from the train station and from the new caravan will make avoiding an accident on hob lane difficult. I would ask you to reconsider the entrance for this caravan park.

Thank you

Jack Shaw

Objection from David Cromer, Rec 04.09.20

Hi there,

I am a resident in Entwistle at New House Farm, Edge Lane, Entwistle, Bolton BL7 0NG I suspect you have had a few emails on this matter, but for good measure here is another. I do not know if anything can be done but I can not believe that anyone can think creating an access for caravans via Hob Lane is either sensible or safe.

The road is incredibly narrow & the turn in from the main road is tight.

The issues caused by people reversing especially at busy weekends is very real & hazardous.. You will regularly get a car reversing back you of Hob Lane & then cars on the main road overtaking that car totally blind.

If we add caravans into the mix I think the result will be very predictable.

Is it not possible to stop this just on the grounds of safety even if planning permission is not needed

Regards

David Comer

Objection from Andrew Jackson, Rec 05.09.20

Gavin

I have just seen the plan to have a caravan site entrance via Hob lane. This is madness.

As a resident who lives on Overshores Road it is already bad enough that the road is not maintained properly and is already a dire mess, the passing points are tiny, the traffic already above capacity and sometime downright dangerous.

Now this!! Absolutely disgraceful to even allow this to be considered, it will become very dangerous. I am a police officer, former traffic officer and have seen how dangerous country lanes can be. This plan will increase risk to road users and pedestrians, increase traffic volume, wear on the already dilapidated road surface and generally cause mayhem for local residents, especially those, like my family and I who have to use this lane daily.

This is especially bad for those of us who have no choice on the route they use, as Overshoes road is now impossible to drive along without a 4x4 vehicle and its getting worse with no sign of anyone planning to fix it.

This needs intervention before it becomes a disastrous mess, which I will, without doubt, raise further if this is allowed to go ahead.

Please advise what is being done about this.

Andrew Jackson

Objection from Ross Heron, 6 Holly Bank, Turton, Rec 08.09.20

Dear Mr. Wilson,

As a resident of Entwistle for over 40 years I am concerned that an application for access to the proposed site from Hob Lane is being considered.

The lane is narrow, has no footway and is used by a substantial amount of traffic these days, particularly at week- ends when walkers come to the Wayoh Reservoir and people visit the Strawbury Duck.

As a driver who regularly uses the road I am aware of the hazards and the needs for sensible use of the passing places. I often walk up the road too, and realise the dangers for the pedestrians and cyclists who use it, particularly involving families with children and dogs. I am surprised that permission is given for a caravan site where the access is so difficult and believe that the Council is not happy with access from Blackburn Road which then means that Hob Lane is the alternative.

As you can see from my comments I am strongly opposed to this access being made from Hob Lane.

Yours sincerely, Ross Heron. 6 Holly Bank

Objection from Jane Winward, Rec 10.09.20

I am writing to object to the proposed entrances/egresses to the caravan park on the land owned by Kenneth Warner adjoining Blackburn Road and Hob Lane, Entwistle/Edgworth.

Firstly, I would object very strongly to the siting of a caravan park in the designated area although this apparently does not need planning permission for a limited number of caravans (up to five) and ten camping pitches. Apparently, this is the first step towards achieving a caravan park of a much greater size:

Quote from the internet:

'If you are in a contentious area you might be best to start off with the five caravan site and use it as a foot in the door to get planning permission for a larger site as you will have evidence that you haven't caused traffic problems or received any complaints about the caravans. Broadly speaking, the main issues likely to come up as part of the planning application process are visual impact and highways.'

Obviously, the only people that would want to introduce a caravan park into their area would be those who stood to gain financially or needed somewhere to park their caravan. No-one could argue that parked caravans contributed to the aesthetics of an area, particularly in an area of such outstanding natural beauty and would also result in further erosion of the greenbelt.

The fact that the land has automatic permission for the siting of caravans does not mean that it has suitable access or should be granted one. Mr Warner is currently attempting to blackmail the residents of Hob Lane into supporting his proposed access on Blackburn Road by saying if it is not allowed he will have no alternative but to access the site on Hob Lane.

Hob Lane is a single track lane used to access around forty properties properties, the Strawbury Duck pub, Entwistle railway station and a United Utilities reservoir. The area also attracts a considerable number of walkers/fishermen who park their cars along the lane. The residents who live down Hob Lane already experience horrendous traffic problems and have great difficulty entering and exiting Hob Lane onto Blackburn Road, particularly at the weekends when invariably you end up having to reverse to a passing place (of which there are two plus a very narrow one) on the entire lane to the reservoir), often with a queue of cars, and sometimes with an impossible log jam. The idea of introducing towed caravans onto this lane would be absolutely crazy. At the height of the summer the lane was a nightmare.

Ironically, the few people who are supporting the access on Blackburn Road have commented (on Facebook) in the past on what a dangerous road it is and how it is used as a race track. As access on Blackburn Road has been deemed unsuitable and assumedly dangerous, how can it be argued now that it is not? That would be an accident waiting to happen. People who regularly use that road always drive down it with great trepidation because of the speed at which people travel down it and poor visibility because of the hills and bends.

Mr Warner argued on Facebook that it is the duty of the Council to promote and support tourism in the area. Entwistle is absolutely not in need of promotion as a tourist venue. It is already seriously oversubscribed and the amount of cars pouring in have created serious traffic problems for the residents who access their properties down Hob Lane. I also think that we don't need the hair-raising addition of a caravan access point on an already dangerous road (Blackburn Road). We also have the problem that cars have to queue (on both sides of Blackburn Road) to go down Hob Lane when cars are reversing out.

Mr Warner has stated that he has the right to use Hob Lane as an access point whatever happens as it is an unclassified road. Surely this could not be allowed?

Objection from Professor Donna Hall, 5 Entwistle Hall, Turton Rec 11.09.20

Dear John,

I am writing to formally oppose the construction of a new access road from Hob Lane to a new caravan site adjacent to Blackburn Road Edgworth.

Hob Lane is an ancient narrow track which already presents significant problems for residents of Entwistle every weekend which has been exacerbated during lockdown As a result of more visitors to the reservoirs, railway station and pub.

There have recently been more bumps and collisions on the lane as it is a complete blind bend with 90 degree turn facing oncoming traffic at the top of the Lane.

Passing places are already inadequate and resurfacing is a real problem every year. There is insufficient space to accommodate a caravan being towed by a car and campers. It will become even more dangerous than it already is.

I know it is not possible to object to the caravan park itself but this is more commercial development by stealth as a pitch for 5 caravans becomes more over time ruining the green belt and open historic countryside of one of the oldest undisturbed parts of Lancashire.

Thanks so much,

Professor Donna Hall, CBE (she/her)

5 Entwistle Hall

Entwistle Hall Lane

REPORT OF THE DIRECTOR

Proposed development: Full Planning Application for Demolition of existing garages, utility room and store and erection of two storey dormer extension to provide quadruple garage, workshop, utility room and kitchen extension with additional bedroom accommodation at first floor level together with change of use of 4 m2 of land outside the curtilage of the existing garden (Green belt) to residential

Plan No: 10/20/0720

Site address: 230 Chapeltown Road Edgworth Bolton BL7 9AN

Applicant: Mr John Pimblett

Ward: West Pennine Councillors: Colin Rigby,

Jean Rigby, Julie Slater



1.0 SUMMARY OF RECOMMENDATION

1.1 The proposed development is recommended to be granted planning permission for the reasons as stated in Paragraph 4.1.

2.0 KEY ISSUES/SUMMARY OF PLANNING BALANCE

- 2.1 This application is presented to the Committee in accordance with the Scheme of Delegation (Chair Referral Process), following the receipt of a letter of objection from North Turton Parish Council. A summary of the comments are provided at Paragraph 6.1 below. The proposed development has been publicised through letters to residents of adjoining properties. No other letters of objection have been received.
- 2.2 Planning permission was previously refused under delegated powers for the demolition of existing garages, utility room and store and erection of two storey dormer extension together with change of use of land outside the curtilage of the existing garden (green belt) to residential on 9th January 2020 (10/19/1086). Three reasons were given for the refusal of permission:
 - The proposed development, by virtue of its scale and massing, has an adverse effect on the visual and spatial openness of the Green Belt
 - The proposed development, by virtue of its scale and massing, fails to function as a secondary element to the original property
 - The proposed garden curtilage extension represents a detrimental impact on the visual and spatial amenity and character of the West Pennine Moors and, in conjunction with the extension proposed, represents an unacceptable loss of openness in the Green Belt
- 2.3 A site meeting was held on 6th February, between the applicant and the planning case officer, to discuss the reasons for refusal and to consider possible ways forward. Draft plans were submitted for comment in July this year, and following some limited revisions are presented to the Planning and Highways Committee for determination.
- 2.4 The key issues to be addressed in determining this application are:
 - Design and the Green Belt context
 - Ecology and Tree Considerations

3.0 RATIONALE

3.1 Site and Surroundings

- 3.1.1 The site of the proposed development is located in the West Pennine Moors Green Belt to the south of Chapeltown.
- 3.1.2 The dwelling is located on a hillside a little below the B6391, where the land slopes towards the Clitheroe-Manchester railway line and Jumbles Reservoir beyond. A public right of way (22 Turton) follows the line of the railway along

its eastern side about 54 metres from the dwelling. PROW 35 is located to the north of the site, running westward adjacent to the King William pub on the opposite side of the road.



Photo 1: application viewed from the rear



Photo 2: application site

- 3.1.3 The application site is characterised by surrounding rough pasture largely to the south, adjoining onto the curtilage of the dwelling and where it comes within the ownership of the applicant. The land between the property and the railway is lined with a dense screening of mature trees.
- 3.1.4 The dwelling itself is an L-shaped dormer bungalow constructed largely of render set on a dwarf red brick wall. The garages to be demolished, and the site for the new extension, are located on the north end of the dwelling.

3.2 Proposed Development

- 3.2.1 The proposal contains a number of components:
 - demolition of existing garages, utility room and store;
 - erection of two storey dormer extension to provide quadruple garage, workshop, utility room and kitchen extension with additional bedroom accommodation at first floor level;
 - change of use of 4 m2 of land outside the curtilage of the existing garden to facilitate this development.



Photo 3: application showing area where proposed development is located.

3.3 Development Plan

3.3.1 <u>Blackburn with Darwen Borough Local Plan Part 2 – Site Allocations and Development Management Policies (December 2015)</u>

Policy 8: Development and People

Policy 9: Development and the Environment

Policy 10: Accessibility and Transport

Policy 11: Design

Policy 3: The Green Belt Landscape

Policy 25: Residential Curtilages

3.3.2 Residential Design Guide Supplementary Planning Document Revised Edition (September 2012)

RES E7: Rear Extensions

3.4 Other Material Planning Considerations

3.4.1 National Planning Policy Framework (NPPF) (July 2018):

Section 12: Achieving Well-Designed Places

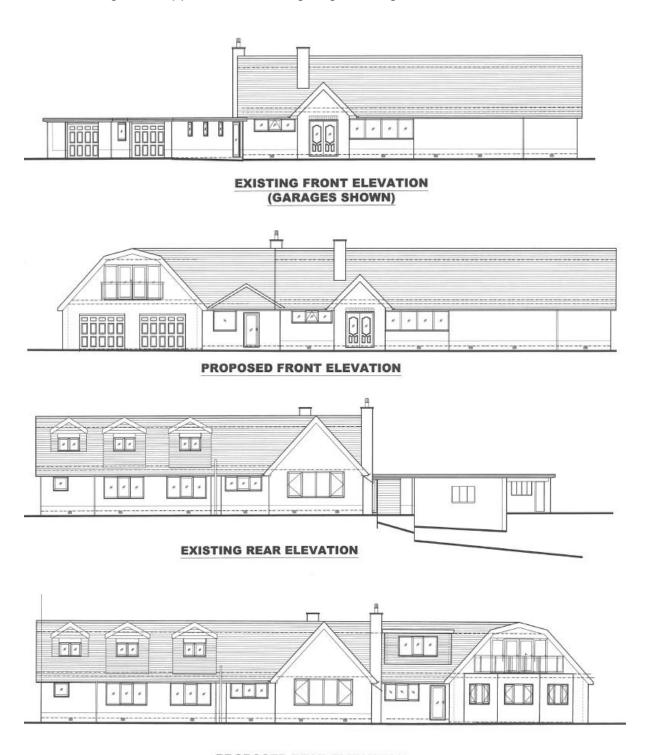
Section 13: Protecting Green Belt Land

Section 15: Conserving and Enhancing the Natural Environment

3.5 Assessment

- 3.5.1 <u>Design and the Green Belt Context</u>. The fundamental aim of Green Belt Policy is to prevent urban sprawl by keeping land permanently open the essential characteristics of Green Belts being their openness and permanence (NPPF Paragraph 133).
- 3.5.2 The Government's Planning Practice Guidance states that openness is capable of having both spatial and visual aspects in other words, the visual impact of the proposal may be as relevant as the volume.
- 3.5.3 The extension or alteration of a building is listed in the NPPF as one of the exceptions to the prohibition of new buildings in the Green Belt (Paragraph 145c), providing that it does not result in disproportionate additions over and above the size of the original building.
- 3.5.3 The existing garages to be demolished are joined onto, but splay away from, the existing dwelling. The garage closest to the dwelling projects approx. 8.5 metres forward of the principle elevation at an oblique angle (about 6.8 metres when measured in a straight line), with the adjoining garage projecting an additional 1.8 metres approx.. The total frontage projects away from the side of the dwelling approx. 11.5 metres.
- 3.5.4 The proposed kitchen/utility element of the extension is to be built against the side elevation of the existing kitchen/dining room, with the quadruple garage adjoining that. The effect is to 'square' the extension up against the host dwelling rather than to have it splaying out as at present. The extensions project forward of the principle elevation by 5.9 metres maximum (slightly behind the furthermost point of the existing garages) and away from the side elevation of the host property by almost 13 metres.
- 3.5.5 The ability of the garage to house four vehicles is facilitated by its depth rather than width, and the extensions to the rear integrate with the form of the building line, the line of the kitchen being aligned with the line of the bathroom on the south side of the lounge, and the corners of the garage aligning with the rear elevation beyond the bathroom. Only the rear garage bay projects beyond the general building line but remains subordinate to the lounge outrigger.
- 3.5.6 The overall footprint of the extension therefore covers a slightly wider area of ground than the existing garages. However, it is considered that the stepped

alignment of the extensions when viewed from the front presents a development more integrated into the host dwelling than the almost incongruous appearance of the garages being demolished.



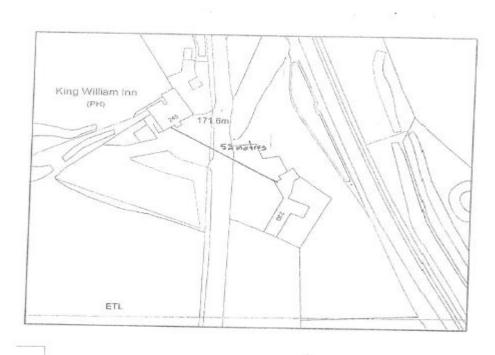
PROPOSED REAR ELEVATION

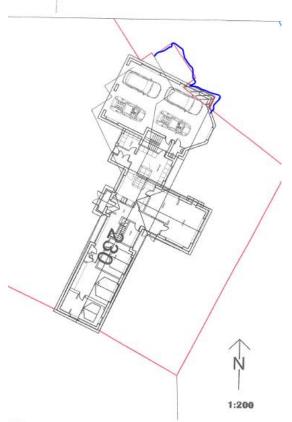
3.5.7 This integration is considered to be further facilitated by the form of the building to be developed. Under the proposal previously refused under

delegated powers (10/19/1086), the garage extension was to form a twostorey extension by which the dominant element of the dwelling would have shifted from the existing bungalow to the new development. The appearance of the development, particularly when viewed from the rear where the land level drops appreciably, would have been an overly dominant addition to the dwelling. The current proposal continues the existing ridgeline above the kitchen/utility block to the shaped gable roofs that allow full fenestration to serve the living space in the loft above the garage. Whilst he roof shape does not quite reflect the dual pitch form of the host dwelling, or even the lounge projection, it facilitates the extension in the loft space without the need to project above the ridgeline. In this way, when viewed from the surrounding Green Belt landscape, the extension is considered to take its place within the dwelling rather than as an imposition on it.

- 3.5.8 Members' attention is drawn to the need for the extension to the curtilage of the existing dwelling. To facilitate the development being assessed, the north-eastern corner of the garage strays outside the curtilage of the dwelling, covering approx. 4 square metres of land within the ownership of the applicant. This strip of land is located along the existing boundary wall, immediately behind a derelict building. Policy 25 of the Local Plan Part 2 states that the extension of residential curtilage will only be permitted where it does not lead to any detriment to visual amenity or to the character of the surrounding landscape.
- 3.5.9 The NPPF requires the planning authority to give 'substantial weight' to harm caused to the Green Belt. Very special circumstances to development in the Green Belt will not exist unless the potential harm by reason of inappropriateness is clearly outweighed by other considerations (Paragraph 144). The construction of new buildings is considered to be inappropriate (Paragraph 145). However, as previously indicated, the extension of a building is permitted where the scale is not disproportionate to the original.
- 3.5.10 It is considered that the new proposal, whilst not necessarily appearing as subordinate to the original property, integrates well into it and does not appear as the dominant element of the altered dwelling. In addition, in integrating well with the dwelling, it is considered to integrate into the surrounding Green Belt without causing undue harm either to the landscape itself or to views into and out of the landscape. When viewed from the rear of the property, which was of concern in the previous application, there is not the same visual impact on the openness of the Green Belt. Views from the road into the Green Belt will be changed both by the loss of the lower flat roofed garages and by the changed alignment of the extensions to the host dwelling, but views past and beyond the dwelling will largely be retained.
- 3.5.11 In terms of the encroachment on land outside the curtilage, this is the only physical impact on the integrity of the Green Belt. However, it is considered that the intrusion into land outside the curtilage is minimal, to the extent that harm to the Green Belt or the purpose for which the land is included in the Green Belt is unlikely to be accrued. The side elevation of the extension will

forms the new boundary to the curtilage, and the adjacent land beyond will remain as pasture.





SITE PLAN (Proposed) - 230 CHAPELTOWN ROAD BOLTON BL7 9AN extended curtilage.

area highlighted in blue shows extended of

- 3.5.12 It is therefore considered that the proposed extension accords with both Policy 3 of the Local Plan part 2 and the provisions of the NPPF in terms of development within the Green Belt.
- 3.5.13 Ecology and Tree Considerations. The NPPF requires development to ensure new development minimises the impacts on biodiversity (Paragraph 170), with Local Plan 2 Policy 9 requiring proposals to secure the well-being of protected species and their habitats. The proposals are considered to accord with these requirements.
- 3.5.14 The Ecology Report is considered to have used reasonable effort to inspect the structures internally and externally for the presence of bats and the likelihood that bats would use the structure at other times for roosting. The building inspection found no evidence of recent or historic usage of bats. The principal structure (the house) and the garages, whilst supporting some potential features for roosting, were closely inspected and discounted at the current time from any potential for roosting activity. It was concluded that the structures on site offered negligible potential for roosting bats at other times. A number of conditions are suggested to ensure protection of species and their habitats should the application be approved. These can be found at 4.1 below.
- 3.5.15 The applicant has also submitted a detailed tree survey that grades the trees in accordance with the BS 5837.
- 3.5.16 The important trees on the adjacent land are the Oak trees within W1 which are approximately 15m from the boundary site and not in the ownership of the applicant. The Root Protection Area of these trees is 6m. There are therefore no real concerns about any impact. There is also a B cat tree, T1 Ash, that is also unlikely to be impacted upon. It may well be that a small ornamental Magnolia, T2, is to be removed but it is very low grade so no concerns there either.

4.0 RECOMMENDATION

- 4.1 It is recommended that the Planning and Highways Committee **approve** the application subject to conditions which relate to the following matters:
 - Development to commence within 3 years
 - Materials to match those used in the original dwelling
 - Recommendations of the Ecology Report to be implemented

5.0 PLANNING HISTORY

5.1 10/19/1086 - Demolition of existing garages, utility room and store and erection of two storey dormer extension together with change of use of land outside the curtilage of the existing garden (Green belt) to residential. Refused under delegated powers 9th January 2020.

6.0 CONSULTATIONS

- 6.1 Two neighbouring properties were consulted. No comments have been received.
- 6.2 North Turton Parish Council. The objections can be summarised as follows:
 - Over-development of the site;
 - Unacceptable encroachment into the Green Belt.
- 6.3 Arboricultural Officer. The applicant has submitted a detailed tree survey that grades the trees in accordance with the BS 5837. The important trees on the adjacent land are the Oak trees within W1 which are approximately 15m from the boundary site and not in the ownership of the applicant. The RPA of these trees is 6m therefore, I have no real concerns about any impact. There is also a B cat tree, T1 Ash, that is also unlikely to be impacted upon. It may well be that a small ornamental Magnolia, T2, is to be removed but it is very low grade so no concerns there. I have no objection to the proposals from a tree point of view.
- 7.0 CONTACT OFFICER: John Wilson, Planner Tel: 01254 585585
- 8.0 DATE PREPARED: 25th September 2020

9.0 SUMMARY OF REPRESENTATIONS

Objection from Glenys Syddall, Clerk to North Turton Parish Council, Rec 12.08.20

North Turton Parish Council objects to application 10/20/0720 for development at 230 Chapeltown Road, Turton on the grounds that it is an over-development of the site and is an unacceptable encroachment into the Green Belt.

Glenys Syddall Clerk to North Turton Parish Council

Agenda Item 5



REPORT OF: DIRECTOR OF GROWTH &

DEVELOPMENT

TO: PLANNING AND HIGHWAYS

COMMITTEE

ON: 15th OCTOBER 2020

ORIGINATING SECTION: PLANNING (DEVELOPMENT

MANAGEMENT SERVICE)

WARDS AFFECTED: ALL

COUNCILLORS: ALL

TITLE OF REPORT:

INFRASTRUCTURE FUNDING STATEMENT 2019/20 AND UPDATE TO S106 PROCESS

1. PURPOSE OF THE REPORT

1.1 To present Members with an update on the recently published Infrastructure Funding Statement for 2019/20, for Blackburn With Darwen Borough Council, and also how the Council will begin to add a monitoring fee to any s106 agreement associated with planning applications received from 1st October 2020.

2. BACKGROUND

- 2.1 The Community Infrastructure Levy (Amendment)(England)(No.2) Regulations 2019 now requires authorities (from December 2020) to prepare an Infrastructure Funding Statement (IFS) to set out their annual income and expenditure relating to section 106 agreements.
- 2.2 <u>Blackburn with Darwen's 2019-20 IFS</u> provides a summary of financial contributions the Council has secured through section 106 agreements from new developments for off-site infrastructure works and affordable housing, in addition to highway works completed as part of new developments through section 278 agreements within the 2019-20 monitoring period. It also includes information on the infrastructure works funded through s106 contributions.
- 2.3 In summary, the report provides:
 - an overview of s106 and s278 agreements;
 - the Council's internal process relating to s106 contributions;
 - information on the introduction of monitoring fees;
 - the s106 contributions paid to the Council in the 2019/20 monitoring period;
 - s106 contributions and s278 works estimated for future years; and

- projects delivered in the Borough via s106 and s278 agreements in the 2019/20 monitoring period.
- 2.4 The information included in the report is updated annually and published on the Council's website. This will ensure the most up to date information on the amount of developer contributions received from new developments, in addition to information on where these monies have been spent is readily available to members of the public and other interested parties.
- 2.5 The report does not include information on the infrastructure delivered on site as part of new developments in the borough.

3. RATIONALE

The Process for Off-Site Financial Contributions:

- 3.1 Where it is determined that on-site infrastructure and/or affordable housing required by policy is not appropriate, the Council will request from developers a financial contribution to meet these needs outside of the development site through a S106 obligation.
- 3.2 The financial contribution requirement for off-site green infrastructure provision is set via the Green Infrastructure & Ecological Networks Supplementary Planning Document (SPD), and the Affordable Housing Developers Guide sets out the tariff for off-site affordable housing contributions. Both documents can be accessed on the Council's planning website at www.blackburn.govuk/Pages/Planning-policies.aspx
- 3.3. Contributions towards required highway works are agreed on a case by case basis, evidenced through the assessment of the impact of the development on the local highway network and what mitigation works are required. Other contributions can relate to Education i.e. contributions towards expanding any existing or school, or towards the provision of a new school, and these are agreed on a case by case basis.
- 3.4. The process is summarised in a flowchart that can be found on page 6 of the annual report document.
- 3.5. The report summarises the total contributions received in 2019/20 and the total spent in the same period. This shows at March 2019, a net S106 total of £932,769 was available to fund public open space, highways, education and affordable housing projects in the borough. During 2019/20, £1,181,701 was received in contributions with £1,046,391 spent within the same period. This consists of £575,888 funding the delivery of new highway infrastructure, £75,000 on the delivery of new affordable housing in the borough, and £385,503 spent on improving existing or creating new open spaces.

3.6 In summary therefore, as at 31st March 2020, there is a net total of £1,068,079 in S106 contributions available to spend on affordable housing, public open space and highway projects in the borough.

S106 Monies Received as at 31st March 2019 (net)

Infrastructure type	S106 monies available (£)
Public open space	263,723
Affordable housing	349,158
Highways	269,888
Education	50,000
TOTAL	932,769

S106 Contributions Received in 2019/20

Infrastructure type	S106 contributions received (£)
Public open space	461,151
Affordable housing	158,550
Highways	562,000
TOTAL	1,181,701

S106 Contributions Spent in 2019/20

Infrastructure type	S106 contributions spent (£)
Public open space	385,503
Highways	575,888
Affordable Housing	75,000
Education	10,000
TOTAL	1,046,391

Total S106 (net) Amount Available to Spend as at March 2020 (£)

Total	2,114,470
Minus monies spent 2019/20	-1,046,391
TOTAL	1,068,079

3.7 The report goes further by reporting on where the contribution monies have been received in the 2019/20 monitoring period (page 9). The following table summarises this:

	Development site	S106 contributions received (£)
	Planning app Ref. 10/09/0629 Tewkesbury Street, Blackburn	33,600
	Planning app Ref. 10/12/0714 Victoria Mill, Station Road, Chapeltown	2,300
	Planning app Ref. 10/16/0077 Old Blackburnians, Lammack Road, Blackburn	263,219
	Planning app Ref: 10/17/1425 Former Waterfield Mill, Balmoral Road, Darwen Public open space Planning app Ref: 10/05/1118 Palm Street, Blackburn	37,962
		10,800
	Planning app Ref: 10/19/0520 School Lane, Guide	63,270
	Planning app Ref: 10/18/1048 Tower View, Darwen	20,000
	Planning app Ref: 10/19/0677 Land at Tower Road, Blackburn	30,000
	TOTAL	461,151

	Development site	S106 contributions received(£)
	Planning app. Ref: 10/14/0547 Parsonage Road, Blackburn	80,800
Affordable Housing	Planning app. Ref: 10/16/0838 Beechwood Garden Centre, Blackburn	38,250
Plan	Planning app. Ref: 10/18/0396 Billinge End Road, Blackburn	12,500
Planning app. Ref: 10/19/0677 Land at Tower Road, Blackburn		27,000
	TOTAL	158,550

	Development site	S106 contributions received (£)
	Planning app. Ref: 10/17/0211 Gib Lane Phase C, Blackburn	20,000
Highways	Planning app. Ref: 10/19/0412 Cranberry Lane, Darwen	156,000
	Planning app. Ref: 10/19/0520 School Lane, Guide	36,000
	Planning app. Ref: 10/18/0895 Land at Roe Lee, Blackburn	350,000
	TOTAL	562,000

3.8 Page 11 of the report also summarises the projects which have been delivered off-site by s106 contributions for the period 2019/20 in the borough. These projects are demonstrated in the following table:

	Development site	S106 contributions spent (£)	Project delivered
	Planning app. Ref: 10/16/1132 Land at Gib Lane, Blackburn	36,000	New junction arrangements at Livesey Branch Road/Moorland Drive to access housing site, a raised junction table with resin bonded surface dressing, footway widening and carriageway narrowing at Moorland Drive, new pedestrian refuge adjacent to Old Gates Drive and repositioning of a BT manhole chamber and cabinets.
Highways	Planning app. Ref: 10/19/0412 Land at Cranberry Lane, Darwen	156,000	Contribution towards Ellison Fold Way major transport scheme including compact roundabout at Sough Road / Grimshaw Street, mini roundabout at Pole Lane / Priory Drive, traffic calming (cushions) on Priory Drive and mini roundabout at Priory Drive / Marsh House Lane.
	Planning app. Ref:10/18/0895 Land at Roe Lee, Blackburn	350,000	Contribution to the North Blackburn major transport scheme including junction and signals upgrade of the Brownhill Roundabout and Pleckgate Road junctions.

	Development site	S106 contributions spent(£)	Project delivered
	Planning app. Ref: 10/08/0339 Greenfield Farm, Cranberry Lane, Darwen	500	Total of £17,884 received in contributions which were spent on Darwen Market Square improvements
	Planning app. Ref: 10/04/1396 Belgrave Mill, Bolton Rd, Darwen	984	
Public open	Planning app. Ref: 10/06/0985 Former Darwen Health Centre, Union Street, Darwen	800	
space	Planning app. Ref: 10/07/1294 Land at end of Granville Road, Darwen	1,200	
	Planning app. Ref: 10/12/0923 Land at Salisbury Road, Darwen	500	
	Planning app. Ref: 10/12/1079 Land fronting Spring Vale Village, Darwen	1,500	
	Planning app. Ref: 10/15/0494 Punch Bowl, Roman Road, Darwen	300	
	Planning app. Ref: 10/15/1418 60 Milking Lane, Lower Darwen	500	
	Planning app. Ref: 10/13/0416 Adj. 37 Gordon Street	500	
	Planning app. Ref: 10/11/0199 Heightside Farm, Bury Fold Lane, Darwen	1,200	
	Planning app. Ref: 10/11/0704 Former Darwen Moorland Art School	6,500	
	Planning app. Ref: 10/10/0077 Land at Halley Road, Darwen	2,400	
	Planning app. Ref: 10/13/0094 Former Cemetery Public House	1,000	
	Planning app. Ref: 10/16/0077 Old Blackburnians Memorial Ground, Lammack Road, Blackburn	123,203	Contribution towards Pavilion refurbishment at Woolridge – including 2 new FA approved changing rooms, DDA facilities and 10 upgraded children changing rooms and washroom facilities.

Planning app. Ref: 10/10/0077 Land at Halley Road, Darwen	2,400	
Planning app. Ref: 10/13/0094 Former Cemetery Public House	1,000	
Planning app. Ref: 10/16/0077 Old Blackburnians Memorial Ground, Lammack Road, Blackburn	123,203	Contribution towards Pavilion refurbishment at Woolridge – including 2 new FA approved changing rooms, DDA facilities and 10 upgraded children changing rooms and washroom facilities.

Planning app. Ref: 10/16/0077 Old Blackburnians Memorial Ground, Lammack Road, Blackburn	30,277	Lammack Juniors pitch replacement & re- orientation.
Planning app. Ref: 10/16/0077 Old Blackburnians Memorial Ground, Lammack Road, Blackburn	109,739	Contribution towards Old College playing field replacement – 2 new pitches created with drainage.
Planning app. Ref: 10/09/0829 Tewkesbury Street, Blackburn plus various historic reserves	41,900	Green Lane Multi-Use Games Area (MUGA).
Planning app. Ref: 10/11/0704 Former Darwen Moorland Art School	7,500	Bold Venture Park green space works.
Planning app. Ref: 10/18/1048 Tower View, Darwen	15,000	Improvements to sports facilities at Square Meadow, Darwen.
Planning app. Ref: 10/14/0828 Meins Road, Blackburn	40,000	Witton Park 3G sports pitches

	Development site	S106 contributions spent (£)	Project delivered
Affordable	Planning app. Ref: 10/14/0547 Land at Parsonage Road, Blackburn	74,000	Purchase of the Blackamoor Pub, Roman Road, Blackburn.
housing	Planning app. Ref: 10/12/1103 Beechwood, Rivington Road, Belmont	1,000	

	Development site	S106 contributions spent (£)	Project delivered
Education	Planning app. Ref: 10/17/0578 Land of Yew Tree Drive/Whinney Lane, Blackburn	10,000	Contribution towards the extension of Lammack Primary School, Lammack Road, Blackburn to provide additional primary school places in north Blackburn.

- 3.9 Page 15 of the report goes further by summarising what s106 contributions have been secured which will be paid in future years. This is summarised in Appendix A of this report.
- 3.10 Section 3 of the report sets out the S278 projects in the year 2017/18. S278 agreements under the 1980 Highways Act are legally binding agreements between the local highway authority (Blackburn With Darwen Borough Council) and the developer to ensure delivery of necessary highway works as a result of new development.

Introduction of monitoring fees to s106 agreements

- 3.11 The Community Infrastructure Levy (Amendment)(England)(No.2) Regulations 2019 also allows authorities to charge a monitoring fee through section 106 planning obligations to cover the cost of the monitoring and reporting on delivery of that section 106 obligation.
- 3.12 The approval of a fee schedule aims to enable the Council to recover its costs in monitoring future s106 agreements. In all cases, monitoring fees must be proportionate and reasonable and reflect the actual cost of monitoring. The following monitoring fees are presented in the 2019-20 IFS and will be added to any s106 agreements associated with planning applications received **from 1st October 2020.** The fees set out below are considered to be proportionate and will contribute to the Council's reasonable costs of monitoring each obligation. The fees will be reviewed on an annual basis to reflect up to date costs and reported on through the Infrastructure Funding Statements.

Type of obligation Commuted sum	Monitoring fee 1% of each payment instalment	Comment To be included within each invoice sent to developers requesting payment at appropriate time.
Land Contribution	£1,000 per development site	Payment to be made at the time land transfer takes place.
On-site Affordable Housing	£1,000 per development site	Payment to be made on first occupation of affordable units.

4. POLICY IMPLICATIONS

- 4.1 Planning obligations assist in mitigating the impact of unacceptable development to make it acceptable in planning terms. Planning obligations may only constitute a reason for granting planning permission if they meet the tests that they are necessary to make the development acceptable in planning terms. They must be:
 - necessary to make the development acceptable in planning terms;

- directly related to the development; and
- fairly and reasonably related in scale and kind to the development.
- 4.2 The reforms to the planning obligations process introduced by the Community Infrastructure Levy Regulations 2019 contain a number of key elements, which includes the ability for authorities to charge a monitoring fee and the requirement to prepare an annual Infrastructure Funding Statement (from December 2020).
- 4.3 The need to produce an Infrastructure Funding Statement has increased the substantial workload and cost the Council has to cover when producing, monitoring

and reporting on s106 agreements, work which is currently unfunded by the develop. Introducing monitoring fees will help to offset these costs and are set at an amount which is proportionate and reasonable.

5. FINANCIAL IMPLICATIONS

- 5.1 The funding that can be collected to assist in the monitoring of s106 agreements will help to offset the resources required to carry out the Council's rigorous process of financial monitoring and management of s106 monies received and spent, in addition to the resources required to report on these contributions through the production of an Infrastructure Funding Statement. The monitoring fee will be added to the s106 requirements.
- 5.2 If the monitoring fee is not collected, this additional work would have to be completed within existing budgets. The fees will be reviewed each year to ensure they remain proportionate and reasonable.

6. LEGAL IMPLICATIONS

- 6.1 The Community Infrastructure Levy (Amendment)(England)(No.2) Regulations 2019 now allow Local Authorities to charge a monitoring fee through section 106 planning obligations, to cover the cost of the monitoring and reporting on delivery of that section 106 obligation as described above. Monitoring fees can be used to monitor and report on any type of planning obligation, for the lifetime of that obligation. However, monitoring fees should not be sought retrospectively for historic agreements.
- 6.2 The Council will begin to add a monitoring fee to any s106 agreement associated with planning applications received from 1st October 2020. These will cover the cost of the monitoring and reporting on delivery of the agreements, including the production of the IFS (which is a new requirement), on an annual basis. Fees will be reviewed on an annual basis to ensure they remain proportionate and reasonable.
- 6.3 The IFS will be used to report on the amount of fees collected each year.

7. RESOURCE IMPLICATIONS

7.1 If the monitoring fee is not collected, this additional work would have to be completed within existing budgets.

8. EQUALITY IMPLICATIONS

8.1 The report is for information purposes only and does not have any direct impact on members of the public, employees, elected members and / or stakeholders. Therefore, no Equality Impact Assessment is required.

9. CONSULTATIONS

9.1. Executive Board – 10th September 2020.

10. RECOMMENDATION

10.1 That the Committee note the content of the report

Contact Officer: Gavin Prescott, Planning Manager (Development

Management)

Date: 8th September 2020

Background Papers: Blackburn With Darwen Infrastructure Funding Statement

2019/20 - September 2020.

APPENDIX A - S106 CONTRIBUTIONS SECURED FOR FUTURE YEARS:

	Development site	S106 amount (£)	Proposed s 106 works to be delivered
	Planning app. Ref:10/18/0895 Land at Roe Lee, Blackburn	500,000	Provision of additional primary school places in North Blackburn.
	Planning app. Ref:10/17/0578 Land at Yew Tree Drive , Blackburn	760,000	
Education	Planning app. Ref:10/20/0265 Land at Ramsgreave Drive, Blackburn	200,000	
	Planning app. Ref: 10/18/1116 Brokenstone Road, Blackburn	2,480,000	Provision of additional primary school places in West Blackburn.
	Planning app. Ref: 10/19/0662 Land off Moorland Drive, Blackburn	850,000	
	Planning app. Ref: 10/19/0371 Land at Spring Meadows, Dawen	1,500,000	Provision of additional primary school places in East Darwen.

	Development site	S106 amount (£)	Proposed s 106 works to be delivered
	Planning app. Ref: 10/17/0578 LandatYewTreeDrive, Blackburn	690,000	Toucan crossings at Lammack Road, Pleckgate Road, Whinney Lane; improvements to Brownhill junction, Yew Tree Drive and sustainable transport measures.
	Planning app. Ref: 10/17/0211 Land at Gib Lane, Blackburn Phase C	260,000	£260,000 for improved access to A666 via Bog Height Road.
	Planning app. Ref: 10/16/1132 Land at Gib Lane, Blackburn Phase A	221,000	Due on completion of 115 th dwelling for enhancements to Finnington Lane/Moulden Brow junction.
Highways	Planning app. Ref: 10/16/0789 Land at Pole Lane North, Darwen	170,000	£100,000 top course southern footway, £30,000 for traffic management and road safety initiatives around Darwen East Distributor Corridor (DEDC) and £40,000 due on completion of 83 rd unit.
	Planning app Ref 10/19/0520 Land at School Lane, Blackburn	4,500	For travel planning on completion of 20 th unit.
	Planning app. Ref: 10/19/0317 Land at Spring Meadows, Darwen	200,000	Contribution towards DEDC highway improvements.
	Planning app. Ref: 10/18/0895 Land at Roe Lee, Blackburn	150,000	Contribution towards gateway features in North Blackburn, markings, signage as required, promotion of the required TRO to reduce speeds; removal of the
	Planning app. Ref: 10/20/0285 Land at Ramsgreave Drive, Blackburn	130,000	crash barriers and reinstatement of central reservation; and Contingency/Associated works such as TRO's, signage and lining associated with all of the above.
	Planning app. Ref: 10/18/1116 Brokenstone Road, Blackburn	26,000	Contribution towards road safety improvements on Stockclough Lane.

Development site	S106	Proposed s106 works to be delivered
	amount (£)	
Planning app. Ref: 10/19/0807 Former Victoria Buildings, Waterside, Darwen	14,060	Towards improvements to open space in the locality of the site.
Planning app. Ref. 10/18/1116 Brokenstone Road, Blackburn	350,000	Green Infrastructure/Public Open Space and associated community facilities within the West Blackburn area.
Planning app. Ref. 10/14/0440 Springside Works, Belmont	10,000	To control invasive plant species around the site.
Planning app. Ref: 10/1 Land at Fountain Street, Darwen	14,060	Towards casual children's play space in the locality.
Planning app. Ref: 10/15/1081 Land at Ellerslie House, Bury Fold Lane, Darwen	25,308	Towards open space in the locality.
Planning app. Ref: 10/19/0371 New Telegraph House, Blackbum	18,278	Towards green infrastructure within the town centre.
Planning app. Ref. 10/18/0740 Land at former Sappi Paper Mill, Blackburn	710,000	£350,000 to Feniscliffe Club and £360,000 towards Witton Sports Turf.

	Development site	S108 amount (£)	Proposed s106 works to be delivered
	Planning app. Ref: 10/18/0740 Former Sappi Paper Mill, Blackburn	94,500	All contributions received will be used to provide off-site affordable housing within the Borough.
	Planning app. Ref: 10/20/0265 Land at Ramsgreave Drive, Blackburn	120,000	Borough.
	Planning app. Ref: 10/17/1313 Planning Land at Cranberry Lane, Darwen	138,000	
	Planning app. Ref: 10/17/0578 Land at Yew Tree Drive, Blackburn	100,000	
	Planning app. Ref: 10/17/0211 Land at Gib Lane, Phase C	210,000	
	Planning app. Ref: 10/18/0075 Land at School Lane, Guide	96,230	
	Planning app. Ref: 10/15/1343 Cathedral Court, Blackburn	30,000	
Affordable	Planning app. Ref: 10/18/0895 Land at Roe Lee, Blackburn	181,000	
housing	Planning app. Ref: 10/18/1116 Brokenstone Road, Blackburn	750,000	
	Planning app. Ref: 10/19/0877 Land at Tower Road, Blackburn	228,000	
	Planning app. Ref: 10/19/0807 Former Victoria Buildings, Waterside Darwen	25,000	
	Planning app. Ref: 10/19/0317 Land at Spring Meadows	100,000	
	Planning app. Ref: 10/16/0077 Old Blackburnians, Lammack Road, Blackburn	701,250	
	Planning app. Ref: 10/14/0440 Springside Works, Belmont	50,000	
	Planning app. Ref: 10/19/0113 Land at Fountain Street, Darwen	25,000	

Agenda Item 6

GROWTH & DEVELOPMENT DEPARTMENT

ORIGINATING SECTION: PLANNING (DEVELOPMENT

MANAGEMENT)

REPORT TO PLANNING & HIGHWAYS COMMITTEE - 15th OCTOBER 2020

TITLE: APPEALS MONITORING REPORT

WARDS: ALL

1.0 PURPOSE OF THE REPORT

- 1.1 To present Members with an update of recently decided appeals since the last monitoring report in October 2019. You can see from the attached table, 9 no appeals in total were determined during the period 18th October 2019 to 2nd October 2020. 7 no appeals were dismissed, and two appeals were allowed.
- 1.2 With regards to the appeals allowed by the Inspectorate, and the reasons provided, these have been duly considered in detail by officers, and have been incorporated in the decision making culture as part of the Planning Service's Performance Improvement Plan, in order to reduce the number of appeals, and subsequently the number of appeals allowed.

2.0 **RECOMMENDATION**

2.1 That the report be noted.

3.0 BACKGROUND PAPERS

3.1 See the file numbers referred to.

4.0 **CONTACT OFFICER:** Gavin Prescott, Planning Manager

(Development Management)

5.0 DATE PREPARED 8th September 2020

APPEALS MONITORING REPORT RELATING TO APPEALS DETERMINED BETWEEN THE PERIOD 18^t OCTOBER 2019 AND 2nd OCTOBER 2020 PLANNING & HIGHWAYS COMMITTEE – 15th OCTOBER 2020

APPEAL START	APPEAL	APPEAL SITE ADDRESS &	APPEAL TYPE	APPEAL DECISION	APPEAL DECISION	REASONS FOR
DATE	REFERENCE	DEVELOPMENT DESCRIPTION		DAT	E	DECISION

17/01/2020	APP/M/2372/W/19/3243411	Land adjoining	Written	Allowed	05/06/2020	In summary, the
		Moorthorpe Cottage	Representations			Planning Inspector
	10/18/1153	Park Road				considered that the
		Darwen				proposed
		BB3 2LQ				development was
						acceptable for the
		Outline planning				following reasons:
		application with all				
		matters reserved				a) The site is
		except for access				allocated in the
		and layout for				development plan for
		erection of 9				residential
		dwellings with				development and the
		detached garages				Government's
						objective is to
						significantly boost the
						supply of homes.
						Here, whilst the
						proposal is in outline,
						the detail supplied
						indicates that the
						house typology
						presented is
						consistent with the
						aims and objectives of
						Policy CS7 and LP
						Policy 18 to widen the
						choice of house types
						in the Borough.

APPEALS MONITORING REPORT RELATING TO APPEALS DETERMINED BETWEEN THE PERIOD 18^t OCTOBER 2019 AND 2nd OCTOBER 2020 PLANNING & HIGHWAYS COMMITTEE – 15th OCTOBER 2020

APPEAL START DATE	APPEAL REFERENCE	APPEAL SITE ADDRESS & DEVELOPMENT DESCRIPTION	APPEAL TYPE	APPEAL DECISION D	APPEAL DECISION PATE	REASONS FOR DECISION
					national policy and defines scale". recently planning for 22 h "Ellershi is a simulation the appuration of the appuratio	Neither the pment plan nor al planning and guidance is "very small-The Council y granted ag permission nouses on the ie" site, which allar sized site to be al site, and is scale" as in the local as such, the the pment of 9 ags on the site would be ent with the reference to hall-scale. The proposed trees would not ally affect the pution of the woodland to the ter and ance of the and would be ghed by the
					benefit	s in terms of

APPEAL START DATE	APPEAL REFERENCE	APPEAL SITE ADDRESS & DEVELOPMENT DESCRIPTION	APPEAL TYPE	APPEAL DECISION	I APPEAL I DATE	DECISION REASONS FOR DECISION
07/08/2019	APP/M/2372/ W/19/3233214 10/19/0256	Newlands 61 Manor Road Darwen BB3 2SN Demolition of existing garage and outbuildings and erection of a new dwelling.	Written representations	Dismissed	04/11/2019	replacement planting and the management of what is otherwise a deteriorating environmental asset. The Planning Inspectorate considered the award of costs, and on the 30th June 2020, GRANTED FULL COSTS to the appellants. The Inspector concluded that the proposal would be harmful to the living conditions of the occupiers of the existing bungalow on site, No 61 Manor Road, by way of disturbance and loss of privacy. Consequently, the proposal would be contrary to Policy 8 of the LP. This policy requires proposals to secure a satisfactory level of amenity for surrounding uses and

APPEAL START	APPEAL	APPEAL SITE ADDRESS &	APPEAL TYPE	APPEAL DECISION	APPEAL DECISION	REASONS FOR
DATE	REFERENCE	DEVELOPMENT DESCRIPTION		DAT		DECISION

						for occupiers of the development itself.
19/11/2019	APP/M2372/ W/19/3239476 10/19/0635	63 Whalley Banks Blackburn BB2 1TN Proposed metal storage container for Tyre business.	Written Representations	Dismissed	25/02/2020	The appeal site is prominent within the Whalley Banks street scene, and although the container would be set back toward the rear of the site, it would appear incongruous, even within a predominantly commercial area. The Inspector concluded the temporary nature and appearance of the container would be at odds with the commercial nature of the locality and the functional buildings that form an intrinsic part of the local character, and as such, even in a commercial area, the container would cause harm to the character and appearance of the area, and be visually

APPEAL START DATE	APPEAL REFERENCE DE	APPEAL SITE ADDRESS & VELOPMENT DESCRIPTION	APPEAL TYPE	APPEAL DECIS	ION APPEAL I DATE	DECISION REASONS FOR DECISION
						intrusive within the
						street scene.
						As a result, the
						Inspector found that
						the proposal would be
						in clear conflict with
						Policy 11 of the
						Blackburn with Darwin
						Local Plan Part 2
						(2015)(the LP), which
						amongst other
						matters, expect
						development to
						present a good
						standard of design,
						demonstrate an
						understanding of the
						wider context and
						make a positive
						contribution to the
						local area, contribute
						to the character of
						streets and
						complement local
						character.
31/12/2019	APP/M2372/ D/19/3238	20 Gorse Road	Written	Dismissed	25/02/2020	The Inspector
		Blackburn	Representations			concluded that the
	10/19/0660	BB2 6LZ				proposed extension
						would harm the living
		Proposed gable side				conditions of adjacent
		double storey				occupiers of 1 Mavis

APPEAL START APPE DATE REFERE		APPEAL TYPE	APPEAL DECISION APPEAL DATE	DECISION REASONS FOR DECISION
	extension and rear single storey extension			Road, with regard to outlook and light. In that respect the proposed development would not accord with Policy 8 of the Blackburn and Darwin Borough Local Plan Part 2, which seeks to ensure that new development protects the living conditions of neighbouring occupiers. The proposal would also not be in accordance with the guidance set out in Policy RES E3 of the Council's Residential Design Guide Supplementary Planning Document, and paragraph 127 of the National Planning Policy Framework insofar as they relate to protecting living conditions of neighbouring occupiers.

APPEAL START

APPEAL

APPEALS MONITORING REPORT RELATING TO APPEALS DETERMINED BETWEEN THE PERIOD 18^t OCTOBER 2019 AND 2nd OCTOBER 2020 PLANNING & HIGHWAYS COMMITTEE – 15th OCTOBER 2020

APPEAL SITE ADDRESS &

APPEAL TYPE

APPEAL DECISION

APPEAL DECISION REASONS FOR

creation of a vehicular access of the highwork in a of the apper such, it would comply with of the Black Darwen Bor Council Local 2 Site Allocal Developme Management	CISION
adopted De 2015. With removal of boundary we the frontage Inspector of the propose fail to respect character at appearance surrounding such, it would comply with of the Black	the could lead table the safe of the vicinity al site. As ald fail to a Policy 10 aburn with rough al Plan Part ations and ant policies, acember the part of the vall along e, the considered al would ect the and a fail to a Policy 11

APPEAL START DATE		PEAL SITE ADDRESS & PMENT DESCRIPTION	APPEAL TYPE	APPEAL DECISI	ON APPEAL I DATE	DECISION REASONS FOR DECISION
16/12/2019	APP/M2372/ W/19/3240829 10/19/0823	Land South of Higher Pasture Farm Broadhead Road Turton Proposed agricultural building, stabling and menage	Written Representations	Dismissed	02/03/2020	Darwen Borough Council Local Plan Part 2 Site Allocations and Development Management Policies, adopted December 2015. The Inspector concluded the development as proposed would have an unacceptable impact on the character and appearance of the area and potentially harm water supplies contrary to the objectives of the
10/02/2020	APP/M2372/ D/20/3245019 10/19/0960	2 Hareden Brook Close Blackburn BB2 3HX Two Storey Side Extension	Written Representations	Allowed	26/03/2020	development plan. The Inspector concluded having had regard to the guidance set out in the RDG and for the reasons of the extension would not dominate the host property or street scene, the development would not cause harm to the

APPEAL START DATE	APPEAL REFERENCE	APPEAL SITE ADDRESS & DEVELOPMENT DESCRIPTION	APPEAL TYPE	APPEAL DECISI	ON APPEAL I DATE	DECISION REASONS FOR DECISION
26/05/2020	APP/M2372/W/20/3. 10/19/1075	249042 Land adjacent to No.9 Petrel Close Blackburn Erection of Detached Dwelling	Written Representations	Dismissed	03/09/2020	character and appearance of the host dwelling or surrounding area. Accordingly, there would be no conflict with Policy 11 of the LPP2 or RES E9 and RES E18 of the RDG. The Inspector concluded the proposal fails to demonstrate that the open space is surplus to requirements. It would harm the character and appearance of the area. It would conflict with Policy 11 of the LPP2 and Policy CS16 of Blackburn with Darwen Borough Council Core Strategy Adopted January 2011. These require, amongst other things, that development respects and reinforces townscape

APPEAL START DATE		PEAL SITE ADDRESS & PMENT DESCRIPTION	APPEAL TYPE	APPEAL DECISION	APPEAL I DATE	DECISION REASONS FOR DECISION
28/05/2020	APP/M2372/ W/20/3248072 10/19/1083	Former Hob Lane Village School Playing Field, Land North Side of School Lane and Section of School Lane Down To Blackburn Road Edgworth A. The erection of 5 detached 'Passivhaus' dwellings with associated garages, bin stores and private gardens, hard and soft landscaping, all accessed off School Lane (both vehicular and pedestrian	Written representations	Dismissed	14/08/2020	realm, creating attractive places with defensible amenity space and welcoming routes for the movement of people. The Inspector concluded that the development would result in a considerable loss of openness and would impact on the Green Belt purpose of safeguarding the countryside from encroachment.
		access points) B. Retrospective permission for the change of use of part				

APPEAL START DATE	APPEAL REFERENCE	APPEAL SITE ADDRESS & DEVELOPMENT DESCRIPTION	APPEAL TYPE	APPEAL DECISION D	APPEAL DECISION ATE	REASONS FOR DECISION
		of the former playing				
		field to form private				
		garden curtilage for				
		No. 1 Edgworth				
		Views				
		C. The creation of a				
		community eco-park				
		comprising a				
		pond/lake with				
		dipping / viewing				
		platform, an				
		inaccessible (fenced				
		off) ecology zone				
		and an accessible				
		park with associated				
		wheelchair-				
		accessible path,				
		planted with native				
		and orchard trees,				
		shrub and other				
		planting				

TOTAL NUMBER OF DECISIONS: 9

TOTAL NUMBER ALLOWED: 2 (22%)

TOTAL NUMBER DISMISSED: 7 (78%)

Agenda Item 7

ORIGINATING DIVISION: HIGHWAYS AND TRANSPORTATION

REPORT TO: BLACKBURN WITH DARWEN BOROUGH COUNCIL

PLANNING AND HIGHWAYS COMMITTEE

DATE: 15th OCTOBER 2020

TITLE: Diversion of Public Footpath's 25,26,27,28 and

31(part) Blackburn

WARD: Roe Lee COUNCILLORS: Sylvia Liddle

Phil Riley Ron Whittle

1.0 PURPOSE OF THE REPORT

The purpose of the report is to seek committee approval for a public path order under the Town & Country Planning Act 1990, Section 257 to divert public footpaths 25,26,27,28 and 31(part) Blackburn

2.0 BACKGROUND AND DETAILS

On the 14th February 2019 the Council granted planning permission for a residential development off Ramsgreave Drive in Blackburn (Application 10/18/0895)

Public Footpaths 25,26,27,28 and 31 Blackburn cross the development site and in order that the development can be implemented as per the planning approval, it is necessary that sections of these public footpaths are diverted. The Council has received an application from the developer, Persimmon Homes, to divert the footpaths affected.

Under the Council's Constitution this Committee has 'The power to create, divert, stop up, extinguish and reclassify footpaths and bridleways and the power to make orders and enter agreements in relation to the same'

The Committee therefore has to consider whether, or not, to promote the Order requested by the applicants. In order to assist members in making this decision, officers have prepared a detailed report with the necessary information to enable an informed decision to be made.

3.0 LEGAL

The relevant legislation is the Town & Country Planning Act 1990, Section 257.

4.0 IMPLICATIONS

Customer Improved Public Rights of Way

Financial the Applicants will meet the cost of the diversions.

Anti-poverty None Crime and Disorder None

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5.0 RECOMMENDATION

It is the officer's recommendation that the legislative criteria have been met and that the committee should resolve to Promote the Order and authorise the Director of HR Legal & Governance to progress the necessary legal orders.

6.0 BACKGROUND PAPERS: Attached detailed report

7.0 CONTACT OFFICERS: George Bell

8.0 DATE PREPARED: 24th September 2020

Town and Country Planning Act 1990, Section 257

Wildlife and Countryside Act 1981 Section 53A

Application for Public Path Diversion Order

Diversion of Public Footpaths 25,26,27,28 and 31(part) Blackburn

1. Introduction

1.1 This report seeks to assist the members of Planning and Highways Committee in their determination of an application to divert public footpaths 25, 26, 27 and 31(part) Blackburn under Section 257 of the Town and Country Planning Act 1990.

2. Background

- 2.1 The Council is both the Planning Authority and the Highway & Surveying Authority for the area within which the public footpaths proposed for diversion lie.
- 2.2 The Council received an application for planning permission for the development of 155 dwellings and associated landscaping and highways works on land at Roe Lee off Ramsgreave Drive Blackburn. This is registered under application reference 10/18/0895 and planning permission was granted on the 14th February 2019.
- 2.3 The proposed development has an impact on the alignment of Public Footpaths 25, 26, 27 and 31(part) Blackburn that may be considered to necessitate their diversion.
- 2.4 The Council subsequently received an application from the developer dated 19th February 2019 requesting the diversion of Public Footpaths 25, 26, 27 and 31(part) Blackburn.
- 2.5 This report seeks to address those matters being put before members of the Committee, namely the application for the public path order to divert the paths as shown on the plans attached to this report one plan shows the proposed housing layout to assist members with their deliberations as to how the development will affect the public rights of way network.

It seeks to advise members of the Committee of the outcome of non-statutory consultations, and an assessment against the relevant legislative criteria, thus enabling them to consider whether, or not to promote the Order requested.

3. Legislative Criteria

- 3.1 Paragraph 7.2 of 'Rights of Way Circular 01/09 Guidance for Local Authorities', published by Defra (Department for Environment, Food and Rural Affairs), re-confirms that:
 - 'The effect of development on a public right of way is a material consideration in the determination of applications for planning permission and local planning authorities should ensure that the potential consequences are taken into account whenever such applications are considered.'
- 3.2 The Town and Country Planning (General Development Procedure) Order 1995 (S.I. 1995/419) provides that development affecting a public right of way must be advertised in a local newspaper and by posting application

- process. This is entirely separate from any notices and advertisements required when making and confirming a subsequent extinguishment or diversion order.
- 3.3 Section 257 of the Town and Country Planning Act 1990 Act gives local planning authorities the power to make orders to extinguish or divert footpaths, bridleways or restricted byways where it is necessary to enable development for which planning permission has been granted.
- 3.4 The Wildlife and Countryside Act 1981 Section 53A gives the local Surveying Authority the powers to add additional rights to the definitive map and statement.

4. Assessment against the Legislative Criteria

- 4.1 With regard to the residential development, the decision whether or not to promote a Public Path Diversion Order is discretionary and does not follow on automatically from the granting of planning permission. There may however be a reasonable expectation, on the part of applicants, that if the Planning Authority has granted planning permission, having considered the impact that the development will have on rights of way across the site as part of that process, they will subsequently be supportive of an application to divert the paths concerned.
- 4.2 The effect of the proposed development on the public right of way is a material consideration in the determination of the planning application, and therefore should have been considered as part of this process. It is however possible that such matters, so far as they relate to the proposed diversion, may be re-opened, should any Order be subject to duly lodged objections as part of the statutory process.
- 4.3 Under Section 257 of the 1990 Act, for the purposes of determining the applications for the Public Path Diversion Orders the Authority must be satisfied that:
 - a) there is a valid planning consent in place; and
 - b) in order to enable the approved development to take place, it is necessary to divert the public right of way.
- 4.4 With regard to the first of the criteria, as indicated above, planning consent has been granted by the Planning Authority.
- 4.5 An assessment of the plans for the proposed development reveals that the current Definitive Map alignment of the paths will be, in part built over.
- 4.6 As a result, it may be reasonable to conclude that the diversion of the paths are necessary in order to enable the approved development to take place.

5. Consultations

5.1 Non-statutory consultations have been undertaken with all user/interest groups and no objections have been received in respect of the proposals.

6. Decision Required

6.1 If, having considered all of the relevant information, Committee is minded to approve the application to divert the public footpaths shown on the plan, they should resolve that:

- a) A Public Path Diversion Order be made pursuant to Section 257 of the Town and Country Planning Act 1990 to divert Public Footpath Numbers 25, 26, 27 and 31(part) Blackburn as shown on the attached plan.
- if no objections are duly lodged, the Authority confirm the Orders;

or

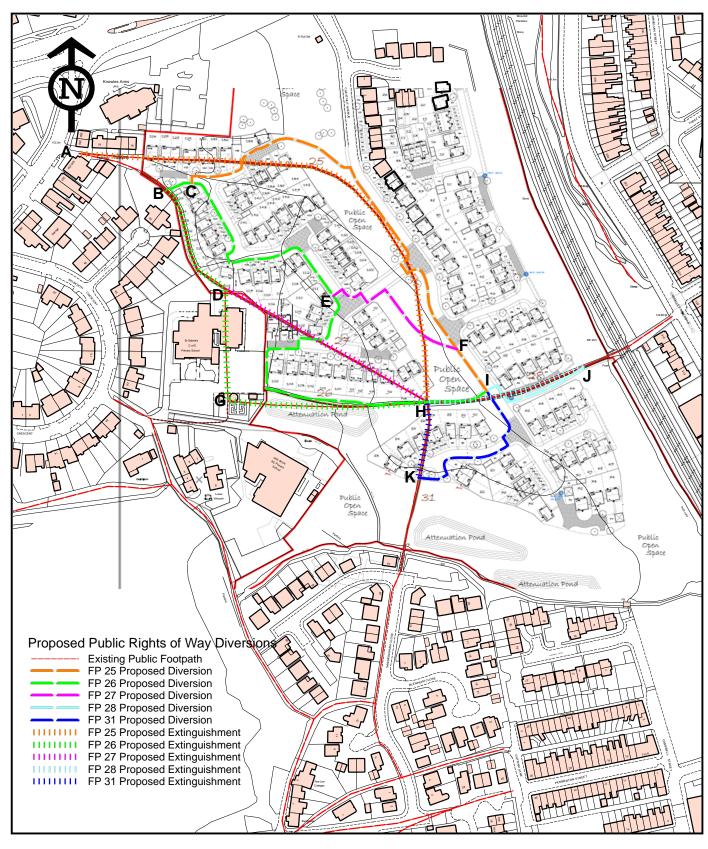
- c) if objections are duly lodged, and not subsequently withdrawn, the Orders be passed to the Secretary of State for confirmation.
- 6.2 If, having considered all of the relevant information, the Committee is minded to refuse the application, the applicant should be advised of this decision, and that there are no rights of appeal.

7. Recommendation

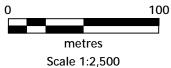
7.1 Whilst the Authority (Planning and Highways Committee) must make its own decision whether or not to promote the requested Order, it is the view of officers that the legislative tests appear to be satisfied, and therefore the Order may be promoted and 'made'.

Proposed Diversion PF's 25, 26, 27, 28 and 31 (part) Blackburn under Section 257 of the Town and Country Planning Act 1990



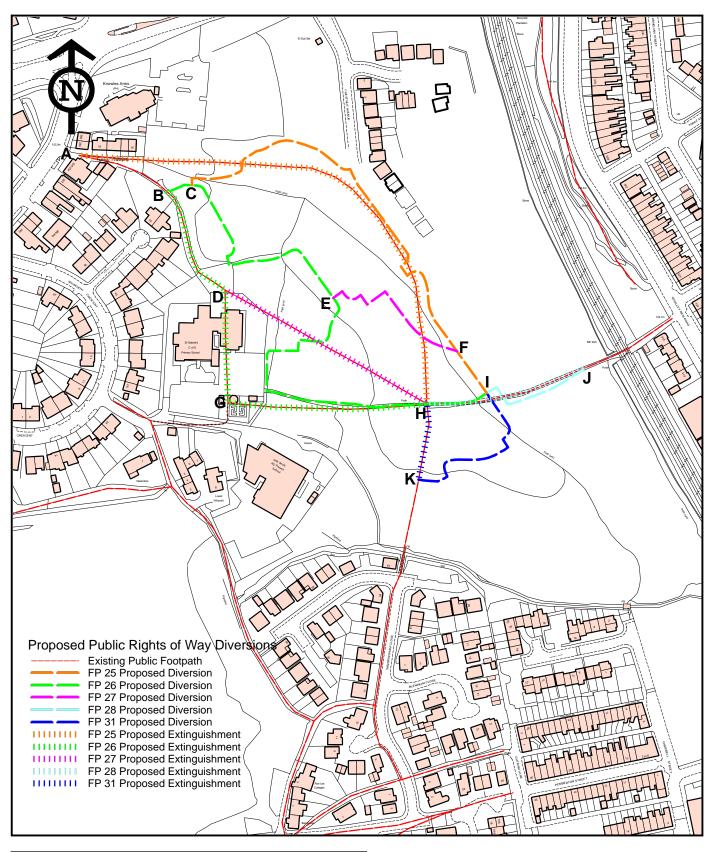


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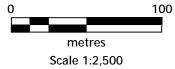


Proposed Diversion PF's 25, 26, 27, 28 and 31 (part) Blackburn under Section 257 of the Town and Country Planning Act 1990





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REPORT OF: THE DIRECTOR OF GROWTH &

DEVELOPMENT

TO: PLANNING AND HIGHWAYS

COMMITTEE

ON: 15th OCTOBER 2020

ORIGINATING SECTION: PLANNING STRATEGY/

DEVELOPMENT MANAGEMENT

WARDS AFFECTED: ALL

COUNCILLORS: ALL

TITLE OF REPORT:

PLANNING WHITE PAPER "PLANNING FOR THE FUTURE" – SUMMARY OF THE ISSUES AND BLACKBURN WITH DARWEN BOROUGH COUNCIL'S RESPONSE TO THE MINISTRY OF HOUSING, COMMUNITIES & LOCAL GOVERNMENT CONSULTATION – PLANNING FOR THE FUTURE – WHITE PAPER, AUGUST 2020

1. PURPOSE OF THE REPORT

- 1.1To inform Members of the main changes proposed with the White Paper, and the Council's response and views on the Government' proposals to overhaul the planning system.
- 1.2 To agree the responses to the questions set in the Consultation paper, and that the responses should form the formal views of the Council.

2. BACKGROUND

- 2.1 On the 6th August 2020, the Government published the White Paper "Planning For the Future", which sets out a wide-ranging package of proposals to reform the planning system. The Government states that the consultation seeks the views on each part of a package of proposals for reform of the planning system in England, to streamline and modernise the planning process, improve outcomes on design and sustainability, reform developer contributions, and ensure more land is available for development where it is needed.
- 2.2 The Government's White Paper proposes a radical and ambitious overhaul of the English planning system, intended to streamline the planning process. It sets out key principles for a new system, which is likely to involve new primary legislation. Key areas of change are focussed on the following:

Plan Making	Dramatic simplication of the process (fewer stages, less evidence, zoning, single test of sustainable development, shorter standardised documents with less 'policies'/rules)
Development Management	Fundamental change to focus on the application of rules instead of professional judgment on policies and reduced regulation once sites classified as zones in local plans
Community Engagement	Greater focus on wider, more digitally driven community engagement early in the process
Design	Huge focus on locally prepared design codes and masterplans
Digital	Complete restructure of the digital infrastructure of the planning system, including not only how information is provided and shared, but also the role for mapping and community engagement.
Stricter Timeframes	Local Plans must be prepared in 30 or 42 months from the introduction of the legislation and emphasis on the 8 and 13 weeks for planning decisions as "firm" deadlines.

- 2.3 The consultation runs for 12 weeks, and closes on Thursday 29th October 2020. This report provides an overview of the proposals set out in the White Paper, and the proposed responses to the main questions set around the proposal.
- 2.4 There are 22 specific proposals set in three areas, which are known as "Pillars", with a series of questions relating to the proposal. This report will focus on the main questions.

3. RATIONALE

- 3.1 The Government are suggesting that the current system is inefficient, with supporting arguments stating:
 - The system is too complex.
 - o Planning decisions are discretionary rather than rules based.
 - It takes too long to adopt a Local Plan.
 - Assessments of housing need, viability, and environmental impacts are too complex.
 - o It has lost public trust.
 - It is based on 20th Century technology.
 - The process for negotiating developer contributions to affordable housing and infrastructure is complex, protracted, and unclear.
 - o There is not enough focus on design.
 - Not enough homes are being built.
- 3.2 The new changes proposed are designed to improve the system, to improve local communities, and make the system more transparent, user friendly, whilst at the same time, supporting developers and businesses, and increase the supply of land available for new homes where it is needed.
- 3.3 The consultation is focussed around three areas: Pillar One "Planning For Development"; Pillar Two "Planning for beautiful and sustainable places", and Pillar Three "Planning for Infrastructure and connected places". These can be summarised as follows:

Pillar 1 Planning for Development

Development Management and Enforcement

National Development Management Policies

Development management policies will be set nationally and the National Planning Policy Framework will become the primary source of policies for DM. Consultation asks for views on the future of optional technical standards. Fees will also be set on a national basis.

Streamlining and Digitised Process

Greater use od digital technology will include standardised processes where validation will be integrated with submission, simplified application forms, publicly accessible systems (incl. consultees) and more consistent planning conditions. Aim to have DM policies and code requirements written in machine readable format to use automated screening where possible. Fast-tracking of various applications, 'beautiful design' and community facilities or infrastructure proposals.

Decision Making

With the focus on a plan-led system, changes to DM processes will be dependent on up to date Plans setting out zones and accompanied by design codes. Decision making will be delegated to officers and subject to checking compliance with rules (potentially verifying automated machine-response). Design codes should provide clear standards that also reduce the need for significant supplementary information. Failure to comply with statutory time limits will incur a penalty, which could involve automatic refund of the fee.

Enforcement

There is an emphasis on strengthening enforcement powers and sanctions, with consideration of higher fines and exploring ways to support more enforcement activity.

Pillar 2 Planning for Beautiful and Sustainable Places

Focus on Design

Following on from the National Design Guide published last year, there is a clear message that design standards should form a core part of the planning process. Design expectations should be more visual and predictable, preparing design codes locally and with community involvement to reflect local character.

Simplifying Environmental Impact Assessment

There is an intention to design a quicker, simpler framework for assessing environmental impact and enhance opportunities to speed up the process. SEA, SA and EIA can lead to duplication of effort and delays in the process – further consultation will take place in the autumn.

Fast-track Beauty

Proposals that comply with pre-established principles of 'good design' will be accelerated through the planning process as an incentive to promote high quality development that reflects local character and preference. The NPPF will be updated to support this proposal whilst permitted development will be extended to enable popular and replicable forms of development to be approved quicker. There will also be opportunity within Growth Areas to prepare masterplans at Plan making stage that will expediate full approval.

Historic Buildings and Energy Efficiency

Whilst continuing to improve energy efficiency standards in buildings to help deliver commitment to net-zero by 2050, there is also a focus on conserving and enhancing historic buildings to have the right energy efficiency measures. The planning system should provide a framework that can provide timely and effective decisions for sympathetic proposals to modernise properties.

Pillar 3 Planning for Infrastructure and Connected Places

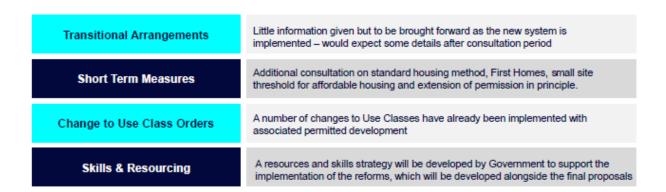
Infrastructure Levy



Extended scope

The scope of the Infrastructure Levy would be extended to capture changes of use through permitted development rights; however, exemptions will remain for self and custom-build development. The reformed levy will also deliver affordable housing provision, secured through in-kind delivery on site which would provide incentive for the developer to build on-site affordable housing.

Implementation and Delivery



The following section will now focus on each proposal and the questions around the proposal.

4. KEY ISSUES

4.1 The Consultation format is set with a series of questions around the proposed changes. The questions in the consultation are listed below in sections, together with the rationale behind each question, and the proposed response from the Council.

Pillar One – Planning for Development:

Wants to retain a Local Plan based system, but greatly simplified and enhanced. Local Plans should be focused on where they can add real value: allocating enough land for development in the right places, giving certainty about what can be developed on that land, making the process for getting permission for

development as simple as possible, and providing local communities a genuine opportunity to shape those decisions.

Proposal 1: The role of land use plans should be simplified to identify 3 types of land

<u>Growth areas</u> – suitable for 'substantial development' (term to be defined in policy to remove debate). Will include urban extensions and areas for redevelopment such as former industrial or regeneration areas. Sites annotated as such in the plan would have *outline planning permission granted automatically* for forms and types of development specified in the Plan. Flood risk areas to be excluded (unless full mitigation possible). Sub-areas to be allowed e.g. for self and custom-build homes:

<u>Renewal areas</u> – 'suitable for development' where smaller scale development is appropriate. e.g. gentle densification, infill of residential areas, development in town centres, and development in rural areas not annotated as Growth or Protected areas. A statutory presumption in favour of development would apply. <u>Protected areas</u> – development is restricted where particular environmental and/or cultural characteristics require more stringent controls to ensure sustainability. E.g. Green Belt, Countryside Area, Conservation Areas, Local Wildlife Sites, areas of significant flood risk and important areas of green space.

Question	Proposed BwD Council Response
5. Do you agree that Local Plans should be simplified in line with our proposals?	Yes. The Council agrees with the principle of simplifying the Local Plan system, which is cumbersome, over complicated and slows down development and growth in the Borough. However, further details around the practical implications of the proposed approach for Local Authorities in identifying zones and sub-categories within zones would be required. In addition, an element of discretionary planning and professional judgement should still be a part of any future planning system on the decision making side.

Proposal 2: Development Management policies established at the national scale and not in Local Plans

Local Plans to set clear rules rather than general policies for development. Development Management policies in a Local Plan are to be restricted to be clear and necessary relating to site or area-specific requirements only (e.g. broad height limits, scale and/or density limits etc.). There is no provision for generic Development Management policies in the plan. They are expected to be at most 1/3rd of current length and mainly map based – it appears that it will just be a core set of standards and requirements for development with site parameters set out for each area.

Question	Proposed BwD Council Response
6. Do you agree with our	Yes. The Council believes that from a policy perspective the principle of
proposals for streamlining the	setting development management policies nationally is sensible when
development management	viewed alongside the proposed zonal system and accompanying design
content of Local Plans, and	codes. This would save considerable time for local authorities in

setting out general development management policies nationally?

preparing their Local Plans. Development Management policies must however be prepared with adequate consultation to ensure that they are flexible enough to cater for the full range of issues around different regions of the country.

Proposal 3: Local Plan should be subject to a single statutory 'sustainable development' test, replacing existing tests of soundness

The Government plan to abolish the Sustainability Appraisal system and develop a simplified process for assessing environmental impact. The Duty to Cooperate test will also be removed (though further thought required around strategic cross-boundary working is required, particularly where infrastructure is needed). A slimmed down deliverability test will also be included e.g. to ensure that key infrastructure required for sites will come forward during the plan.

Question	Proposed BwD Council Response
7(a) Do you agree with our proposals to replace existing legal and policy tests for Local Plans with a consolidated test of 'sustainable development', which would include consideration of environmental impact?	The Council would in principle support a simplified consolidated test to improve the examination process of Local Plans. However, any definition for the purposes of a consolidated soundness test would need to be very clear to avoid ambiguity. When the NPPF was published, it failed to provide a short, clear definition of sustainable development. Whilst the NPPF does provide a high level objective (paragraph 7) the entire document is seen to be the wider definition of sustainable development. Any definition must be clear on stating that the aim is to achieve net gains in social, environmental and economic factors (as per paragraph 8 of the present NPPF) and should incorporate assessment of the carbon impacts of development.
7(b) How could strategic, cross-boundary issues be best planned for in the absence of a formal Duty to Cooperate?	This needs careful consideration between authorities particularly in relation to strategic growth objectives, and infrastructure which will be required to deliver the growth. A regional approach should be looked at together with the Devolution and Local Government reorganisation proposals in the forthcoming White Paper.

Proposal 4: A new nationally-determined, binding housing requirement to be set for each area

This is focused on areas where affordability pressures are highest to stop supply being a barrier to homes being built. This will be consistent with the Government's aspirations for 300,000 homes annually, and would factor in: size of existing settlements; relative affordability; extent of land constraints (e.g. Green Belt, SSSI, National Parks); opportunities to better use existing brownfield land; the need to make an allowance for land required for other development; and inclusion of an appropriate buffer to account for drop off rate and offering sufficient choice to the market. There are no proposed changes to Green Belt policy. In addition, there is no further need to demonstrate a 5 year housing land

supply, however the Housing Delivery Test and presumption in favour of sustainable development proposed to remain.

Question	Proposed BwD Council Response
Q8(a): Do you agree that a standard method for establishing housing	Yes. Local Authorities should however have the opportunity to exceed the housing need figure for an area that is derived
requirements (that takes into account constraints) should be introduced?	from the standard method if it has ambitions for growth that exceed the binding figure. The figure should therefore be a minimum not a cap.

Proposal 5: A streamlined Development Management process with automatic Planning Permission for schemes in line with plans

Emphasis to be strengthened in legislation on the plan-led approach, however as an exception, proposals different to the plan could still come forward and would require a specific planning application. Proposed process for each designation: *Growth areas* - Outline Planning Permission granted through the Local Plan, therefore detailed Planning Permission to be secured in one of 3 ways: (i) reformed Reserved Matters process; (ii) a Local Development Order (LDO) prepared by the local planning authority in parallel with the Local Plan (linked to a Masterplan and design code); (iii) or for exceptionally large applications e.g a new town, settlement expansion a Development Consent Order (DCO) under the Nationally Significant Infrastructure Programme (NSIP) regime. *Renewal areas* - a presumption in favour would exist therefore consent again in one of 3 ways: (i) through a new permission route for pre-specified forms of

one of 3 ways: (i) through a new permission route for pre-specified forms of development that meet design and prior approval requirements; (ii) a faster application process using the Local Plan and NPPF; (iii) or a Local or Neighbourhood Development Order.

Protected Area – as now through planning applications and judged against the NPPF.

Question	Proposed BwD Council Response
Q9(a): Do you agree that there should be	It will speed up the process, but will require totally radical
automatic outline permission for areas	new approaches on how the local planning authority engage
for substantial development (Growth	with the local community. This is such a drastic change, and
Areas) with faster routes for detailed	will require further resource for strategic planning to deal
consent?	with the zoning system. It will require a different approach
	in terms of community engagement as in effect the
	democratic process of allowing the community a say on
	proposals will be front loaded at the local plan stage,
	without them having any further comments at the planning
	application stage. This will be a totally new concept for the
	resident, who are used to the current system in terms of
	engagement. The approval of new development in growth
	zones will shift to the plan-making stage. The traditional
	process of politicians deciding planning applications with
	opportunities for the public to make representations is
	effectively at an end with this new proposal. The White
	Paper does not provide a single new right for community
	participation or a single new opportunity for a democratic

oe lost.
t

Proposal 6: Faster and more certain decision making with firm deadlines and greater use of technology

Use software to help automate routine processes. The Government will prepare a 'specific, investable proposal for modernising planning systems in local government' for the Spending Review. The Government are proposing to work with technical companies and local authorities to modernise the software used for case management. In addition, shorter and more standardised applications are proposed, a national data standard for smaller applications, and beyond drawings and plans, there will be one key standardised planning statement (of no more than 50 pages) to justify the development in relation to the Local Plan and NPPF. There is also a proposal to automatically refund application fees if not determined within statutory time limits (or if successful at appeal).

Question	Proposed BwD Council Response
Q10: Do you agree with our	At this stage the answer is no, it is not clear from the Paper how this
proposals to make decision-	national standardised system will work, taking into account local
making faster and more	circumstances. The White Paper places a strong emphasis on how new
certain?	technology can be used in the planning process. This could be a
	welcome development if it makes data easier to access and plans
	easier to understand and engage with. The current pandemic has
	shown that technology is now becoming a driving force in the way
	people work and communicate. Making processes more accessible is
	welcome, but technology on its own does not make the planning
	process more democratic and we need to make sure we are not
	excluding those who are less technologically able. Are there financial
	incentives to support the proposal to use digital tools and platforms?
	Significant investment will be required to improve community
	engagement processes. In terms of automatically refunding fees
	where the statutory time period is not met, what if the applicant wants
	to work with the LPA to ensure their scheme is acceptable, and is
	agreeable to an extension of time? Surely, it is better to do this, as
	otherwise, LPAs will be determining applications without any
	negotiation, thereby increasing the workload, as applications will be
	resubmitted with no further fee. There has to be some degree of
	flexibility. Furthermore, we do not see the benefit of the planning
	application fee being refunded if the appeal is allowed. There is a
	process in place whereby the appellant can apply for costs where a LPA

has acted unreasonably. This should be enough, as appeals can prove
costly and resource intensive to already depleted planning services.

Proposal 7: Local Plans to be supported by a standard template and should be visual and map-based

An Interactive web-based map would provide accompanying text setting suitable development uses in the Growth and Renewal areas (this could be specific for each sub-area within each category). The Government will publish a guide of data standards and digital principles alongside expectations around more limited evidence expected to support plans accompanied by a model template 'well in advance of the legislation being brought into force'. Local Plans should be fully digitised and web-based following agreed web standards.

Question	Proposed BwD Council Response
Q11: Do you agree with our	Yes
proposals for accessible, web-	
based Local Plans?	

Proposal 8: Local Plans to be produced in no more than 2 ½ years in total

Range of intervention options proposed. Expectation is that many local planning authorities could do this in a shorter time. Still the expectation to review at least every 5 years. It is proposed that a fixed 30 month preparation period with clear engagement points:

- o Stage 1 (6 months) 'calls for sites' suggestions for areas in the 3 categories
- o Stage 2 (12 months) Local Plan drawn up, including producing any necessary evidence to inform and justify the plan
- Stage 3 (6 weeks) LPA submits the Plan to Secretary of Stae with a Statement of Reasons why it is as it is and simultaneously publicises for public comment
- o Stage 4 (9 months) planning inspector considers whether the three categories meet the 'sustainable' test and makes binding changes. Right to be heard at the inspector's discretion
- o Stage 5 (6 weeks) Local Plan map, key and text are finalised and come into force

Question	Proposed BwD Council Response
Q12: Do you agree with our proposals for a 30 month statutory timescale for the production of Local Plans?	Not sure. The Council agrees with the principle although no detail is provided to respond in detail to the practicalities of implementing each stage and therefore to understand how realistic the proposals are. From the limited information available there do seem to be some problematic areas. For example, the aim is to 'give neighbourhoods and communities an earlier and more meaningful voice', but the first opportunity to see or comment on anything meaningful will be the point at which a plan is submitted to the Secretary of State at which

point it is out of the Local Authorities hands as to making changes.
There are also significant concerns around transitioning between the
current system and the new. Some flexibility in the timescales must be
built in for the first time that Local Authorities are required to produce
a new style plan (currently only 12mths proposed if a Local Authority
has already submitted under the existing system). The expectation is
that Development Managemetn staff would help contribute to local
design code work but this would not be possible whilst still decision
making under the current system.

Proposal 9: Neighbourhood Plans to be retained

Content to be focused around reform proposals and better use of digital tools. Interested to explore idea of very small areas (individual street) setting own rules for the form of development which they are happy to see.

Question	Proposed BwD Council Response
Q13(a): Do you agree that	No. If key concepts of the White Paper are to enhance community
Neighbourhood Plans should	engagement and to simplify and speed up the planning process, then
be retained in the reformed	Neighbourhood Plans seem inconsistent with these aims.
planning system?	
Q13(b): How can the	No comment
neighbourhood planning	
process be developed to meet	
our objectives, such as in the	
use of digital tools and	
reflecting community	
preferences about design?	

Proposal 10: A stronger emphasis on build out through planning to speed up construction

Substantial sized development should have a variety of different builders to allow phases to come forward together. Further options to be explored to support faster build out.

Question	Proposed BwD Council Response
Q14: Do you agree there	Yes. However, there is an elephant in the room. The market alone has
should be a stronger emphasis	never developed this volume of homes and why would it? The fewer
on the build out of	homes that are built leads to a further lack of supply which in turn
developments? And if so,	leads to further increases in property values and therefore higher
what further measures would	profits for house builders. The only historical precedents of 300,000+
you support?	homes per year have been during times of very significant public sector
	house-building to complement the private sector. Further measures to
	bolster public sector house building, not just measures to assist small
	and medium sized builders, are therefore key to improving build out
	rates and giving the Government any chance of reaching its national
	targets.

Pillar 2: Planning for beautiful and sustainable places

The new system must enable the creation of beautiful places that will stand the test of time, protect and enhance our precious environment, and our efforts to combat climate change.

Recommendations from the Building Better, Building Beautiful Commission final report (Living with Beauty, January 2020) will be integrated. The Government's National Design Guide (published October 2019) will be developed into a National Model Design Code to be published in autumn 2020 alongside a revised and consolidated Manual for Streets.

Proposal 11: Expect design guidance and codes to be prepared locally

The proposal is to be based on genuine community involvement – otherwise weight will not be applied in Development Management. It is aimed to provide certainty and reflect local character and preferences about the form and appearance of development. It could be prepared for a whole local authority area, or for smaller areas or sites. Design guides ideally produced 'twin track' with the Local Plan, for inclusion within it or as Supplementary Planning Documents. More clarity and information is needed on the National Design Guide, National Model Design Code and Manual for Streets to guide decisions.

Q17: Do you Not sure. It is not clear in the White Paper how consultation with the public on design	Question
agree with our proposals for improving the production and use of design guides and codes? codes would fit in with the proposed Local Plan consultation process. Stage 1 of the Local Plan process is defining the zones, so design code consultation could not take place at this stage. The only subsequent Local Plan consultation stage is at the point of submission of a plan. If design codes are to be produced alongside Local Plans, and with genuine public involvement then additional consultation will be required. The potential volume of work in producing local design codes for different zones and areas is very significant. This could only be supported subject to adequate assistance for Local Authorities in resourcing the proposals.	Q17: Do you agree with our proposals for improving the production and use of design guides

Proposal 12: New body to support delivery of design codes and a Chief Officer for design in every Local Authority

Options for establishing new body to be explored – maybe central government arms-length body, new centre of expertise within Homes England, or improve existing network of design centres. Proposals to be brought forward later in 2020 regarding: improving resourcing of planning departments more broadly. New Chief Officer for design and place-making the Government say is required to drive strong local vision.

Question	Proposed BwD Council Response
Q18: Do you agree that we should	Yes. This will be a central part of the proposed reforms. At the
establish a new body to support	moment, there is a very significant disconnect between the
design coding and building better	Government's messaging and prioritisation of quality design,
places, and that each local authority	and the support and expertise available. Since the abolition of

should have a chief officer for design	CABE there has been a lack of adequate national support for
and place-making?	Local Authorities in this area.

Proposal 13: Re-consider Homes England's strategic objectives to improve emphasis on design

Homes England to be engaged through Spending Review process to assess how design quality can be embedded deeper within activities and work programmes.

Question	Proposed BwD Council Response
Q19: do you agree with our proposal	No comment
to consider how design might be given	
greater emphasis in the strategic	
objectives for Homes England?	

Proposal 14: A fast-track for beauty to incentivise and accelerate high quality development

This will be done in 3 ways: (i) updating NPPF; (ii) legislate to require masterplan and site-specific codes to be agreed as a condition of the Permission in Principle being granted through the plan; (iii) legislate and widen the nature of Permitted Development rights so that popular and replicable forms of development are approved easier and quicker (though prior approval will still be required). A pilot project will be set up to test the concept.

Question	Proposed BwD Council Response
Q20: Do you agree with our proposals	No comment
for implementing a fast-track for	
beauty?	

Proposal 15: Amend the NPPF to ensure it targets areas where a reformed planning system can most effectively play a role in mitigating and adapting to climate change

The Government want a more clearer approach about the role local policies can play in identifying important views, improving public places, and looking at areas where renewable energy, woodland or forests could be created. In addition, the Government wants the NPPF to provide more clear and robust guidance for Development Management decisions, so that they are not reliant on Local Plans generic policies. Further guidance on this is anticipated.

Proposal 16: Quicker, simpler framework for assessing environmental Impacts and enhancement opportunities

It is proposing to merge Strategic Environmental Assessments, Sustainability Appraisals and Environmental Impact Assessments to remove duplication of

work and extremely long reports that cause unnecessary delays. It is expected this would be subject to further consultation before being finalised.

Proposal 17: Conserving and enhancing our historic buildings and areas in the 21st Century

It is proposed to review and update the NPPF to ensure significance is conserved while allowing sympathetic changes to support continued use and addressing climate change. In addition, it is also proposed to review the consent regime and explore the potential for suitably qualitied architectural specialists to earn autonomy from listed building consents.

Proposal 18: Facilitate ambitious improvements in the energy efficiency standards for buildings to help deliver commitment to net-zero by 2050

From 2025, new homes to produce 75-80% lower CO2 emissions compared to current levels and be 'zero carbon ready'. Government will review the roadmap for the Future Homes Standard in the autumn to ensure as rapid as possible, and clarify the role that Local Authorities' can play in setting energy efficiency standards for new build developments.

Despite the inclusion of these aspirations in the consultation, it seems that the planning system will have no real part to play in setting the new energy efficiency standards. Instead, they will be implemented through the Future Homes Standard proposed in October 2019, whereby the standards in Part L (conservation of fuel and power) and Part F (ventilation) of the Building Regulations for new dwellings will be tightened from 2025. New homes built to comply with the Future Homes Standard will be expected to produce 75-80% lower CO2 emissions compared to current levels and will be zero carbon ready.

Pillar 3: Planning for infrastructure and connected places

Government plans to remove the costly, uncertain and opaque S106 system (that leads to delay and inconsistency). Also plan to remove CIL as it is inflexible in the face of changing market conditions (payment being set at the point planning permission is granted with payment due once development commences). The central vision is to capture more land value uplift generated by planning decisions to deliver new infrastructure provision. A new Infrastructure Levy is intended that will be responsive to local needs, transparent, consistent and simplified and buoyant (so when prices go up benefits are shared fairly).

Proposal 19: A consolidated Infrastructure Levy

A flat-rate, value-based charge across all use classes, set nationally at either a single rate or at area-specific rates. It would aim to increase revenue levels nationally and continue to be collected and spent locally. It would reduce the risk for developers and reduce cash flow difficulties being levied at point of occupation. Local Authorities would be allowed to borrow against levy revenues to forward fund infrastructure.

Question	Proposed BwD Council Response
Q22(a): Should the Government replace the CIL	Sounds ok in practice. Reality may be that Local
and S106 planning obligations with a new	Authorities will prioritise greatest need and, as such,
consolidated Infrastructure Levy, which is	affordable housing always become the poorer
charged as a fixed proportion of development	relation. We would need to ensure that we capture
value above a set threshold?	what needs to be delivered at the outset
Q22(b): Should the Infrastructure Levy rates be	Rates should be set locally dependent on local
set nationally at a single rate, set nationally at	housing markets, site viability challenges etc
an area-specific rate, or set locally?	
Q22(c): Should the Infrastructure Levy aim to	Should reflect local demand where housing may be a
capture the same amount of value overall, or	higher priority in some areas and highways in another
more value, to support greater investment in	
infrastructure, affordable housing and local	
communities?	
Q22(d): Should we allow local authorities to	Would be dependent on finance officers but
borrow against the Infrastructure Levy, to	permission may allow for speedier delivery of
support infrastructure delivery in their area?	outcomes

Proposal 20: The scope of the Infrastructure Levy could be extended to capture changes of use through permitted development rights

To increase the levy base and to ensure a wider range of developments contribute to infrastructure its scope could include capturing change of use applications and even some permitted development rights (e.g. office-residential conversions).

Question	Proposed BwD Council Response
Q23: Do you agree that the scope of the	Yes, as current legislation will sometimes allow for
reformed Infrastructure Levy should capture	impactive change but no consideration of the
changes of use through permitted development	development on the local area.
rights?	

Proposal 21: The reformed Infrastructure Levy should deliver affordable housing provision

The new Infrastructure Levy would be able to raise funds for affordable housing (currently CIL not allowed, all raised through S106). This could be secured through in-kind delivery on-site (e.g. transfer of units to registered providers, difference between market rate and unit price for provider to be offset from the levy). Any approach would need to maintain the quality of affordable housing provision as well as volumes. Also proposed that payments in the form of land within or adjacent to a site could be acceptable.

Question	Proposed BwD Council Response
Q24(a): Do you agree that we should aim to	Minimum should be the same level of delivery as we
secure at least the same amount of affordable	currently expect, mindful that viability is a challenge.
housing under the Infrastructure Levy, and as	On site would be preferred route but should be
much on-site affordable provision, as at	subject to local factors as some sites may not be

present?	suitable for affordable housing provision due to
	location and ceiling price of new homes
Q24(b): Should affordable housing (AH) be	Demand for AHs is increasing for both markets, the
secured as in-kind payment towards the	Borough still needs more AH for rent than to
Infrastructure Levy, or as a 'right to purchase'	purchase so onus should be more on 'In Kind'
at discounted rates for LAs?	
Q24(c): If an in-kind delivery approach is taken,	Yes, provision of units should be pegged to allocated
should we mitigate against LA overpayment	IL amount for AHs, any increased provision should be
risk?	paid for separately by the appointed Registered
	Provider.
Q24(d): If an in-kind delivery approach is taken,	As a general approach, we should be looking to
are there additional steps that would need to	improve size and quality of all new homes. Standards
be taken to support affordable housing quality?	have been relaxed over previous years and further
	erosion will create substandard homes for the future.
	Recent experience of the Coronavirus pandemic
	highlights need for better / larger housing to meet
	future needs i.e working from home, absent adult
	offspring returning to live in family homes etc.

Proposal 22: More freedom could be given to Local Authorities over how they spend the Infrastructure Levy

The Neighbourhood Share of CIL at present ensures that up to 25% is spent on priorities in the area that development occurred – parished areas see funding transferred to them. Government proposed to retain the Neighbourhood Share but potentially expand flexibility around spending (ensuring that levy is ringfenced to at least deliver current levels of affordable housing).

Question	Proposed BwD Council Response
Q25: Should LAs have fewer restrictions over	BwD policy allows use of collected Affordable Housing income to be used as required in any part of Borough.
how they spend the Infrastructure Levy?	This was needed due to receiving low Affordable Housing sums which needed to be accumulated sufficiently to be used to support future provision. The Council approved
	variation of spend period from 5 to 10 years for Affordable Housing income
Q25(a): If yes, should an affordable housing 'ring-fence be developed?	Need to continue previous approach

Proposal 23: Develop a comprehensive resources and skills strategy for the planning sector to support the implementation of our reforms.

It is proposed that the *cost of the new planning system* should be principally funded by the beneficiaries of planning gain – landowners and developers, rather than the national or local taxpayer. The Government have not explained how this will be resourced, but they indicate that currently planning application fees cover Development Management activities, but the cost of preparing Local Plans and enforcement activities is funded by the local planning authority. Are the Government proposing to change this?

Planning application fees are proposing to be set nationally, as they are now. However, they are looking at the new process for developer contributions, in terms of a small proportion being earmarked for local planning authorities to cover their overall costs e.g. preparing and reviewing Local Plans/design codes and enforcement activities. No doubt, there will be further consultation and guidance on this.

Local planning authorities should be subject to a *new performance framework*, which ensures continuous improvement across all planning functions – local plans to decision making and enforcement. The Government are also proposing that the Planning Inspectorate and Statutory Consultees are subject to similar performance targets to improve their performance.

Workforce planning and skills development will be by the local government sector. No further details are proposed, other than it will be important to develop a resourcing and skills framework that works for all authorities.

Proposal 24: We will seek to strengthen enforcement powers and sanctions.

The Government are looking to review these powers, particularly with regards to addressing intentional unauthorised development e.g. higher fines, and supporting more enforcement activity. There is no further guidance on this.

SUMMARY:

- 4.7 Some of the changes in proposing a new radical planning system are welcomed, but it is clear from the White Paper, that the devil will be in the detail, and will require forensic scrutiny, as the detail currently is very light. There is no detailed implementation for the plan changes. Could it be phased depending on what primary legislation needs changing?
- 4.8 The COVID-19 pandemic has brought to the forefront how important it is to have strong communities, and to provide high quality, well designed, sustainable and affordable housing that people are proud to call home. Do the reforms proposed achieve this? It is widely acknowledged that the current process to getting a Local Plan adopted is very complex and resource intensive. As such, Blackburn With Darwen Borough Council (BwD) welcome the proposal to streamline this process. However, there is no detail in the White Paper on how this would be successfully achieved, with particular emphasis on the strategic issues, which is so important for BwD in achieving and maintaining its growth agenda.
- 4.9 There are concerns on how the community engagement process will play a role in the new system, as it appears to be front-loading the process, with no further opportunities for the community to comment on development proposals. This would be a significant change in the process, and further guidance will be needed from the Government on how local planning authorities improve their engagement process.
- 4.10 The approval of new development in growth zones will shift to the plan-making stage. The traditional process of politicians deciding planning applications with

opportunities for the public to make representations is effectively at an end. The White Paper suggests that people's right to be heard in person will be changed. The paper states that Planning Inspectors at the appeal stage and local plan stage will now have discretion as to what form an objector's representations might take. The White Paper does not provide a single new right for community participation or a single new opportunity for a democratic moment in the planmaking process but rather reduces both rights and opportunities to participate. There is no basis to the claim that this system will 'democratise' planning. The only additional opportunity comes from the White Paper's suggestion that digitising information will encourage community participation. Digital information can potentially lead to a more openness and transparency, but will this be enough?

- 4.11 The White Paper places a strong emphasis on how new technology can be used in the planning process. This could be a welcome development if it makes data easier to access and plans easier to understand and engage with. The current pandemic has shown that technology is now becoming a driving force in the way people work and communicate. Making processes more accessible is welcome, but technology on its own does not make the planning process more democratic and we need to make sure we are not excluding those who are less technologically able.
- Members will be aware that BwD chose not to introduce CIL with regards to 4.12 developer contributions, as the S106 Agreements process, provided more flexibility, and allowed the Council to negotiate with developers on what contributions where needed for infrastructure improvements, that also took into account the viability of the development. This has been very successful in helping to covenant contributions from developers relating to Highway Improvements, Affordable Housing, Education, and Green Infrastructure requirements. Indeed, on the same Committee agenda, is a separate report "Developer Contributions Annual Report 2019-2020", which includes information on the infrastructure delivered on site as part of new developments in the borough. Therefore, it is strongly recommended to the Government, that prior to bringing any changes removing CIL and S106 and replacing this with a National Infrastructure Levy, detailed stakeholder engagement is required to ensure that any new system does not undermine local authorities' ability to deliver new infrastructure, and affordable housing requirements.
- 4.13 It is clear that with the current pandemic situation, there may be delays in implementing the changes, and the Government have indicated, further consultation on the reforms are likely. Clearly much work is required for such radical changes to the planning system. Watch this space.............

5. POLICY IMPLICATIONS

5.1 The Council commenced a Local Plan Review in 2018, and has undertaken considerable work to date. It is currently the aim to commence the next round of public consultation in January 2021 and submit the final version Local Plan to the Planning Inspectorate for examination in public by the end of 2021. This is the point at which the White Paper proposals (and new legislation) are anticipated as

- most likely to take effect. The timing, and implications for planning policy, is therefore particularly significant for Blackburn with Darwen.
- 5.2 Despite the significance of the proposed reforms, work is continuing on the Local Plan. A public consultation paper will be taken to December's Executive Board. The format of this will however change now in light of the reforms. The paper will be structured as a 'hybrid' Local Plan reflecting aspects of the current legislative system and some of the ideas proposed in the White Paper: for example, the ideas of zoning and how these could be interpreted in the Blackburn with Darwen context will be explored; Development Management policies will also be left out.
- 5.3 This 'hybrid' approach will give the Council maximum flexibility to respond to developments in the White Paper as further guidance emerges and/or consultation takes place. The Council will be in a position to continue preparing its Local Plan under the current system should there prove to be significant delays to the White Paper reforms. If the reforms proceed as currently anticipated then the Council will already have completed part of the early work of plan preparation.
- 5.4 The preferred outcome is to be one of the first Local Authorities to adopt a new style Local Plan proposed in the White Paper as opposed to one of the last to adopt an old style Local Plan, which would then require immediate review. This is the reasoning for the proposed approach. A clearer picture of how to proceed to adoption on the new Local Plan will be available in 2021. This will be discussed through the Council's Growth Board and Executive Board forums at the appropriate time.

6. FINANCIAL IMPLICATIONS

6.1 None.

7. LEGAL IMPLICATIONS

7.1 The proposals are a radical change to the planning system, which will require changes to primary and secondary legislation.

8. RESOURCE IMPLICATIONS

8.1 None.

9. EQUALITY IMPLICATIONS

9.1 These are changes proposed to primary and secondary legislation, therefore no local equality impact assessment has been made.

10. CONSULTATIONS

10.1 None.

11. RECOMMENDATION

- 11.1 (i) That the Committee note the issues described in the report.
 - (ii) That the Committee endorse and approve the proposed responses to the questions raised in the consultation document, and agree they are sent to the Ministry of Housing, Communities and Local Government by the 29th October 2020.

Contact Officer: Gavin Prescott, Planning Manager (Development

Management) & Darren Tweed, Strategic Growth

Planning Policy Manager

Date: 2nd October 2020

Background Papers: Ministry of Housing, Communities and Local Government,

Planning White Paper "Planning For the Future" – August

2020.

DEPARTMENT OF GROWTH & DEVELOPMENT

ORIGINATING SECTION: PLANNING SERVICE (DEVELOPMENT

MANAGEMENT)

REPORT TO: Planning & Highways Committee

DATE: 15th October 2020

TITLE: Validation Requirements for Planning

Applications - Major planning applications and

Sustainable Drainage requirements

WARDS: All COUNCILLORS: All

1.0 PURPOSE OF REPORT

1.1 For Members to agree and recommend that the list of requirements for the submission of planning applications is amended as detailed in the report, in order to ensure that Blackburn With Darwen has an up-to-date formally adopted scheme with reference to recent policy changes.

2.0 ISSUE

- 2.1 The Council is required to keep an up-to-date list of the requirements for the validation of planning applications known as the <u>Local Validation Checklist</u>. This was last reviewed on the 18th October 2019. Since the adoption of the latest lists there have been no changes which would require a full review of the list until October 2021.
- 2.2 In July 2020, the need for all *Major developments*, and developments within Critical Drainage Areas, to be supported with the documents detailed below was introduced. The measures reinforce existing national *sustainable drainage requirements* and any relevant developments now cannot be lawfully validated without meeting those requirements.

Site Specific Flood Risk Assessment (FRA) - Where one is required under the National Planning Policy Framework (NPPF) and applicable Local Plan policies. In some cases, these also require you to submit a Sequential Test and/or Exception Test.

Sustainable Drainage Strategy – This will include your overall approach and is where you will evidence your approach to surface water management. E.g. plans, drawings, calculations etc. It will also take account of any requirements identified in the FRA.

Sustainable Drainage Strategy: Pro-forma – The pro-forma summarises and confirms the details contained within your Sustainable Drainage Strategy and Site Specific Flood Risk Assessment. It is intended to ensure all aspects of sustainable drainage have been considered. The information supplied should be appropriate and proportionate to the planning stage, further information can be gained from contacting your Local Planning Authority or Lead Local Flood Authority.

- 2.3 Revisions to the Local Validation Checklist are proposed to include the above requirements with specific reference to the **Sustainable Drainage Strategy Proforma**. All Proformas must include the required information set out as part of the Proforma template with those requirements encompassing;
 - 1. Application and Development Details;
 - 2. Impermeable Area and Existing Drainage;
 - 3. Peak Runoff Rates:
 - 4. Discharge Volumes;
 - 5. Storage Provisions;
 - 6. Water Quality Protection;
 - 7. Details of the Sustainable Drainage System:
 - 8. Operation and Maintenance;
 - 9. Deceleration and Submission.
- 2.4 Overview of requirements.

What is a Sustainable Drainage Strategy?

The purpose of a Sustainable Drainage Strategy is to set out how surface water from a development site will be managed sustainably under both current and future conditions, and to support the proposed approach with appropriate evidence, such as drainage calculations and relevant plans and drawings.

The Sustainable Drainage Strategy must also set out how all sustainable drainage components are intended to be managed and maintained over the lifetime of the development to ensure that the sustainable drainage system will continue to perform throughout its design life.

How is a Sustainable Drainage Strategy different to a Site-Specific Flood Risk Assessment (FRA)?

A Site-Specific FRA assesses all sources of flood risk to and from the site and elsewhere, as a result of the development.

A Sustainable Drainage Strategy demonstrates how surface water from the development will be managed in line with national and local requirements for sustainable drainage systems and should incorporate the findings and address risks identified in the site specific FRA.

What is the purpose of the Pro-forma?

The pro-forma will support the major planning application by ensuring that the sustainable drainage design, contained within the Sustainable Drainage Strategy, has considered and appropriately evidenced everything it needs to, reducing the risk of delays or refusal of the application as a result of a lack of information about sustainable drainage proposals.

'Sustainable Urban Drainage (SuDs)'

The Flood & Water Management Act 2010 contains provisions for the management of Flooding. Particular concerns are to ensure that the impact of climate change is mitigated in terms of waste discharges.

The national Planning Practice Guidance (ID: 7-051-20150323) contains advice on how to deal with flooding and on the use of Sustainable Urban Drainage Systems in major developments. In order to be able to assess the impacts applications for major development (Major is defined in the General Procedure Order 2015 i.e. 10 or more dwellings, for example) applications for major development must be accompanied by an assessment of the provision of Sustainable Drainage on the site. This must be what is reasonably practicable to be delivered on site.

Reasonably practicable is unlikely to be achieved if SUDs is more expensive to deliver than complying with building regulations – but in all cases the risk of flooding must not be increased elsewhere.

Applications for major development must be accompanied by a SUDs assessment and a full justification must be given if the development proposes not to use SUDs. The SUDs assessment must include details for the maintenance of the SUDs which must be practicable and achievable. The National Planning Policy Practice Guidance provides technical guidance on SUDs at ID: 7-083-20150323."

2.5 As highlighted in Planning Practice Guidance (PPG), the decision on whether a sustainable drainage system would be inappropriate in relation to a particular development proposal is a matter of judgement for the local planning authority. In making this judgement the local planning authority will seek advice from the relevant flood risk management bodies, principally the lead local flood authority, including on what sort of sustainable drainage system they would consider to be reasonably practicable. The judgement of what is reasonably practicable should be by reference to the technical standards published by the Department for Environment, Food and Rural Affairs and take into account design and construction costs — see PPG:

http://planningguidance.planningportal.gov.uk/blog/guidance/flood-risk-and-coastal-change/reducing-the-causes-and-impacts-of-flooding/why-are-sustainable-drainage-systems-important/

3.0 RECOMMENDATION

3.1 Members are asked support the proposed change to the local validation checklist, in order to ensure the Council has a formally adopted up-to-date local validation checklist scheme.

CONTACT OFFICER: Gavin Prescott, Planning Manager

DATE PREPARED: 11th September 2020

Agenda Item 10

By virtue of paragraph(s) 5 of Part 1 of Schedule 12A of the Local Government Act 1972.

Document is Restricted

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